



IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION  
SPECIAL LEAVE TO APPEAL (C) NO. 5561/2016

**IN THE MATTER OF:**

M.C. Singla and Ors.

... Petitioners

Versus

Union of India & Ors.

... Respondents

**AFFIDAVIT**

I, Brajeshwar Sharma, S/o Late Shri Mukti Nath Sharma, aged about 61 years Occ: Senior Advisor-HR & IR, IBA, R/o 14, Hassamahal, Dalamal Park, Cuffe Parade, Mumbai-400005, do hereby solemnly affirm and sincerely state as under:-

1. That the Deponent is engaged as Senior Advisor HR & IR with the Respondent No. 3 in the present petition and as such well acquainted with the facts of the case and hence I am competent to swear this affidavit.
2. That this Hon'ble Court on 20.01.2022 has been pleased to pass following order:-

*"Mr. Rajesh Kumar Gautam, learned counsel appearing for the respondent(s) including Indian Banks' Association, submits that the Committee which was supposed to consider the representation/claim of the petitioners and similarly placed persons, is required to be reconstituted, as the Chairman of the Committee is demitting office. In the circumstances, we give three months' time to the Indian Banks' Association to do the needful and submit appropriate report regarding the decision taken on the proposal."*



*If final decision cannot be reached, the Indian Banks' Association must submit interim report before the next date of hearing.*

*List these matters after three months."*

3. That the Committee formed by the Indian Banks' Association, for the purpose above, discussed all aspects and also heard the Representatives of various Workman Unions and Officers Associations and the Committee has concluded as under:-

- 3.1 That the Indian Banks' Association i.e. Respondent No.3 is an association of Banks and it negotiates with the Workman Unions/Officers Associations of the Member Banks on the basis of specific mandate to negotiate in this regard received from such Member Banks.
- 3.2 That the Service Conditions of the Workmen Employees are governed by Desai Award and Sastry Award passed by Industrial Tribunals as amended, thereafter, by various Bi-partite Settlements signed between the Indian Banks' Association on behalf of the Member Banks which have provided the aforesaid mandate and the various Workmen Unions from time to time under the provisions of Industrial Dispute Act 1947 and last such Bi-Partite Settlement has been signed between the Parties on 11.11.2020 and thus the Service Condition of the Workmen Employees are based on negotiated Settlement signed between the Parties from time to time.



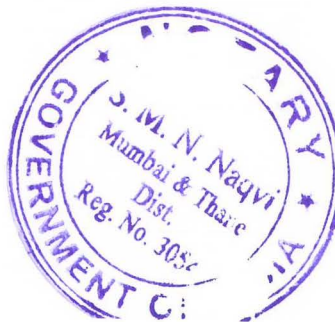
3.3 That the Service Condition of the Officers in the various Banks are governed by Officers Service Regulations, Conduct Regulations and Discipline and Appeal Regulations framed by the Board of Directors of the respective Nationalized Banks in exercise of their powers under Section 19 of the Banking Companies (A & T of Undertakings) Act, 1970/1980 as the case may be. Some of the old Private Sector Banks who are Members of the Indian Banks' Association have also framed identical Service Rules/Regulations in respect of their Officers. The aforementioned Regulations applicable to Officers have also been amended from time to time based on the Joint Notes signed between Indian Banks' Association on behalf of the Member Banks which have given the mandate to Indian Banks' Association and the various Officer Associations with the approval of Central Government as required under Section 19 of the Act of 1970/1980 as the case may be. The last such Joint Note has been signed between the Parties on 11.11.2020. Therefore, the Terms and Conditions of Service of the Officers are statutory in nature, wherein the amendments are made from time to time primarily based on negotiated agreement between the Parties and subsequently approved by the respective Boards of the Member Banks.

