ALL INDIA BANK RETIREES' FEDERATION (Regd.)

(Regn No:G 6601 under the Trade Union Act 1926)
D-1/1, Sector-C, Scheme-71,
Near Kasara Bazar School, Indore – 452 009.

सेवा निवृत्त हितेरत

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Sri N.T.Hegde
Sri S.Radhakrishnan
Sri B.Venkat Rao
Sri Rajan Dhargalkar
Sri Suresh Sharma
Sri R.Shirambekar

Ref: 2017/01 **Date:06.01.2017**

The Deputy Chief Labour Commissioner (Central)
Mumbai

Sir,

Re: AIBRF representation dated 05.12.2016 in the matter Of discrimination in granting 100% Dearness Relief to the Pensioners who retired before N0v. 2002

We had submitted the above referred representation to you with the request to admit the same as dispute and issue appropriate notices to the parties named therein.

2. We note that your office has been kind enough to send the notices vide letter no B.ALC(C)-III/55(65)2016/B.4 dated 20.12.2016 to the parties named therein seeking their comments on our above referred representation.

3. We are grateful to you that you have now fixed 24.01.2017 for conciliation proceedings in the matter. We below make further submissions in addition to whatever already stated in our representation of 5th December, 2016 in support of our case.

OUR SUBMISSIONS

04. All India Bank Retirees Federation (AIBRF) is the apex level body of bank retirees. It is registered under Trade Union Act, 1926 (Copy of the Registration Certificate enclosed and marked as Annexure 1). 98 percent of our members are members of the pension scheme applicable in banks.

05. Pension scheme in the banking industry on the lines of pension schemes applicable in central government/ RBI was introduced in the year 1995 with the retrospective effect of 01.01.1986.

06. To introduce the scheme and make it operative in the banking industry, initially, settlement for this purpose was signed

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between unions representing bank employees and Indian Bank Association (IBA) representing bank managements who agreed to introduce pension scheme for their employees on 29.10.1993. (Copy of the settlement is enclosed and marked as Annexure-2)

07. Your kind attention is invited to clause 6 of the above referred settlement dated 29.10 1993 which deals with the Dearness Relief payable to the pensioners. According to this clause, Dearness Relief rates payable to the bank pensioners will be as per formula applicable to RBI pensioners.

08. Subsequently, in order to give statutory status to the scheme in particular in Public Sector Banks, Pension Regulations were drafted by Indian Bank Association in consultation with the Reserve Bank of India and with the previous sanction of the Central Government and were adopted by Boards of individual member banks as per the power conferred in them by clause no (f) of sub section (2) of section 19 of the Banking Companies (Acquisition and Transfer of Undertakings) Act,1970 (5 of 1970). As per these Regulations, common pension scheme was offered to the Award Staff as well to the officer staff. In view of this, after the retirement, all the employees who opt for pension irrespective of their cadre during the service period become pensioners and are governed by provisions of Pension Regulations, 1995.

09. As per the Pension Regulations, 1995 members of the scheme are entitled to receive monthly payment of basic pension and Dearness Relief thereon after the retirement. Method and formula of computing basic pension is given in Regulations No 35 and 36 of the Pension Regulations, 1995 (Chapter VI).

10. Method and formula of calculating Dearness Relief payable to the pensioner is given in Regulation No 37 and Appendix II (Chapter VI) (Copies of Chapter VI and Appendix II are enclosed and marked as Annexure 3)

11. Your kind attention is drawn on the following points/ features emerging from Regulations No. 35, 37 and Appendix II of Pension Regulations 1995.

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(a) Basic pension payable to the pensioner is computed based on the last pay drawn as detailed out in Regulation No. 35(1) to 35(7).

(b) Dearness Relief is calculated on the full basic pension as per the rates/ formula given in Appendix II

(c) Basic pay of the employees keeps on changing and get improved after each wage settlement signed and implemented in the banking industry.

(d) In the banking industry, after introduction of pension scheme in 1995 with the retrospective effect from 01.01.1986 the following wage settlements have been signed and implemented.

