

# **Combined Charter of Demands**

**Submitted by**

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## **INTRODUCTION:**

The Charter of Demands represents the hopes and aspirations of entire officers' fraternity working in the Banking Industry all over the country, owing allegiance to the All India Bank Officers' Confederation(AIBOC), All India Bank Officers' Association(AIBOA), Indian National Bank Officers' Congress (INBOC) and National Organisation of Bank Officers'(NOBO) and other Officers' organizations in the industry. The Charter of Demands is also a statement of the demands of the Officers' fraternity for consideration of the Indian Banks' Association, an accredited representative forum of the Managements of the Member Banks and as also acting as the spokesperson on behalf of the Government of India, in the matter of settlement of compensation system in the Banking Industry on behalf of their member banks in the country.

## **PREAMBLE:**

The Indian Banking system is highly respected and appreciated all over the world, in particular in the background of recent economic catastrophe namely, the collapse of the US economy known for its robustness and size in global scenario which, has impacted the entire world upsetting most of the

Western countries in particular those who are partners of US including the close ally UK.

The Indian Banking system not only absorbed these developments but also remained strong as ever in facing the global upheaval. The European countries suffered a major setback and the Euro currency was under pressure. The Indian Banking system not only grew from strength to strength but stood as rock in the middle of this financial tsunami and continued its onward march in rendering the economic justice to millions and millions of the people living below the poverty line. The greatest tribute to the Indian Banking system is its resilience and the courage to take on the Basel Norms and to meet all its requirements to show the world that the Indian growth story is not a myth and it has come to stay.

The entire credit to this super performance must go to the Bank Officers' fraternity in the country. They not only defended the public sector Banks but also acted as a stumbling block in the ill advised initiative of the Government influenced by the proponents of the globalization to hand over the industry to the private sector as well as the multinationals. The Government has revisited the issue of disinvestment and has been acknowledging the performance of the banks and is now serious to retain the controlling stake in the Public Sector Banks.

The efficiency of the banks has reached the international standards. There is neither complaint nor an attempt to denigrate the Indian Banks on the issue of the ambience in comparison with the foreign and new generation private sector banks due to the effective measures adopted by the Managements of the banks. The banks are tech-savvy and are in a position to acquire and to adapt any latest version of the technology to match their counterparts all over the world.

How did this transformation happen? This is mainly due to the fact that the entire officers' fraternity, committed to the success of the Indian Banking industry, has given blood and sweat of their youth in ensuring the success of the banks all over the country. They have also unmindful of their personal inconvenience and discomfort to the members of their family, have carried the banking facilities to nook and corner of the country ensuring Banks to be highly competitive with that of their counter parts both inside as well as outside the country.

Does the compensation system match these developments? What is the quality of life of Officers? Whether all the demands and expectations of the Officers have been fulfilled by the IBA and the Government in the process. We are concerned to observe that there is a gulf between the hopes and aspirations of officers and the IBA. We all have to strive to bridge this gap in the ensuing wage revision/service condition.

Before we proceed to present our Charter of Demands for the 7<sup>th</sup> Joint Note exercise let us take a close look at the job market, the compensation environment prevailing with the peers of the Public Sector, the owner himself i.e. the Government and above all the new sectors of the economy, to have a proper assessment and justification for the Charter of Demands.

The discernible gap of exactly a decade between Nationalization and actual date of implementation of the Pillai Committee Recommendations ie between 19 07 1969 and 01 07 1979 had caused exacerbating effect of losing at least one settlement of Standardized pay scales and allowances to Bank Officers in PSBs( if not two settlements)

**COMPARABLES – INFLUENCE THEREOF:**

The immediate comparable position is that of the Civil servants who had the opportunity of getting their compensation revised during the year 2006. Some of the major initiatives of the 6<sup>th</sup> Pay Commission are:-

**ADEQUACY OF THE COMPENSATION FOR OFFICERS' CADRE:**

For the first time the Commission had recognized the importance of the Officers' cadre amongst the civil servants and has ensured that, they are able to get a competitive compensation in comparison with the executives in the Private Sector. The major theme that was introduced in the recommendations to provide a better compensation was the fear that the Government authorities may not get good, capable and competitive staff, as the compensation was not commensurate with that of the Private Sector.

The 6<sup>th</sup> Pay Commission has gone into these aspects in an exhaustive manner and has apart from the salary revision, introduced several new benefits to take care of the extra mileage for the bureaucrats. Hon'ble Justice Shri Krishna has also in a substantial manner explained the right sense of relativity between the clerical staff and officers keeping in tune with the global scenario. Rationalization of Internal Parity amongst the cadres and grade needs to be extended to the Bank Officers also.

Two major benefits that he has passed on to the Civil servants were the introduction of Grade Pay, to ensure better emoluments and also providing the running scale commencing from the lowest to the highest level so that no one would be compelled to suffer stagnation as regards the compensation is

concerned. In the 6<sup>th</sup> Pay commission Govt. Officers salary had increased to substantial level compared to Bank officers.

#### **SCIENTIFIC INCREMENTAL PATTERN:**

The increments have been related to the scales in terms of percentage. It has given a scientific formula where the increments are directly linked to the automatic basic pay.

#### **MOVEMENT FROM SCALE TO SCALE:**

The Banking Industry experimented this philosophy long time back. However, a more aggressive pattern is now seen in the 6<sup>th</sup> Pay Commission where movement from one scale to another is automatic and it does not stop at any scale. It would ensure against stagnation at any scale / stage.

#### **SUPERANNUATION BENEFITS:**

One of the salutary impacts of the 6<sup>th</sup> Pay Commission is the comprehensive improvements in the case of Pensioners and Family Pensioners in the Central Government. The improvements made in the Pension scheme in the areas like updation and upgradation of the Pension, the rationalization of Dearness Allowance, Family Pension etc., needs to be implemented in the banking industry as our pension scheme amply speaks of being in the lines of central govt. pension scheme

#### **PUBLIC SECTOR WORKFORCE**

The yet another comparable situation as far as the Banking Industry is that of the Public Sector units owned by the Government. The salary revision takes

place in respect of the Public Sector Units along with the civil servants. The 6<sup>th</sup> Pay Commission scales with certain modifications in a way more beneficial to the Public Sector officers have been implemented without any hesitation. Whenever a reference is made to these developments, the authorities concerned will take lame excuse of the salary being revised to them on the basis of the Pay Commission which is once in 10 years. This cannot be justified to cause huge disparity between Bank Officers and Group "A" Officers. Such erosion in the value of emoluments defies logic of parity at the time of implementation of Pillai committee Recommendations. The concept of Merger of DA when it exceeds 50% with Basic Pay ensures protection of superannuation benefits which is missing in case of Bank Employees.

#### **PRIVATE SECTOR – NEW SECTORS OF THE ECONOMY:**

##### **NEW GENERATION PRIVATE SECTOR AND FOREIGN BANKS:**

There is a sea of difference in the emoluments between the new generation Private Sector Banks / Foreign Banks and the Banking Industry covered by the IBA. These Banks adopt the compensation system that is prevailing in the new sectors of the economy on the plea of attracting the best talent in the financial sector. The same is true in the case of Public Sector and old generation banks as well. The fear has come down drastically in the recent past in view of the fact that there is vast workforce available in the market. The competitive environment is such that the performance of the New Generation Private Sector Banks is always quoted as a model for others including the Old generation Private and Public Sector Banks, whenever the issue of compensation in comparison with them is raised. The efficiency parameters are similar and hence the factors of compensation system prevailing in the New Generation Private Sector and Foreign Banks should be extended to all Bank Employees as well.