3.4 That Pension was not generally prevailing in Banks and that in the Bipartite Settlement signed with the Workmen





Unions on 29.10.1993 and Joint Note signed with the Officers Associations also on 29.10.1993, it was agreed for the first time between the Parties that Pension would be introduced as Second Retirement benefit in lieu of Banks' Contribution to Provident Fund. The said Bipartite Settlement and Joint Note finally culminated in framing of the statutory Regulations by the respective Member Banks titled as Pension Regulations 1995 framed in exercise of the powers by the Board of Directors of the respective Member Banks under Section 19 of the Banking Companies (A & T of Undertakings) Act, 1970/1980 with the previous approval of Central Government. These Pensions Regulations 1995 have been notified in the Official Gazette on 29.09.1995. The Employees/Officers who opted for Pension in lieu of their Banks contribution of PF, within the specified period either refunded (if already paid) or authorized the respective PF Trusts (if in employment) to transfer their Banks contributions to PF to the respective Pension Funds. Additionally, contributions were also made to the Pension Funds by the employees and Banks based on the Actuarial Calculations. Hence, the Pension Funds of the Member Banks for the payment of pension therefrom have been created by the contribution from the Bank Employees and Officers and NOT from any Government Grant. The Banks' Employees and Officers have given up one benefit of Provident Fund contribution from the Employer to get the benefit of Pension. The short



fall in the Pension Fund maintained by the Banks is funded by the respective Banks based on Actuarial Calculations from their own Revenue. No contribution is made from the Government in these Pension Funds.

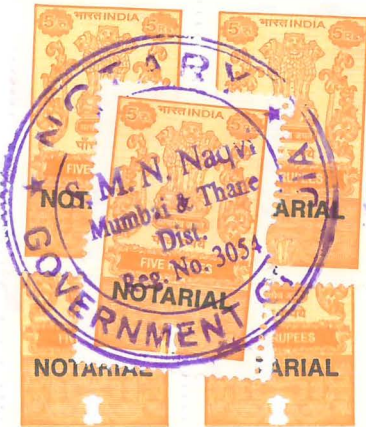
- 3.5 That while the Basic Pension is fixed at the time of superannuation based on the Basic Pay plus other eligible pay components, the Dearness Relief thereon is also given to the Employees based on the Index as applicable to in service Bank Employees updated at Semi-Annual frequency as per the provisions in BEPR, 1995.
- 3.6 That, so far as the Pension which is being paid to the Central Government Employees, is not paid out of any Pension Fund created by contribution made by the Employees/Officers while in service but is treated as a Revenue Expenditure and paid out of Budget Allocation.
- 3.7 That there is no provision in Pension Regulations in 1995 (BEPR, 1995) for any Updation in the Pension of Bank Employees and Officers. That, therefore, it would neither be appropriate in-principle nor would be financially viable for the Banks to accept the Representation/Claim of the Employees for Updation of Pension at par with Central Government Employees, particularly, when there is no parity between the two set of Employees i.e. the Central Government Employees and Bank Employees, inter-alia, for the reasons that the Pension in the Banks is paid out of



Pension Funds created out of the Banks contribution to the PF, whereas, in respect of Central Government Employees the Pension is paid NOT out of Pension Fund but is treated as Revenue Expenditure and paid out of Budgetary Allocation.

3.8 That in view of the foregoing, it would neither be appropriate nor possible for the Banks to consider the request of the Representation/Claim requesting for Updation of Pension.

4.1 It is further most respectfully submitted that Indian Banks' Association i.e. Respondent No.3 in the present Petition, as mentioned hereinabove, is an association of Banks and is neither the State nor the instrumentality of State and therefore, Petition under Article 226 of the Constitution of India is not maintainable against the Indian Banks' Association.



*S. M. N. Naqvi*  
DEPONENT

#### VERIFICATION:

I say that the contents of the above affidavit are true and correct as per my knowledge, no part of it is false and nothing material has been concealed therefrom.

Verified at Mumbai on this 24<sup>th</sup> day of August, 2022.



*S. M. N. Naqvi*  
DEPONENT

Smy **BEFORE ME**  
24.8.22

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SR No. 266 P.No. 26  
NOTARY Register 530 Date 24/08/22  
S. M. N. Naqvi  
NOTARY  
Government of India  
Mumbai & Thane Dist