(i) 05th Wage Settlement dated 10.04.1989
(ii) 06th Wage Settlement dated 14.02.1995
(iii) 07th Wage Settlement dated 27.03.2000
(iv) 08th Wage Settlement dated 02.06.2005
(v) 09th Wage Settlement dated27.10.2010
(vi) 10th Wage Settlement dated 25.05.2015

(e) In the above each wage settlement, basic pay of the employees in service during the period of the settlement got reviewed upwardly, firstly by merging certain agreed part of the dearness relief in the basic pay and thereafter simultaneously adding agreed percentage increase in the basic pay.

(f) In the above settlements signed after the introduction of the pension scheme in 1995, Dearness Relief was merged with the basic pay for employees/ basic pension for retirees at the following points of All India Average Working Class Consumer Price Index (General) Base 1960=100

(i) 05th Wage Settlement dated 10.04.1989	**Up to 600 points**
(ii) 06th Wage Settlement dated 14.12.1995	**Up to 1148 points**
(iii) 07th Wage Settlement dated 27.03.2000	**Up to 1684 points**
(iv) 8th Wage Settlement dated 02.06.2005	**Up to 2228 points**
(v) 9th Wage Settlement dated 27.10.2010	**Up to 2836 points**
(vi) 10th Wage Settlement dated 25.05.2015	**Up to 4440 points**

(g) Dearness Relief Rates got revised for employees after each settlement as per the provisions of the respective settlement (Copies of the relevant portion of each settlement are enclosed and are marked as Annexure -4)

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(h) Dearness Relief Rates also got revised for pensioners of each 6 block in the similar fashion and rates to synchronise with the merger of index for employees. Therefore new tables of DA rates for pensioners were added in Appendix II attached with the Pension Regulations, 1995.

(i) Attention is invited to Para 7(2) of 8th Wage Settlement dated 02.06.2005 which reads as under

" On and from 1st February, 2002 Dearness Allowance shall be payable at 0.18% of Pay" (Note: All other provisions relating to Dearness Relief Scheme shall remain unchanged.)

(j) In the manner mentioned above, Dearness Allowance for employees was improved. Instead paying DA at different rates on different slabs of Pay, Uniform rate was prescribed for calculation of DA. This new formula of DA w.e.f 01.02.2002 is known as 100 percent DA.

(k) Accordingly, as per the provisions of clause 7(2) of the Wage settlement dated 02.06.2005, Dearness Relief formula for pensioners was improved to 100 percent.

(l) However, while introducing improved DR formula for pensioners under the settlement dated 02.06.2005 pensioners who retired prior to November,2002 were illegally excluded from the benefit through administrative decision probably with the consent of other signatories of the settlement. However, those retired after 31.10.2002(under all the subsequent settlements) have been given benefit of 100 percent DR.

(m) It may kindly be noted that in the wage settlement dated 02.06.2005, there is no specific or implied provision to exclude pensioners retired prior to November 2002 from the benefit of 100 percent DR. Despite this, Parties to the settlement took decision to exclude the above group of the pensioners from the benefit of 100 percent DR. Such administrative decisions of the parties to the settlement is not legally tenable and malicious.

(n) Your kind attention is drawn on the fact that to give legal sanctity to their above referred decision after lapse of about 5 years, parties to the settlement dated 02.06.2005, entered in to settlement dated 27.10.2010 and added clause No. 16(3)(1) in it modifying clause No 7(2) of the

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Settlement dated 02.06.2005. (copy of the relevant extract of clause 16(3)(10 dated 27.10.2010 is enclosed and marked as Annexure -5)

(O) <u>This act of the parties to the settlement has unauthorisedly deprived about 1 lakh pensioners at the industry level who retired prior to November 2002 from the benefit of 100 percent DR and it is still continuing for last more than 10 years. Because of this illegal decision, pensioners belonging to this group are loosing more than Rs 3000 per month on an average per month.</u>