Some of the benefits that they enjoy over the banks are: **(a)** the annual assured bonus; **(b)** the employees' stock option plan **(c)** the liberal reimbursement of expenditure incurred on recreation, lunch, travel, **(d)** meeting the tax obligations etc., with attractive career prospects.

### **7<sup>TH</sup> JOINT NOTE EXERCISE**

The 6<sup>th</sup> Joint Note is to expire on 31.10.2012. The workforce in the banking industry is therefore eligible for a fair salary revision from 01.11.2012.

### **EXPECTATION OF BANK OFFICERS' FRATERNITY & PRECIOUS ASSETS FOR THE BANKS:**

- a. Each and every Bank Officer in the country takes pride in his contribution to the success of the banking industry. He / she is an integral part of the financial sector machinery, which undertakes the responsibility of ameliorating the living conditions of millions and millions of the population in the country.
- b. This contribution, which he / she have been making, should reflect in his compensation system. This compensation system should be a comprehensive one, comparable with the peers in the economy of the country and above all one should have pride of his profession through the compensation package he / she has.
- c. Compensation system should also take care of the tremendous sacrifice that the Officers' fraternity has been making to make the banking industry strong and efficient even at the cost of his / her own comforts, the family life, unlimited working hours etc., so that he /she

would derive tremendous satisfaction for having served the industry beyond the call of his / her duty.

- d. The Compensation should also ensure against the erosion of the real wages due to inflation and adequately take care of his / her social obligation and cultural requirements, the need for maintenance of standard of life that the members of his / her family deserve through his / her services to the industry.
- e. The compensation system should be so attractive that one should aspire to go higher in the ladder of the career and continue his / her commitment and conviction to give the best to the institution.
- f. Compensation package should be adequate to attract the best of the talents from the market to join the Bank services.
- g. There should be a regular system of automatic upgradation of scales upto Scale IV, having regard to the steep levels of stagnation and resultant demotivation amongst the officers.
- h.

For the purpose of focused negotiations, the compensation package is divided into different parts. The immediate attention should be to revise all the monetary areas in one part. The others are further divided into package of Perquisites and other allowances, including the Welfare areas. The third part shall be consisting of superannuation benefits. There is an exclusive part dealing with the issues connected with the lady Officers and another part on disciplinary matters in the banking industry.

The other general issues have been grouped into two separate chapters.



The first one will deal with the issues such as working hours, 5 days a week, compensation for extra working hours, holidays and weekly off days etc.,

The second part aims at bringing the Officers service conditions in the banking industry on par with the Public Sector servants in view of higher level accountability and mobility to make a strong case for a fair and comprehensive revision in favour of Bank Officers, a genuine and just aspiration.

The Charter of demands and settlements shall be applicable to all Public Sector Banks, Private Sector, RRB Sector, and Co-operative sector on an equal footing.

**HENCE:**

The Charter shall be divided into:

**Part I: Salary Revision and Allowances**

**Part II: Perquisites, allowances, welfare facilities viz., leave rules, the encashment, the LFC/LTC, Medical facilities etc.,**

**Part III: The issues concerning Lady Officers.**

**Part IV: Superannuation – Pension, Provident Fund, Gratuity Etc., including all the benefits that are to be extended to retirees in the Banking Industry**

**Part V: Non monetary issues, comparable position in the Government and its extension etc., issues such as the working hours, 5 days week etc.,**

**Part VI: General Bilateral Relationship**

**PART I**

**SALARY AND ALLOWANCES: BASIC PAY:****Date of effect – 01.11.2012**

The last couple of revisions were an exercise of merging of DA payable upto a certain level of CPI with Basic Pay and thereafter providing certain cushion (load) for the construction of the scales with appropriate Increment pattern.

We need to take a fresh look at the way the scales have to be constructed with a view to have higher start to ensure that the promotion provides reasonable compensation to officers in comparison with award staff scale. The higher start will provide proper differentials on promotion and motivation for promotion.

The span of the scales should be redesigned to ensure that there is continuity in the drawing of the increment without break even if the promotions are not assured to all the Officers. One way of achieving this could be through the integration of the scales and the other one would be to elongate the existing scales with annual increments.

We tentatively suggest the merger of scales to reduce number of scales in tune with the 6<sup>th</sup> Pay Commission. Further, there should be automatic movement to the pay of immediate next higher scale in the revised two scale format. Accordingly, we suggest that the present 7 scales be reduced to 2 scales as follows:

Scale I – Manager Grade – Integration of the present Scale I to IV

Scale II– Executives Grade – Integration of Scale V, VI & VII

**GRADE PAY:**

In order to provide higher emoluments on promotion as has been done in the case of the Government servants at every scale/grade, we should introduce Grade Pay, which will be a sort of incentive to the supervisory cadre for taking higher responsibilities in the bank. It may be recollected that, until the introduction of Pillai Committee Recommendations, the banks had a system of providing post allowances in various forms which was taking care of the higher responsibilities and was providing tremendous amount of satisfaction to supervisory cadre. Bank Officers were also compensated earlier in case of transfer from State to State.

The quantum of grade pay should commensurate with and could be related to the revised scales and refixed at the end of each scale within the merged scale. The grade pay should be treated as pay for all purposes.

**DEARNESS ALLOWANCE:**

The existing Dearness Allowance is based on a formula arrived through the merger of index at every revision. Taking into account the unabated price rise and mounting inflation and the cascading effect that it has brought on the real value of compensation though stated to be 100% need to be relooked as the erosion has hurt everyone. Hence the neutralization should be appropriately increased from the present level. It is a mere arithmetical calculation and hence suffers from several inequities. The inequities should be rectified by rationalizing the existing formula for the purpose of calculation of the Dearness Allowance. The first and foremost consideration should be to refix the compensation rate for every point of increase. The current rate of 0.15 per slab of 4 points should be re-fixed for the purpose of post merger neutralization instead of working out mere arithmetical equation. To be

specific the neutralization which is at present 100% should now be increased to 125%. The conversion factor should be recalculated accordingly.

The inflation figures are now arrived at fortnightly basis in order to workout the economic growth of the country. The inflation is on a day to day basis and the periodicity of price fluctuation is on day to day basis and in certain instance it is on hourly basis. There has been no instance of the index coming down in the last several years and it has been on the increase. The inflation should be compensated then and there only. We feel that,once the figures are available for the purpose of calculation of the monthly index – the Dearness Allowance should be worked out and the compensation passed on to the workforce, on a monthly basis per point of increase

Thanks to the introduction of technology in banking system the HRMS departments are equipped with wonderful software and centralized payment system, where the compensation is calculated within no time and the same is being passed on to the members of the staff in almost all the banks. Hence, there is no problem in shifting over from the current system of quarterly revision of dearness allowance to the monthly revision. This is one way of reasonably protecting the real wages of the workforce in the industry. The delay in announcing the index figures should be compensated by paying arrears for the month the index figure relates.

Example: - For the month of June the figures are released on 31<sup>st</sup> July and DA is applicable with effect from 1<sup>st</sup> August. We suggest that the DA should be applicable with retrospective effect from 1<sup>st</sup> July to ensure virtual compensation for the inflation.

**MERGER OF INDEX FOR THE PURPOSE OF CONSTRUCTION OF SCALES:**

We propose that the average consumer price index for industrial workers for the quarter ending 30<sup>th</sup> September 2012 which was at 4876 (1960=100) (rounded off) be taken for the purpose of merger of Dearness Allowance for construction of Scales.

