

# **COORDINATION OF BANK PENSIONERS' AND RETIREES ORGANISATIONS**

**(SBI Pensioners' Associations, AIBPARC, RBONC, AIRBEA & FORBE)**

**AND**

## **ALL INDIA BANK RETIREES' FEDERATION**

J-208, Vijay Rattan Vihar, Sector-15, Part II, Gurgaon-122001

Tel: 01244270198 Mob: 9868220338

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### **JOINT MEMORANDUM ON PENDING ISSUES OF BANK PENSIONERS AND RETIREES**

We wish to introduce ourselves as a Joint Coordination of Coordination of Bank Pensioners' and Retirees Organisations (CBPRO, having 5 constituents viz Federation of SBI Pensioners' Organisations, AIBPARC, RBONC, AIRBEA and FORBE) and AIBRF representing 100% of the Bank Pensioners & Retirees numbering about five lacs. We have been taking up the grievances of Bank Pensioners & Retirees with Indian Banks' Association and Department of Financial Services, Ministry of Finance, Govt of India. We are committed to the cause of Bank Pensioners & Retirees so as to bring about happiness and cheers on their faces in the evening of their life. The following issues remain unresolved despite our several requests, reminders and personal meetings with the competent authorities. We therefore request you to help us in getting these matters resolved early.

#### **1. Uniform 30% Family Pension :**

- a. Family Pension in Banks is payable @ 30%, 20% and 15% of last drawn pay where lower percentage being assigned to higher pay with a specified ceiling on the amount of Basic Family Pension.
- b. The above mythology effectively resulted in the Family Pension working out to nearly 7 to 10% of last drawn pay restricting Basic Family Pension to a meagre sum of Rs. 4,000/- to Rs. 14000/- after attainment of notional age of 65 years by the deceased employee or 7 years from the date of death whichever is earlier.
- c. Government and RBI Pensioners are paid Family Pension uniformly at 30% of last drawn pay without any ceiling.
- d. Un-affordability of proposed improvement in Family Pension is being arbitrarily quoted to deny the benefit despite there being adequate provision made during the service tenure of the employee by the Bank for payment of full Pension to the employee. Thus Family Pension being lesser than the Pension of the Employee, it would involve a negative cost to the Pension Fund. Hence the contention of IBA/Government about cost consideration defies logical, economic sense, rationality and above all humane consideration.
- e. Family Pension being a highly emotive issue needs to be resolved urgently as assured at the time of last Wage Settlement vide second issue listed in Record Note dated 25<sup>th</sup> May, 2015.

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### 2. Updation of Pension:

- a. Pension Regulation 35(1) provided for Updation of Basic Pension and Additional Pension in respect of those Employees/Officers who retired between 01.01.1986 and 31.10.1987 and at the time of introduction of Pension Scheme in Banks during 1995-96 it was so given to them as they alone were eligible for Updation at that stage.
- b. Pension Regulation 35(1) was amended vide Gazette Notification No:9 dated 01.03.2003 providing for Updation of Basic Pension and Additional Pension wherever applicable thus making it an open-ended scheme to provide the benefit of Pension Updation to all Retirees who become eligible on periodical revision of Pay through Industry level Wage Settlements.
- c. IBA/Government has been denying the benefit of Pension Updation despite clear provision in Pension Regulation 35(1) quoting cost consideration.
- d. Pension is a Deferred Wage and a property under Articles 19(1) (f) and 31(1) of Constitution of India and hence a statutory obligation of the Banks which are State within the meaning of Article 12 of Constituents of India.
- e. Pension including updated Pension and Family Pension become payable out of Pension Fund. The present Pension Fund of the Public Sector Banks including State Bank of India is quite robust and healthy at more than Rs. 300,000 crores with potential to afford payment of 3 to 4 times of present disbursements on account of Pension and Family Pension.
- f. In Banks Pension is paid out of Pension Fund which is created by the surrender of the mandated management contribution of Provident fund by the Bank Employees and Officers during their service. Pension is not paid out of profits but of that fund so created. Hence payments so to be made as per Pension Regulations will not affect the Balance Sheet of the Banks. Provision, if any, for Pension Fund is a charge on Profit & Loss A/c and hence is not payable out of net profit of the Banks. Net profit has to be arrived at only after making all provisions including for payment of Salary and Pension which are statutory in nature. Statutory payments cannot otherwise also be denied for cost considerations.
- g. Banks have introduced New Pension Scheme for those employees who have been recruited after April 2010 and there is separate Fund created for the same. This limits the number of Pensioners under Old Pension Scheme and even this number is subject to reduction with every passing year. Ultimately when all Pensioners die their Pension Fund which is held in Trust shall remain hugely underutilised. This further strengthens our contention for improvement in pension by periodical updation so that the Pension Fund of the Retired Employees is put to proper and intended use.