(p)Parties to the settlement are also not taking steps to implement clause 6 of the Settlement on Pension dated 29.10.1993 which has provision to pay DR at par with RBI. RBI has been paying DR to its pensioners at 100 percent w.e.f 01.02.2005. It may be stated that the Division Bench of Kolkata High Court has also upheld validity of clause 6 of the above settlement and asked the bank to pay DR with arrears as per RBI formula. (Copy of the Kolkata High Court Judgement is enclosed and marked as Annexure-6)

<u>EFFORTS MADE BY AIBRF TO REMOVE ANOMOLY OF DR</u>

AIBRF has written the following communications to IBA to hold discussion with our representatives for resolution of this long pending demand

(1)Letter No. 2013/340 dated 28.07.2013 addressed to IBA (copy enclosed and marked as Annexure- 07)
(2)Letter No 2015/187 dated 21.05.2015 (Annexure-08)
(3)Letter No 2015/192 dated 02.06.2015 (Annexure-09)
(4)Letter NO.2015/410 dated 06.05.2016 (Annexur-10)
(5)Letter No.429 dated 02.06.2016 from IBA (Annexure-11)
(6)Letter No.489 dated 02.07.2016 (Annexure- 12)
(7) Letter N0 2016/572 dated 29.10.2016(Annxure-13)
(8)IBA Letter NO 1460 dated 21.11.2016 (Annexure-14)
(9) Record Note dated 25.05.2015 (Annexure-15)

AIBRF believes and acts in resolving all pending issues concerning to retirees through holding the discussion rather than dragging them to litigation as far as possible.

Pension scheme in the banking industry is in existence for last 21 years and need review. There are a few demands concerning to

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interpretations of some of the provisions of the regulations and a few are about improvements in the existing benefits needed in view of significant changes taking place in the economic environment of the country, improvements sanctioned by the government for their pensioners and some legal cases decided by courts on the subject.

AIBRF has written above referred communications (Annexure 07 to 15) to the Indian Banks' Association in last 3/4 years requesting them to hold discussion with us so the pending issues can be resolved and grievances of lakhs of bank retirees can be satisfied. It may kindly be noted that Indian Bank Association representing bank managements has designed and taken all steps from time to time to introduce and implement the scheme for employees and retirees of member banks.

Further it may also be seen that during last 21 years many provisions of Pension Regulations have been modified and amended. IBA has also signed Record Note dated (Annexure-15) 25.05.2015 in respect of pending issues of the retirees related to pension. However, despite the above facts, IBA has taken stand vide their various communications last being letter dated 1460(Annexure- 14) that it is unable to hold discussion with AIBRF in the absence of mandate from member banks. This stand is un-understandable and untenable. This position has created huge anger and disappointment among lakhs of bank pensioners in the country and therefore they are on agitational path for last 3 years.

We now approach to you, Sir, with the following prayers:

(1) IBA should be asked to advise member banks to immediately implement Clause No 06 of the Settlement dated 29.10.1993 (Annexure-2) and pay DR to those retired prior to November, 2002 with arrear.

(2) IBA should be asked to immediately withdraw the advice given to member banks in June, 2005 to exclude pensioners who retired prior to November, 2002 from benefit of 100 DR which was not in conformity and accordance to the relevant provisions of the settlement dated 02.06.2005, in particular

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clause No.07(2) (Annexure- 04)

(3)IBA should be asked to delete clause No. 16 of the Wage Settlement dated 27.04.2010 which has been inserted with malafide intention to give retrospective effect to the illegal administrative decision taken in June 2005 while giving advice to member banks to implement wage settlement dated 02.06.2005.

(4)IBA should be asked to hold discussion on pending issues on pension related matters with AIBRF which represent more than 1.5 lakhs pensioners in banking industry and is registered body under Trade Union Act without taking untenable stand of not having mandate from member banks in this regard.

With Respectful Regards,

Yours Sincerely,

(S.C.JAIN)
GENERAL SECRETARY

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