#### **AUTOMATIC MERGER OF DEARNESS ALLOWANCE:**

In line with the concept of pay Commission recommendations there should be mid review of the scales by merging Dearness Allowance payable at the end of 2 ½ years. To be specific the revision date is 01.11.2012 – up to 2 ½ years i.e., on 30<sup>th</sup> April 2015 the Dearness Allowance payable to be merged and paid as revised pay. The Principles adopted by the Pay Commission for the purpose of merger of DA and other allowances should be followed Mutatis Mutandis in case of Bank Employees.

#### **PROFESSIONAL QUALIFICATION PAY:**

At present the Professional Qualification Pay is paid only in respect of CAIIB. However, with the passage of time revolutionary changes have taken place in the matter of banking business. The diversification, which we have witnessed, calls for specialization in different academic fields. We therefore are of the opinion that the officers should be adequately compensated for the various professional qualifications they possess during their career in the bank apart from the existing CAIIB qualifications.

We propose that the existing pattern should be revised as under:-

<b>EXISTING</b>	<b>REVISED</b>
<b>Part I One increment</b>	<b>One increment</b>

**Part II One increment                      Two increments.**

The current system of payment of PQP should be revised as under:

**Part I - The PQP should be equal to the amount of the last one increment drawn at the end of the new scale.**

**Part II - The PQP should be equal to 2 increments in the last stage of the scale (Part I - one increment and Part II two increments total – 3 increments)**

The additional increments shall be granted for acquiring additional qualifications in Business Management, CISA, Treasury Management, Technology, MCA, LLB, RISK, Audit, Costing, HR etc and be considered for sanction of PQP on reaching maximum in the scale.

**FIXED PERSONAL PAY (FPP):**

We propose that FPP should be treated on par with PQP in respect of fitment of Basic Pay on promotion and payment of all other allowances. The fixed character now in existence should be done away with. The FPP shall be reworked on promotion. FPP should be defreezed and the last increment in that scale coupled with DA should be paid.

**HOUSE RENT ALLOWANCE:**

It is incumbent on the part of the banks to provide accommodation to each and every officer wherever he is posted or wherever he desires to have his family accommodated with a view to ensure that the medical and educational facilities are not denied to them.

He should have the option of choosing the drawing of HRA or availing the housing accommodation provided by the Bank. HRA should be paid as per the 6<sup>th</sup> Pay commission on area wise basis.

The gap between the Housing accommodation provided on lease and the HRA paid to them in lieu of Housing accommodation is so wide that the Officers feel that they are discriminated when they opt for the receipt of HRA in lieu of the leased housing accommodation. Hence the payment of HRA should have correlation to the prevailing leased rentals.

The practice of deducting a portion of the Basic Pay towards the quarters / leased accommodation / furniture provided should be done away with.

**HRA ON CAPITAL COST BASIS:**

For the purpose of calculation of HRA on capital cost basis the present market value of the property should be reckoned instead of the original cost of construction.

HRA linked to rent receipt / capital cost to be enhanced to 200% of the House Rent Allowance.

**USE OF OWN HOUSE IN LIEU OF LEASED ACCOMMODATION:**

The Officer should have an option to offer his own house to the Bank for the purpose of leasing and occupy the same to avoid frequent shifting of the house and also have the opportunity of living in his own house.

**OFFICIATING PAY:**

The existing rate of officiating allowance should be re-fixed and the paltry percentage prevailing at present should be revised to 10% of the last stage of

the Scale. This pay should be paid to all the officers who officiate in the next higher grade even for a period of less than 7 days. The officiating allowance should be treated as part of the pay for DA superannuation purpose also.

#### **DIFFERENTIAL ON PROMOTION:**

The differential on promotion from one Scale to other in the Officers Cadre should be atleast equivalent to 20% of the Basic Pay and allowances last drawn. In any case the differential should not be lower than the officiating allowance to ensure against reduction of emoluments on promotion. A comprehensive fitment formula should be evolved with the negotiating unions in the industry level.

#### **CITY COMPENSATORY ALLOWANCE:**

The existing classification of centre should be reviewed classified in the following categories:-

#### **CATEGORY CENTRE**

##### **I Major Metro**

Kolkata, Delhi, Mumbai, Chennai,  
Bangalore, Hyderabad, Ahmedabad,  
Pune, etc.,

##### **II Metros (Area I)**

All centres with more than 12 lakh  
Population and State Capitals

##### **III Centres with population of 1 lakh and above and all District Head quarters**



**RATES OF CITY COMPENSATORY ALLOWANCE:**

- Category I - 20% of Basic Pay
- Category II - 17.5% of Basic Pay
- Category III - 15% of Basic Pay

**INCENTIVES FOR WORKING IN RURAL CENTERS AND OTHER SENSITIVE AREAS:**

It is necessary to provide incentives to all those officers who are posted to serve in the rural areas/most sensitive and difficult areas/ areas with security problems/ areas of weather aberrations in different parts of the country.

We propose that the following incentive may be provided to the officer concerned;

- An additional allowance to the extent of 20% of the Basic Pay drawn by him;
- Weightage for the purpose of Promotion
- Choice place of posting on completion of the assignment
- An additional LTC to enable him to meet the family etc;

**CLOSING ALLOWANCE:**

All officers irrespective of the office of posting/ i.e. branch/administrative office etc., should be paid the closing allowance equal to 15 days of their salary once in 3 months.

**HALTING AND TRAVELLING ALLOWANCES**

- a. Review and rationalization of Halting/Boarding/Travelling expenses.

- b. The Boarding expenses should be linked to lodging expenses.
- c. The existing system of allowing banks to fix the rates of reimbursement periodically should continue with a provision to review them annually.
- d. All officers should be eligible for travel by Air, irrespective of distance with Executive Class entitlement for Senior Management.
- e. For places not connected by Air, Officers should be permitted to travel by AC-1<sup>st</sup> Class by rail.

**DATE OF SANCTION OF ANNUAL INCREMENTS:**

Increments falling due between 1<sup>st</sup> January to 30<sup>th</sup> June should be sanctioned on 1<sup>st</sup> January of the year itself. Increments falling due between 1<sup>st</sup> July to 31<sup>st</sup> December should be sanctioned on 1<sup>st</sup> July of the year itself.

**PROTECTION OF ANNUAL INCREMENTS – STAGNATION RELEASED:**

An allowance equal to the amount of last drawn increment should be granted every year after reaching the maximum in the scale. The allowance so granted should be treated as Basic Pay for all purposes.

**REMOVAL OF EMBARGO ON SANCTION OF STAGNATION INCREMENTS, PQP AND AUTOMATIC MOVEMENT:**

The present Embargo in regard to the sanction of stagnation increment, automatic movement and PQP in respect of those officers who have refused promotion should be removed.

## **PART- II**

### **PERQUISITES, OTHER ALLOWANCES AND WELFARE FACILITIES:**

The perquisites and other allowances as well as welfare facilities provided by the banks and settled at the industry level should not be reckoned for the purpose of arriving at the cost of wage revision. It is an essential area of functional expenditure, as in the case of business promotion in other sectors of the economy. We therefore propose that the following benefits should be treated under this heading. The Bank should bear the tax on perquisites.

### **POST ALLOWANCE:**

Post allowance should be reintroduced in order to provide incentive for officers for working in the most competitive sector, to compensate him for taking additional load on account of diversification, technology initiative etc.,

- i. 25% of the Basic Pay should be paid as post allowance to all designated officers viz., Branch Managers, Divisional Managers, etc.,
- ii. 20% of the basic to other officers.