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### **3. 100% DA Neutralisation:**

- a. Government of India introduced 100% DA Neutralisation in lieu of tapering DA vide 5<sup>th</sup> pay Commission (1996). Subsequently 100% DA neutralisation was extended to all Pensioners of the Banks except those who retired before 01.11.2002. It was on account of wrong interpretation of the provisions of Bipartite Settlement/Joint Note signed during 2005 between IBA and Unions/Associations.
- b. Aggrieved Employees approached the Hon'ble High Courts and were awarded relief but Management of United Bank of India filed SLP in Hon'ble Supreme Court. During the final hearing and finding merits in the arguments of the Employees, the Hon'ble Judges of Supreme Court observed that they had already passed an adverse order in a similar case and hence reversal of that order could be done only by a larger Bench. Alternatively the Employees in whose case the adverse order was passed should file a review petition which could be tagged with the case of United Bank after condoning the delay. Accordingly the review petitions were filed, delay condoned and petitions tagged with the case of United Bank of India. The Hon'ble Supreme Court yet again passed an adverse order without any justification merely by stating that since earlier appeals of the employees were dismissed, the appeal of United Bank Management is allowed.

The Judgement of the Hon'ble Supreme Court came as a bolt from the blue to the employees.

- c. The Hon'ble Supreme Court based its Judgement on a misplaced ground of arithmetic consideration by stating that the improvement in DA for Pre-November, 2002 Retirees would result in exceeding the Wage Revision load factor of Rs1288 crores and thus may warrant a corresponding downward revision of Basic Pay structure of the employees and Officers which were covered by Wage Revision settlement made effective from 01.11.2002. This was completely wrong consideration as DA did not form part of the components of load factor. The arithmetical error committed by the Hon'ble Supreme Court needs correction.
- d. 100% DA Neutralisation to similarly placed Pensioners is made available to the Pensioners of RBI and LIC of India. Hence denial to a small section of Bank Pensioners is beyond reasonable comprehension.
- e. Compelling Senior Citizens to knock the doors of judiciary to realise their legitimate claims and aspirations is against the spirit of National Litigation Policy of the Government.

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#### **4. Pension for those who Resigned after completing 20 years of Service:**

- a. IBA had been denying Pension option to those who had resigned from the service of the Bank after completing minimum qualifying Pensionable service in the Bank. Aggrieved resignees sought judicial remedy and ultimately in case of the Employees of Vijaya Bank the Hon'ble Supreme Court ordered extension of the benefit of Pension option to the petitioners who were allowed to opt for Pension.
- b. IBA has refused to extend the benefit of the order of the Hon'ble Supreme Court to similarly placed persons in Vijaya Bank and also in other Banks. Expecting every individual to go to Supreme Court and struggle for several years for final judgement is unfair and also against the spirit of Litigation Policy of the Government.
- c. IBA was kind enough to extend the similar benefit to all the compulsorily retired people after few of the compulsorily retired people got favourable judgement from the Hon'ble Supreme Court. Hence denial of Pension option to resignees is unfair and illogical.

#### **5. National Litigation Policy:**

The policy is a good initiative of Government of India. But various instrumentalities of the Government including Public Sector Banks which are State within the meaning of Article 12 of the Constitution of India have been driving their Employees/Pensioners to seek legal remedy on settled issues, thereby defying the spirit of Nation Litigation Policy. Such a situation causes a huge drain on the resources (judicial) of the Government while forcing avoidable financial burden on the Employees/Pensioners. It is requested to ensure creation of a mechanism for resolving the anomalies created by wrong interpretation of the settlements or the provisions of settlements or wrong implementation and interpretation of various Regulations despite their being subordinate legislation – statutory in nature.

#### **6. Demand for Negotiating rights with IBA:**

It is requested to ensure creation of a mechanism for resolving the anomalies created by wrong interpretation of the settlements or the provisions of settlements or wrong implementation and interpretation of various Regulations despite their being subordinate legislation – statutory in nature. It will also help the Retirees to strive for further improvements wherever necessary.

To obviate and resolve such anomalous situations, we demand the following:

- i) The Organisations of Bank Pensioners and Retirees should be provided a structured forum to discuss their issues with Indian Banks' Association.

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- ii) Anomaly Resolution Committee should be constituted to look into the grievances of Bank Pensioners and Retirees.

We also demand that IBA calls us for formal discussion / negotiations for resolution of Pending issues of Bank Pensioners & Retirees before signing of 11<sup>th</sup> BPS with the constituents of UFBU.

