

ALL INDIA BANK OFFICERS' CONFEDERATION

(Registered under the Trade Unions Act 1926, Registration No.:3427/Delhi)



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Ref: IBA/2015/68

Dated: 12/06/2015

Chairman,
Indian Banks' Association,
6th Floor, Centre 1 Building,
World trade Centre Complex, Cuff Parade,
Mumbai – 400005.

Sir,

RE: JOINT NOTE ON SALARY REVISION FOR OFFICERS RECORD NOTE ON THE ISSUES OF BANK RETIREES

We invite reference to the Record Note dated 25.05.2015 jointly signed by the representatives of IBA and all the 9 Unions/ Associations of Bank Employees/ Officers on the issues pertaining to Bank Retirees along with Joint Note on Salary Revision.

2. While the above Record Note incorporates some of the demands of Retirees referred to in the Charter of Demands and discussed by officers organization with IBA during the process of discussion and IBA's response there to, we would like to put the records straight by furnishing in brief our view point as under on IBA's response:

- a) At the outset we do not accept that no contractual relationship exists between Banks & Retirees and that their demands can be examined only as a "Welfare Measure". We maintain that payment of Pension cannot be construed as a mere Welfare Measure. As a matter of fact, there are several court judgments upholding that pension is a deferred portion of the compensation for the service rendered. In landmark "Narkara Case", the Hon. Supreme Court has held that "Pension is a statutory, inalienable, equally enforceable right that has been earned by the sweat of brow. As such it should be fixed, revised and modified/ changed in the ways not entirely dissimilar to the salaries granted to serving employees."
- b) Besides, the Pension Regulations have been framed under section 19(1) of Banking Companies (Acquisition & transfer of undertakings) Act 1970/1980 and as such the relationship between Banks & Retirees is a statutory one.
- c) Officers' Service Regulations/ Bi-partite Settlement provisions for workmen, inter- alia, provide for post- retirement benefits including Pension/ PF/ Gratuity etc. These are in the nature of statutory obligations on the part of Banks. In these circumstances, how can it be inferred that there is no contractual relationship between Banks & Retirees/ Pensioners? Moreover in case of officers, Officers' Service Regulations/ Disciplinary Rules providing for disciplinary proceedings after retirement will lose the test of validity before law in the absence of contractual relationship.
- d) Like wise in the absence of any contractual relations with Pensioners, clause 48 of the Pension Regulations 1995 i.e. right to proceed against retired employees will also not have any sanctity.
- e) As regards comparison with Central Government Pension Scheme, we specifically bring to your notice that Pension Regulations under the head Residuary Provisions, specifically stipulates that "in the matter of application of these Regulations regard may be had to the corresponding provisions of Central Civil Services Rules 1972 or Central Civil Services (Commutation of Pension) Rules 1981 applicable for Government Employees with such modifications as the Bank with previous sanction of Central Government, may from time to time determine". It is clearly understood that Bank Employees Pension Scheme has been drawn primarily on the basis of Pension Scheme applicable to Central Government Employees/ RBI Employees. Hence comparison with the Central Government Employees pension Scheme is not out of Place.

3. Referring to IBA's response to the demands referred to in the Record Note, we have to state as under:

- a) While on several aspects of pension improvement, IBA has been repeatedly forwarding the plea of cost burden but at no point of time during negotiations, authentic data has been presented in support of its contention. On the contrary, authentic pension fund data categorically reveals that as on 31.03.2014, the corpus of Pension Fund stood at about Rs. 1,14,000/- crores. More importantly Pension Funds of Banks are in surplus consecutively over the years and such surplus is growing year by year despite the fact that Banks have failed to provide for the required sum in pension funds as agreed in Bipartite Settlements. Under these circumstances, demands of retirees for improvement in Family Pension in line with RBI, 100% DA neutralization to pre Nov 2002 retirees as also updation of Pension, cannot be delayed/denied.
- b) We may point out that Bank Employees Pension Regulations specifically provide for updation of Pension. We invite reference to Regulation 35 (1) thereof which reads as under;
"Basic Pension and additional pension wherever applicable shall be updated as per formula given in Appendix I" As a matter of fact, such updation has already been given effect earlier for the pensioners retired prior to 01.11.1987, who were positioned on par with retirees under 01.11.1987 Wage Settlement. In view of the above, updation of Pension has a statutory basis and it becomes a statutory obligation.
- c) In the matter of 100% DA neutralization for retirees prior to 01.11.2002 for which IBA was positive during discussion, there have been several speaking judgments and favourable court orders. Though the matter is still sub- judice, IBA should settle the matter positively so that the expensive litigation can be put to rest once and for all. But waiting for conclusion of court proceedings will only add to the delay denying justice to pensioners who are above the age of 72-75 years and are anxiously waiting for the justice.
- d) The issue of Pension to left overs also a vital one. The category of those retired compulsorily and the resignees have been denied benefits due to strict interpretation of instructions from the Government in June, 2012. Existing Pension Regulations categorically provide for pension to those compulsorily retired from service. Denial of pension option to them is violative of the very existing Pension Regulations itself. Denial of Pension option to Resignees has also been tested through litigation and several judgments including the one in Vijaya Bank Case, is a clear pointer that they cannot be denied pension after the stipulated period. In fact consequent upon such court verdict, several resignees have already been conceded the benefit of pension option. It is also pertinent to note that the number of those retired compulsorily as also those resigned from Banks (after putting in requisite pensionable service) is very small and the cost cannot stand in the way of extending benefits to them.
- e) Apart from the above, there are still several issues of pension, which need to be discussed and sorted out.

We, therefore, request you to take a positive view and hold discussion on all the issues of retirees on the basis of authentic facts, data and figures. On our part, we are also willing to exchange facts and figures so that a meaningful dialogue can take place with a view to resolving these issues.

We look forward to your early response.

Thanking you,

Yours faithfully,



(HARVINDER SINGH)
GENERAL SECRETARY