### **RISK ALLOWANCE :**

Risk Allowance should be introduced to provide cover to all lending risks to all sanctioning authorities at all grades as present dynamics of banking involves various types of risks beyond the normal prudence of banking.

### **Disturbed Area Allowance :**

Disturbance Area Allowance of 20% of Basic Pay should be paid to officers working in the branches which comes under disturbed area and Terrorist prone areas called as The Red Corridor.

### **MEDICAL REIMBURSEMENT:**

The existing Medical benefits should be rationalized as under:

The family of the Officer, which includes the spouse, the parents, the dependent unmarried children including step children and legally adopted children, physically challenged brothers / sisters with 40% or more disability should be extended 100% reimbursement for the purpose of hospitalization as well as domiciliary treatment. This should continue even after retirement.

The definition should be further enlarged to include deserted widowed sisters , daughters and unmarried brothers and sisters without physical disability.

Reimbursement of annual medical aid should be enhanced.

The IBA should also take immediate steps to revise the existing norms in respect of the income criteria in respect of the dependents and the same should be increased suitably.

### **HOSPITALISATION CHARGES:**

Reimbursement of domiciliary treatment and hospitalization – diagnostic investigations etc., should be actual expenditure incurred by delinking from the AllMS rates. The rates so fixed should be revised annually.

Comprehensive Review to be made to include Hi-tech investigations, surgeries and ailments which are not presently covered under the scheme. Reimbursement towards ailments under Dental, Ophthalmic, Orthopedics,

which do not require hospitalization should also be considered under the scheme.

Master Health Check-up for the officer and his / her spouse once in two years if the officer's age is less than 50 and every year if the officer crosses 50 years of age.

#### **LEAVE FARE CONCESSION:**

We need to review the existing scheme in a comprehensive manner.

The entitled mode of travel should be made as air travel to all officers

For Senior Management Cadre it can be executive class.

The encashment of leave fare concession should be the actual expenditure he / she would have incurred had the officer traveled actually by entitled class.

Foreign Travel to be allowed within the entitlement upto the maximum distance permissible in India.

The IBA should take up with the Government and seek exemption from payment of income tax whenever the amount is drawn on the basis of encashment.

#### **SPECIAL ALLOWANCES:**

The existing special allowances paid to different places should be revisited and revised in a comprehensive manner for example in places like J &K, Sikkim, North Eastern States, Himachal Pradesh, Andaman & Nicobar Islands, Lakshadweep, the red corridor and other similar centers.

The hardship allowance should be redefined and new areas should be added on the basis of the norms already available. It should also be revised wherever it is already being paid.

All the officers serving in those places should also get these allowances in order to meet the higher cost of living etc., and wherever it is paid, it should be suitably reviewed.

**EXGRATIA:**

The concept of minimum exgratia should be reintroduced in a rational manner. Exgratia is now available to all the Employees in Private Sector Banks, Foreign Banks etc., which has created a serious differential in the emoluments between the workforce in the Public Sector and other sectors. It is also prevalent in Govt. Sector such as Railways/ Postal and in Public Sector Undertakings. Hence, an amount equivalent to not less than one month's gross salary should be paid as exgratia to all.

**COMMERCIAL BANKING ALLOWANCE:**

In view of the onerous responsibilities of conducting commercial banking operations involving risk, officers should be paid Commercial Banking Allowance as prevailing in the Reserve Bank of India. (Central Banking Allowance)

## **PART III**

### **ISSUES CONCERNING LADY OFFICERS:**

Thanks to the awareness that has been created amongst the women in the country over the last several years to excel on par with men in all walks of life, the intake of the lady officers in the banking industry has very substantially increased in almost all the banks. It is nearly 50% of the total recruitment in some of the banks and it may increase in due course due to the changing demographic profile of employable educated youth.

They are also to-day accepting challenging postings, transfers, and specialized areas in the banks without any hesitation. They are now in a position to accept higher responsibility in their career and look to head the institutions eventually.

The Officers Organisations have been receiving a number of representations, memorandum and also resolutions highlighting the problems of the lady officers through the various conferences as well as the Women's wing. Based on these feelers and suggestions, it has been decided to exclusively devote a chapter to consider their special situation and demand appropriate relief from the Indian Banks' Association.

### **(a) PLACEMENT AND POSTINGS:**

One of the major concerns of the lady Officers has been their placements and postings in the banks. The country is yet to develop in the matter of

infrastructure, the facilities exclusively to the lady members in different places. Hence, a separate Transfer / placement Policy taking into account the problems of the lady officers should be designed and forwarded to the member banks by IBA. The IT sector is a classical example where a lot of sympathy is shown to the women employees in the matter of posting and placement in order to get the best from them. Yet another major consideration is their safety and security at different centers.

The lady Officers need to be extended the benefit of flexi-time and flexi-place concept. They should be given choice of their place at the time of transfer and placement keeping their difficulties in view. The Banks should be advised to keep one exclusive lady Officer in charge of Personnel Administration in all the Banks to attend to their exclusive issues including transfer, placement etc.

The lady Officers whose spouses are working elsewhere should be accommodated at the same place. Similarly, where the wife and husband are employed in the same bank, they should also be accommodated at the same centre.

**(b) PROVISION OF CRECHE FACILITY:**

The Banks should provide Creche facility for the benefit of children of lady Officers who are required to attend to office as the children need parental attention.

**(c) LEAVE FACILITIES:**

The existing Maternity Leave of 6 months at a time should also be extended in case of adoption of a child (from present 3 months).



3 months' additional sick leave be sanctioned after attaining the age of 45 years as lady officers are prone to diseases at this age.

Child Care leave as applicable to the Central Government employees should be made available to lady officers.

**(d) PATERNITY LEAVE:**

The Paternity leave of 30 days should be introduced for officers on 2 occasions.

**(e) LFC/HTC:**

Spouse employed in the same bank to be permitted to avail LFC separately as per individual eligibility. The lady officers should be permitted to take their dependent parents and parents in law along with them on LFC/LTC.

**(f) DEFINITION OF FAMILY:**

The parents, father-in-law & mother-in-law, dependent of an officer, sons and daughters, brothers and sisters divorced or deserted, daughters or sisters etc to be treated as members of family for the purpose of LFC/HTC and medical facilities.

## **PART IV**

### **SUPERANNUATION BENEFITS:**

The employer has an obligation to ensure that the employees having served the institution almost life time are provided adequate superannuation benefits so that they are able to live a life of dignity, honour and above all a comfortable life for having given their blood and sweat to the institution.

The superannuation expenditure cannot be considered as a cost and be made subject matter of negotiations. The compensation paid in the form of superannuation have been described by the highest court of the country as deferred wages paid to all those who served the institution with devotion and conviction for ensuring the prosperity, not only for the institution but the nation as well.

At present, the Banking Industry has provided for the benefit of Gratuity, the Provident Fund or Pension, Leave Encashment at the time of retirement, Medical facilities, and several other welfare facilities.

We strongly feel that there has to be an exclusive and a comprehensive dialogue between the Officers Organisations and IBA as to the improvements that are required to be made in the present superannuation benefits.

### **PENSION:**

The Banking Industry has introduced the Pension Scheme with effect from 1.1.1986 after protracted discussions and negotiations between the Officers' Organizations/unions and the Indian Banks' Association in the year 1993. The Pension Scheme has remained as such since the beginning of the scheme in the Banking industry.

The Government servants have seen two pay commissions during this period and if we consider the date of implementation as 1.1.1986 there have been 3 Pay Commission reports providing very comprehensive improvements in the superannuation benefits to the civil servants in the Government.