### 7: Reckoning of Special Allowance for Pension & Gratuity:

Last wage settlement dated 25<sup>th</sup> May, 2015 provided for introduction of a new special allowance carrying DA as applicable on Basic Pay. However the settlement also provided for a negative clause that special allowance shall not be considered for calculation of superannuation benefit viz Pension & Gratuity. This negative clause is illegal and cannot be used to the detriment of Retirees. Not reckoning special allowance for the purpose of calculating superannuation benefit is violative of Pension regulation 2 (s)(a)(ii) which provides that all allowances counted for the purpose of making contribution to the provident fund and for the payment of dearness allowance shall be included as a component of pay. It is pertinent to mention here that provident fund not being contributory does not constitute a benefit to an employee. It leads the payment of dearness allowance as the only benefit available to employees on special allowance as in case of Basic Pay. Under such circumstances a negative clause in the 10<sup>th</sup> Bipartite Settlement to the effect that special allowance will attract DA but shall not reckon for calculation of superannuation benefits is illegal and contrary to the provision of Pension Regulation 2(s)(a)(ii). The only purpose of this negative clause was to take away the right conferred under pension regulation 2(s)(a)(ii). It was held by the Hon'ble Supreme Court in case of Pension Civil No:5525 of 2012 filed by Bank of Baroda that by signing a settlement or a joint note there is no estoppel as against the enforcement of statutory provisions(Pension Regulations) which could not have been tinkered with in an arbitrary manner. Extending the same rule of law, the negative clause in the 10<sup>th</sup> Bipartite settlement/Joint Note about not reckoning special allowance for calculating superannuation benefit is violative of existing pension regulations and hence arbitrary and illegal.

### 8. IBA's Medical Insurance Scheme:

In pursuance of the directives issued by Dept of Financial Services, Govt of India on 24.02.2012, IBA was expected to evolve a Medical Insurance Scheme both for Serving and Retired employees. However IBA evolved a Medical Insurance Scheme for Serving employees providing for its cost to be borne by the Banks where as in case of Retired employees the premium was passed on to the Retirees though there was no such directive in the government communication. The medical insurance premium was quite reasonable and also subsidized by many Banks initially but with every successive renewal the premium was increased and subsidy from Banks disappeared. The premium amount which was

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Rs7500/- in the first year has gone beyond Rs90,000/- for the current year. The Retirees and Pensioners are rendered helpless to suffer injustice and cannot also go back to their own individual medical insurance policy discontinued after introduction of IBA scheme as they have crossed the minimum prescribed age for obtaining fresh medical insurance cover.

There is urgent need for Banks to bear the entire medical insurance scheme premium charged on IBAs Medical Insurance Scheme and also wave such premium from levy of GST so as to reduce the burden on Banks.


### 9. Effective Date of Gratuity Enhancement:

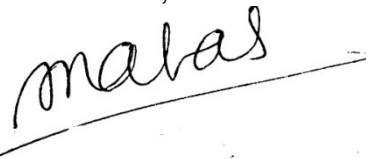
The recommendations of 7<sup>th</sup> Central Pay Commission to enhance Gratuity from Rs10 lacs to Rs20 lacs for Central Government Employees was accepted and implemented wef:01.01.2016 whereas the payment of gratuity act was amended at a later date and enhanced amount of Rs20 lacs was made effective from 29.03.2018 for the employees other than those working in Central Government. It astonishes that the Ministry of Labour & Employment has notified 29.03.2018 as the date of effect of enhanced gratuity despite a clear legal opinion from Ministry of Law & Justice, Dept of Legal Affairs that enhancement of gratuity and its admissibility/eligibility from particular date are issues relatable to social beneficial legislation and are to be construed liberally. It was further opined that according parity for quantum as well as effective date for employees governed by Payment of Gratuity Act 1972 vis a vis Central Government Employees has rationale and reasonable nexus and hence there appears to be no legal objection if said parity is allowed by Ministry of Labour & Employment. In this background the decision of the government to make the enhancement effective from 29.03.2018 thus hurting the interest of Senior Citizens is beyond comprehension.

There are other pending issues agitating the minds of Bank Pensioners and Retirees and the same are being actively taken up with Indian Banks' Association for early resolution. Such issues include grant of stagnation increment to those who retired between 01.11.2012 to 30.04.2015 in terms of 10<sup>th</sup> Bipartite settlement/Joint Note dated 25.05.2015 as has been allowed to the employees and officers of State Bank of India vide circular dated 18.07.2018 issued by CGM(HR) of State Bank of India, Corporate Office, Mumbai.

We request you to extend necessary help for resolution of these issues by Indian Banks Association/ Dept of Financial Services, Ministry of Finance, Govt of India at the earliest.

  
(A.Ramesh Babu)  
Joint Conveners, CBPRO

  
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