The Pay Commissions have taken a very pragmatic view in the last 3 Pay Commission Reports and have made very substantial changes in the scheme. There is a need to take the same view as regards the Pensioners in the banking industry as well.

The periodical review of Pension scheme is the responsibility of the Managements of the Banks. It cannot be tagged to bipartite settlements which has adversely affected the pensioners and ultimately the pension scheme remain as an archaic one in the Banking Industry. As and when there are improvements in the central Govt. Pension scheme, the IBA should invite the negotiating unions and implement the same

Pension consists of the following parts:-

- a. **Basic Pension**
- b. **Commutation**
- c. **Dearness Allowance**

The Basic Pension is calculated on the basis of the last drawn 10 months' average pay by the retirees or the last pay drawn whichever is beneficial to the retiree. The formula has remained the same.

The Government servants have been provided the benefit of updating of pension at periodical intervals to provide sufficient cushion against inflation and cost of living.

Dearness Allowance be converted as Basic Pension as and when the cost of living index increases by about 50%. The Pensioner will therefore have the benefit of enhanced Dearness Allowance and it provides a small cushion against the inflation.

The other method adopted by the Government is to bring all the pensioners on a uniform scale by merging the Dearness Allowance at the time of revision as recommended by the Pay Commission. The facility of upgradation of pension above the age of 80 years be made available to Bank Officers as prevalent in Government. We therefore suggest as follows:-

**BASIC PENSION:**

Improve the present Basic Pension in respect of all the earlier retirees on the basis of the merger of Dearness Allowance at a level to be decided by mutual understanding between the IBA and the Officers' organizations and unions.

**COMMUTATION:**

The present rate of Commutation has to be revised to 40% with the existing conversion factor. The full pension be restored after 10 years.

**DEARNESS ALLOWANCE:**

The DA formula and neutralization should be at par with serving officers.

**GENERAL:**

The voluntary retirement provided in the Officers Service Rules should be incorporated in the Pension rules and they should also be made eligible for Pension without any discrimination.

Pension scheme should be extended to all those who have been denied earlier on the basis of the misinterpretation of the understandings reached with IBA in particular those who retired under voluntary retirement scheme as per the service regulations / resigned after completing 20 years.

The officers who joined the bank between 01.11.1993 and 26.01.1996 have to be covered under the pension regulations.

Provision of additional service as per the Pension Regulations to the extent of 5 years should be extended to each and every retirees in the banking industry.

Those having relaxation of age at the time of recruitment on account of disability etc., also to be extended additional period of 5 years to his / her service qualifying for pension.

Also, for Ex-servicemen their past services rendered in the Armed Force should be added to his / her service for qualifying for pension.

#### **FAMILY PENSION:**

The Family Pension should be on par with the Government and be at 30% of last drawn pay by the officer across the board to every one. The regular family pension will be payable for 10 years or till the 70<sup>th</sup> year of notional age of the deceased.

**NEW PENSION SCHEME**

The employees and officers who joined the banking industry on or after 01.04.2010 should be governed by the original pension settlement signed on 29<sup>th</sup> October 1993 and Gazetted in the year 1995.

**GRATUITY:**

The Gratuity should be paid at the rate of one month salary and allowances without any ceiling. The gratuity should be completely exempt from payment of income tax.

**PROVIDENT FUND:**

The Provident Fund should be at the rate of 12% of the total salary and allowances. The Provident Fund should be payable to all employees.

**ENCASHMENT OF LEAVE:**

Encashment of entire leave at credit should also be permitted on resignation, removal and compulsory retirement.

The existing ceiling on encashment of leave should be enhanced to 360 days at the time of resignation / superannuation. The entire amount should be exempted from income tax as in the case of the Central Government Employees.

**MEDICAL BENEFIT SCHEME:**

A comprehensive Medical Scheme for pensioners/ retirees should be framed and introduced in all the banks as available now in the case of executive directors and CMDs of the Banks.

**WELFARE ACTIVITIES:**

A separate allocation of funds for improvements to welfare of the pensioners should be made every year. The facilities like Holiday Home, clinics, Transit House etc., should be made eligible for pensioners also.

**LFC/ HTC FACILITY:**

LFC / HTC Facility should be extended to the retirees also at par with serving employees.

## **Part V**

### **NON - MONETARY – ISSUES RELATING TO WORKING ENVIRONMENT ETC.,**

#### **GENERAL ENVIRONMENT – AMBIENCE – WORKING HOURS ETC.,**

It is the duty of the banks to provide an appropriate environment, ambience and above all the HR systems at all branches. The officers' fraternity should also be provided with all amenities such as supply of refreshment, beverages etc., inside the branch premises in view of the pressure of work, long stay in the office etc.,

The environment should afford an opportunity for full exposure of the creativity and also efficiency of the officers while discharging their duties to the customers as well as the branches.

The banking industry is now equipped with excellent technology advancement, continuous updation of computers, servers etc., there is therefore a need for the Management to adopt appropriate HR initiatives to encourage and motivate the Officers to acquire knowledge in these fields and give their best to the institution.

The Banking Industry is entrusted with the responsibility of enhancing the economic prosperity of the country and also the GDP growth with a view to enhance the standard of living of the common man. The management should ensure that reasonable working hours are fixed rather than pressurizing the officers which may lead to failure and resultant loss of health or upset the officers' routine. Hence, the working hours for officers should be defined and regulated.

#### **5 DAYS WEEK:**



Five Day week is already available in the international banking system. It is also available in our country in RBI, Central and State Governments and in Public Sector Undertakings. Hence, it should be introduced immediately in the entire banking industry.

The working hours should not exceed 36.5 hours in a week. The daily working hours should not be more than 6.5 hours in the normal course.

Any working hours, more than 7 hours a day, should be compensated monetarily to the extent of twice the actual hourly salary in the normal course.

They should also be made eligible to take weekly off to the extent of additional hours of duty rendered by them.

The Officers who are called upon to work on weekly-off days and holidays, should be compensated as above and in addition be permitted a compensatory off on a date convenient to them and such weekly offs be credited to the leave account.

#### **LEAVE RULES:**

The existing leave rules will have to be comprehensively reviewed and made officers friendly and flexible as available in several other sectors of the economy.

The availing of leave should be made flexible. The officers should be free to avail the leave as and when required. They should also have the benefit of splitting the day into hours and half-day, full-day etc., and longer period as in the case of several other corporates.

**TYPES OF LEAVE:**

The existing system of maintaining separate leave accounts may be done away with. A common account of leave should be introduced where they should be able to combine all types of leave into total number of days of leave available to them and use the same as per their own requirement.

However for the purpose of better understanding we re-produce the types of leave available and the need to review the same.

- a. Casual leave should be increased to 15 days;
- b. Privilege Leave – 33 days in a year.
- c. Sick Leave 15 days in a year ( on full pay) without any ceiling;
- d. Restricted holidays: A minimum of 10 days in a year for festivals and other personal, religious functions etc., may be permitted to be availed as holidays by the officers.
- e. Special leave for study, sports, social and cultural activities
- f. Leave on loss of pay
- g. Sabbatical leave

**INTRODUCTION OF LEAVE BANK:**

The leave so calculated should be credited to the leave account of the officer on a consolidated basis. The officer should be eligible to avail the leave on the basis of his requirement. The intermittent holidays and weekly offs should be excluded while sanctioning leave.

The Officer should have the opportunity of encashing the balance available in the consolidated leave account once in a year to the extent of 50% of the leave available in his account at the beginning of the subsequent year.

Further, an officer should be permitted to encash the entire leave at his credit at the time of retirement including sick leave and no ceiling should be imposed for accumulation of leave. The officer may be permitted to transfer leave to another officer in case of need for medical purpose.

**OUTSOURCING :**

Work done on a regular basis should not be outsourced.

**DISCIPLINARY RULES PROCEDURE:**

We have submitted a very comprehensive note to the Indian Banks' Association for the review of the existing conduct rules and procedure and to introduce certain changes in tune with the changing environment. (Copy enclosed) The issue should be discussed for implementation.

**ADMINISTRATIVE TRIBUNALS:**

The IBA should take up with the Government, the introduction of an exclusive Banking Administrative Tribunal for the banking Industry in order to deal with all the service as well as disciplinary matters in respect of officers similar to Central Administrative Tribunal.

**Discussion of Disciplinary Action procedure**

An exclusive exercise should be carried out by IBA for bringing appropriate amendments in the Discipline and Appeal Regulations in due consultation with all the Four Officers' Organisations.

**PART VI**

**GENERAL BILATERAL RELATIONSHIP:**

The 7<sup>th</sup> Joint Note exercise on Officers wage revision when resume, will have a historical significance in the sense that the Management and the Officers' organizations have come a long way in the structured negotiation systems and have matured enough to decide and arrive at a compensation which is generally acceptable to both the parties. In the process we need to have a clear demarcation as regards the issues concerning the Officers' fraternity and Officers' organizations should have exclusive right to negotiate on behalf of the officers in the banking industry. Hence, all the issues connected with both the directly recruited officers as well as the Officers promoted from clerical cadre have to be decided between the IBA and the Officers' organizations. For example, the fitment formula, which is now in a state of confusion, will have to be discussed and settled between the Officers' organizations and the IBA. Similarly the issues of promotion policy, transfer policy, etc., will have to be settled bilaterally with Officers' organizations both at the bank and the industry level.

**STRUCTURED FORUM AND ACCOUNTABILITY FOR SETTLEMENT:**

The Officers' organizations have been holding discussions and negotiations with the representatives of the Indian Banks' Association over the last 40 years. The system has got itself streamlined during the last 3 decades and the issues that are related to the compensation and also certain issues of urgent nature are brought to the IBA forum and decided between both the parties. There is a need to structure this conventional arrangement and ensure that all issues affecting the industry and the impact of the directives of the outside agencies on the officers' fraternity are brought to this structured forum and decided to avoid unnecessary irritations in industrial relations in the banking

industry. The proper detailed and codified account of all discussion should be exchanged.

The structured forums are already in vogue in all the banks. The issues referred to the banks by the IBA and the Government is discussed at the bank level negotiations by each organization which leads to discrepancies in the implementation of any understandings reached between the organizations and the management.

Certain Industry level issues have to be discussed at IBA / Government Level. Hence, there is a need to have structured forum at IBA / Government for periodical discussions. Hence, there is a need to bring all such issues/directives of the IBA and the Government before a structured meeting and settle to avoid frequent agitation and industrial unrest in the banking industry.

#### **RECRUITMENT / RETIREMENT:**

The Banking industry is in doldrums due to inadequacy of the workforce. The lopsided policies and the conventional approach of the Government and the Managements of the banks at the instance of the IBA and the Ministry of Finance have created a big gap in the average age of the various groups of employees in the banks. There were no recruitments virtually for more than 2 decades and as a result, the age difference between the old employee and the new employee is so wide that the average age of the workforce is adversely affected.

A close review of the situation should be considered and necessary steps to be taken for a pragmatic succession plan. The large scale retirement is adversely affecting the workforce since experienced hands are getting retired where as a large chunk of new recruits are forced to take up higher positions and the promotions are getting accelerated in comparison with the

earlier situation thereby causing serious problems of seasoning and grooming of higher level officers in the banking industry.

A crash programme should be worked out to tackle this serious issue.

In view of shortage of manpower, the retirement age should be re-fixed. We have the following suggestions:-

**VOLUNTARY RETIREMENT:**

Redefine the voluntary retirement and re-fix the minimum eligibility for the purpose.

**AGE OF SUPERANNUATION:**

The age of superannuation to be raised to 65 years for all officers.

**WITHHOLDING OF GRATUITY ON RETIREMENT / RELEASE OF TERMINAL BENEFITS :**

The present adhoc system of withholding gratuity and harsh decision to set off the gratuity amount towards loss caused etc., should be reviewed keeping in view, the recent judicial pronouncements. In any case, there should not be stoppage or denial of gratuity to the officers.

No disciplinary action should be initiated after superannuation.

All Terminal benefits should be released pending disciplinary proceedings if bank fails to complete the proceedings before superannuation as is being done in the case of CBI cases being pending.

**WELFARE FACILITIES:**

**CEILING :**

Present Ceiling of 3% of net profits to be increased to 5% of net profit without any ceiling.

**LIFE COVER :**

Suitable Life Cover should be taken for normal as well as accidental death.

**REVIEW OF LOANS AND ADVANCES :**

In view of the increase in cost of construction of house and flats, we need to have a comprehensive review of House Building Advance to officers by suitably enhancing the limit to Rs.50 lacs at Simple rate of interest without any slab.

Since the Conveyance Loan has not been revised for long, we need to enhance the Car Loan limit to Rs.10 Lacs and Two Wheeler Loan limit to Rs.1 lac at Simple rate of interest without any slab.

The repayment of the above loans should be extended upto 75 years of age.

**ROAD TAX ON VEHICLES:**

In view of All India transferability of officers, the Road tax on vehicles of different States should be paid by the bank on inter-state transfers.

**DATE OF RETIREMENT:**

Those who were born on the 1<sup>st</sup> of a month to be retired on the last day of the same month, and not the previous month.

**PROTECTION OF EMOLUMENTS:**

The emoluments drawn by an Officer should be protected on his transfer from one place to another.

**TRANSPORTATION OF PERSONAL BELONGINGS:**

The Banks should take the responsibility for shifting the personal effects of the officers on transfer from one place to another. In the absence of such facility, the Officers should be reimbursed the full expenditure on certificate basis.

**INCIDENTAL EXPENDITURE ON TRANSFER:**

To meet additional expenditure towards education of children, housing etc., officers should be paid two months' salary to compensate incidental expenses on transfer. In case of transfer outside the State, 3 months' salary should be paid towards incidental expenses. In case of transfers to far off centers and the places of inclement weather and living conditions, there has to be high compensation as incidental expenditure on transfer.

**OTHER ALLOWANCES SUCH AS HILL AND FUEL ETC.**



All the allowances other than what have been covered in the earlier chapters should be enhanced appropriately.

**AREAS DECLARED AS SEZ/NEZ/EPZ:**

The branches coming under the above areas should be treated on par with Metro Centres for all allowances and perquisites.

**SPECIAL ALLOWANCE TO NORTH EAST, SIKKIM AND OTHER DISTURBED AREAS / NAXAL PRONE AREAS:**

Special allowance as prevailing in Central Government/RBI for Officers serving in these areas should be extended to Bank Officers.

**IMMUNITY FROM TRANSFER POLICY, SPECIAL PRIVILEGES TO OFFICE-BEARERS OF THE ORGANIZATION:**

In view of the positive role played by the Officers Organizations there is a need to revise the existing arrangements as regards the special leave to the office-bearers of the organizations. The existing arrangement is grossly inadequate in comparison with the size and the growth of the banking industry and equally the membership of the officers' organization – the structure of the organization and hence appropriate enhancement in the leave facility needs to be considered.

The senior office-bearers of the Officers' organizations should have the duty off in view of the fact that they will be dealing with all the personnel matters

relating to the officers' fraternity and they may not be able to attend to their deskwork. If the Office Bearers are denied this facility it would cause great harm to the officers' organizations in the banks.

The Office-bearers of Associations should be extended immunity from transfer/placement. The Central /State level office-bearers should be given duty-off on par with workmen organizations. The facility is due for review.

**THE LOAD FACTOR:**

The negotiations on cost of salary revision should be confined only for the purpose of deciding the load factor in respect of Basic Pay and Dearness Allowance.

**DATE OF EFFECT:**

The date of effect for implementation of the settlement on the basis of the charter of demands should be from 1.11.2012.

**RIGHT TO SUBMIT SUPPLEMENTARY CHARTER:**

The Officers' Organizations reserve the right to include, amend or alter the demands, as made out in the Charter during the course of bilateral discussions.

All anomalies arising out of Salary Revision should be resolved irrespective of the cost factor involved.

Long pending issues on regulated working hours, 5 days week and standardization of retirement benefits and improvement in compassionate Appoint Scheme should be discussed before commencement of regular wage revision negotiations.

**(P.K.SARKAR)**  
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**AIBOA**

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**(S. U. DESHPANDE)**  
**GENERAL SECRETARY**  
**NOBO**

**Mumbai**

**30.10.12**

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## **ANNEXURE**

### **DISCIPLINARY & VIGILANCE PROCEEDINGS**

#### **Issues to be considered**

- (i) Classification of Misconduct
- (ii) Abuse of the omnibus conduct Rule
- (iii) Authority for imposing Major Penalties
- (iv) Definition of Moral Turpitude & amendment of B.R.A.
- (v) Disposal of disciplinary cases & appeals
- (vi) Copy of CVC/CVO advice
- (vii) Provision of Personal Hearings
- (viii) Interpretation & Effect of Penalties
- (ix) Debarment period
- (x) Sanction of Prosecution/Arrest
- (xi) Suspension & Subsistence Allowance
- (xii) Defence Representatives- No.of pending cases
- (xiii) Agreed List- LODI
- (xiv) Jurisdiction of CAT
- (xv) Proceedings after Retirement
- (xvi) Issuance of Charge Sheet
- (xvii) Other issues

### **(i) CLASSIFICATION OF MISCONDUCT**

In the Officers Service Regulations, Minor and Major penalties have been classified, but there is no classification of Minor and Major misconduct. Breach of any provision of the conduct rules is to be deemed as Misconduct. It is left to be decided by the Disciplinary Authority **(in short DA)** whether to initiate proceedings under Minor/Major penalty clause thereby leaving scope for subjectivity. In case of Award Staff and also Government employees, major and minor misconduct has been defined as a result one doesn't get major penalty for a minor misconduct. In case of Officers, though a large number of cases of proceedings under major penalty end up in exoneration or award of a minor penalty depending upon gravity of misconduct proved after enquiry but in very many cases of minor misconduct, the officers end up getting a major penalty. Also, there are mental blocks in the minds of some DAs who think that if Major Penalty proceedings are initiated, minor penalty or exoneration or withdrawal of charge sheet etc.cannot be done.

### **Recommendation**

Minor and Major misconducts should be defined with clear provision that minor penalty or exoneration may be awarded after conclusion of major penalty proceedings but major penalty cannot be imposed in cases of defined minor misconduct.

### **(ii) ABUSE OF THE OMNIBUS CLAUSE**

Though conduct rules have been elaborated in the Regulations, the regulations at the same time contain an Omnibus Clause to fit the misconduct not specifically defined into the omnibus clause. The tragic reality

is that in more than 90-95% cases, the officers are booked under this Omnibus Clause. It proves beyond doubt that where misconduct is specifically defined, violation is minimal. But more importantly, it indicates that there is an unbridled tendency among the DAs to abuse this provision and any conduct is dubbed as misconduct by invoking this clause which ought to be attracted in rare cases but which is applied in an overwhelming number of cases. If this clause is annulled and instead if the vast variety of misconducts covered under this clause over the last over three decades are analyzed and specifically provided in the conduct rules, it will lead to better compliance and minimal breach on the part of the officers. **In particular, what is unbecoming of a Bank Officer must be explicitly stated in the conduct rules.**

### **Recommendation**

The omnibus clause in the conduct rules should be deleted.

### **(iii) AUTHORITY FOR IMPOSING MAJOR PENALTIES**

As per Article 311 of the Constitution of India, Disciplinary Authority for imposing capital punishment should not be lower than the Appointing Authority. Since all capital punishments leading to cessation of service are classified under major penalties, it automatically follows that for imposing any major penalty, the Disciplinary Authority should not be lower in rank than the Appointing Authority. Though this principle is followed in the Government and various other Organisations, including the State Bank of India, in nationalized Banks it is not being followed.

### **Recommendation**

No Authority lower in rank to the Appointing Authority should be competent to award major penalty.

**(iv) MORAL TURPITUDE & AMENDMENT OF B.R.A.**

Though the term Moral Turpitude appear prominently in the Disciplinary & Conduct Rules and on a great number of occasions, important decisions to proceed against the Officers or to place them under suspension have to be taken for the acts involving Moral Turpitude, it is a queer paradox that what constitutes Moral Turpitude has not been clearly or exhaustively defined either under law or in the conduct rules, though there are various court judgments which to some extent explain this term. Existence of a general provision in the Banking Regulation Act Section 10(1)(b)(i) which states that no employee who is convicted by a court of law for an act involving moral turpitude can be continued in service enormously increases the need and importance of defining what is Moral Turpitude, particularly in the context of normal day to day bank work in order that large number of bank officers do not become unwary victims of these provision and suddenly lose their job with no recourse available or a reasonable hope of reclaiming the lost job due to a painfully slow and exasperating legal system and no provision for getting full back wages if the conviction is set aside later on. When the officer is convicted, he is summarily discharged or even dismissed without holding enquiry etc but when the conviction is set-aside after proper trial, the intervening period is at best treated as deemed suspension for payment of subsistence allowance only instead of payment of back wages. In the Indian Overseas Bank, even the subsistence allowance is not paid and this period is treated as break in service.

To elaborate, the gravity of prejudice suffered by Officers on account of this while performing the normal day today duties in the bank can be seen by the fact that Moral Turpitude has been defined thus in the American settled law:

Moral turpitude refers generally to conduct that shocks the public conscience. Offenses such as murder, voluntary man slaughter, kidnaping, robbery and aggravated assaults involve moral turpitude. However, assaults not involving dangerous weapons or evil intent have been held not to involve moral turpitude. Conviction of crimes of moral turpitude may also disqualify someone from an employment opportunity. The precise definition of a crime that involves moral turpitude isn't always clear, but the above serious crimes only are always considered crimes of moral turpitude.

In terms of the above and umpteen judgments given by the courts in India, out of the above list bribery and frauds committed by an officer himself shall qualify to be acts involving moral turpitude. But, it has been seen that various normal and seemingly innocuous normal banking acts have been routinely covered by the trial courts under Section 120 B or section 420 IPC resulting in the discharge or dismissal of the officer. By the time the appeals are disposed off the officer might cross the normal retirement age and he neither gets back wages or any other compensation for loss of employment.

### **Recommendation**

Moral Turpitude should be clearly defined in the conduct rules. In the banking context, acts of accepting bribe or fraud on the part of the officer himself should be considered the one involving moral turpitude. Full back wages should be paid if the officer is held to be innocent and his conviction is set aside after disposal of appeal. During pendency of the appeal, the officer



may be placed under suspension. Admission of appeal and/or stay against sentence should be deemed as stay against prosecution for the purpose of compliance of provisions of Banking Regulation Act since the case is accepted for retrial. We should also demand from the government Suitable amendment to Sec. 10(1)(b)(i) of the Banking Regulation Act.

#### **(v) DISPOSAL OF DISCIPLINARY CASES & APPEALS**

It is laid down in the special chapter of CVC Manual that no cognizance of the misconduct will be taken if the action of the officer is more than two Inspections or four year old provided there is no fraud in which case there will be no limitation of time. But charge sheet continues to be served even after lapse of 10 or more years. Further, though the maximum time permitted for service of charge sheet and for completion of disciplinary proceedings are laid down, in practice, it is rarely adhered to. The time for filing of an appeal against decision of the disciplinary authority as also the time for disposal thereof are laid down in the said chapter. Though, limitation of time is insisted upon for filing of the appeal and delay in filing is rarely condoned, the time limit for disposal of the appeal is rarely adhered to and disposal of appeals in many cases is delayed for years together. Consequently, the officers continued to suffer particularly when they are under suspension or when cessation of service has been effected.

#### **Recommendation**

It is recommended that the laid down instructions should be meticulously followed and no fault should be found with the act of the officer after 2 Inspections have taken place or a period of four year has expired. Further, if the charge sheet is not served within the stipulated period of three months or

if the entire proceedings are not completed within the stipulated time of six months as provided in the Vigilance Manual, the suspension of the officer should be automatically revoked with back wages and in case the proceedings are not completed even within a period of one year, the case should be deemed to have been concluded in officer's favour and he be deemed to have been exonerated. In case, the charge sheet is not filed by CBI within the time limit of 90 days, bail is automatically granted but same principle is not applied for revocation of suspension. It is recommended that in such cases, suspension should be revoked without prejudice to the decision of the Court case. Similarly, if the appeal preferred by the officer is not disposed off within the stipulated period of three months, it should be deemed to have been allowed.

#### **(vi) COPY OF CVC/CVO ADVICE**

As per laid down instructions a copy of CVC advice is required to be furnished to the delinquent officer. In practice, however, it is observed that the authorities simply provide the operative part of the CVC advice but the entire correspondence between the Disciplinary Authority and CVC is not made available which defeats the very purpose of the provision. Further, there is no system of providing the advice of the Chief Vigilance Officer of the Bank where CVC jurisdiction is not attracted. This distinction is wholly unwarranted. The advice of CVO is at a lower footing must be furnished when there is explicit provision to provide the advice of the CVC.

#### **Recommendation**

The CVC/CVO advice alongwith the entire correspondence should be made available. It is further, recommended that the CVC/CVO should only recommend category of penalty to be imposed i.e. Major or Minor and not the specific punishment because in that case he assumes the role of the Disciplinary Authority himself. Further, in case of appeal further reference should not be made to CVC particularly if the Appellate Authority proposes to give a lower punishment within the same category already recommended by the CVC.

**(vii) PERSONNEL HEARING.**

The disciplinary procedures have been gradually evolving in favour of the charged officer and in the past some favourable changes have taken place like provision of enquiry, making available report of the Inquiring Authority to the charged officer so that he can argue against his findings, making available of copy of CVC advice etc. But, an important provision like grant of a personal hearing to the charged officer before award of the penalty has all along been denied. As a result, he does not get a chance to argue against the proposed penalty before hand so that some aspects of the case which might have escaped the notice of the Disciplinary Authority can be pointed out in good time and he will be able to take a more balanced and reasoned view. After the final decision is taken by the DA, it becomes difficult to undo the injustice as there is general reluctance to correct the mistakes and the appeal system is also loaded against the employee. There is already a provision for grant of a personal hearing to the workman employees. Recently, the Hon'ble Supreme Court has decided in a case related to State Bank of India Officer that while deciding the appeal the Appointing Authority must give a personal hearing. By that logic, the DA should also give personal hearing to the officer. The same logic should hold good for review petition as

well. This provision is also there in the rules applicable to officers working in the Govt of India.

### **Recommendation**

The DA should take a tentative decision and grant a personal hearing to the charged officer along with his Defence Representative before taking a final decision. The same procedure should be adopted by the Appellate Authority / Reviewing Authority while disposing off the appeal of the officer.

### **(viii) INTERPRETATION & EFFECT OF PENALTIES.**

While the minor penalties are simple and easily understandable, some of the major penalties are very technical and can not be easily understood by the charged officer and even most of the Competent Authorities. At times promotion of the officer is withheld when no promotion is actually due to him. This results in undue prolongation of the rigour of the penalty which might not have been the intention of the DA and the penalty though minor in effects become harsher than a major penalty. Likewise, penalty of recovery of loss is a minor penalty and logically a symbolic recovery of small sum should be effected but at times it is clubbed with a major penalty and amount of recovery runs into lacs. For example removal of service with recovery of two lacs. Further, when an officer is reverted to a lower grade, the reversion is taken as a permanent reversion unless the officer re-qualifies and earns back the promotion, whereas in government reversion is for a period of two years whereafter the officer is placed back in the higher scale from where he was reverted. It is also a practice to give more than one penalty like reversion to lower or the lowest grade coupled with reduction in pay etc.

## **Recommendation**

CCA Rules should be followed in this respect in the banks also.

### **(ix) DEBARMENT PERIOD.**

Debarment Rules are different in different banks. In some banks, there is no debarment when minor penalty is awarded while in some others debarment period extends to 15-20 years also. No debarment period is stipulated in case of the penalty awarded is Reversion to a lower grade whereas in case of Govt employees debarment period of reversion is defined. In some organizations, when criminal proceedings are pending whether for misconduct pertaining to Bank or some other criminal misconduct, result of the officer is held in sealed cover throughout the pendency of criminal proceedings which sometime run for 8-10 years also and sometime beyond the normal retirement date as well.

## **Recommendation**

In case of minor penalty, there should be no rigor and no debarment for promotion and results if any placed in the Sealed Cover should be given effect to. The maximum debarment / rigor for a major penalty should not be more than one year.

### **(x) SANCTION OF PROSECUTION/ARREST**

There are different rules in different banks. The authority empowered to sanction Prosecution of an officer always acts under the influence / pressure of the CBI / CVO and is not permitted to act independent. Further, while

provision has been made for obtention of sanction of the Competent Authority before launching prosecution against the officer but no such provision has been made to obtain similar sanction before arresting the officer.

### **Recommendation**

The power to sanction Prosecution of an officer should be vested in his Appointing Authority. The ground rules should be laid down for giving sanction for prosecution and the Appointing Authority or the Disciplinary Authority should be given a free hand to act independently. Once he declines to give sanction, he becomes a *functus officio* and sanction cannot be sought unless fresh evidence is presented before him. A provision should also be incorporated to obtain sanction of the Appointing Authority before arresting the officer.

### **(xi) SUSPENSION & SUBSISTENCE ALLOWANCE.**

Though the instructions provide that an officer will not be placed under suspension before investigation, in practice frequent deviations are made. Ground rules for ordering suspension of an officer are seldom followed. Suspensions are mostly effected as a knee jerk reaction and is invariably behind the back of the officer without giving him any hearing. In most cases the option of transferring the officer instead is not even considered. Once the officer is placed under suspension, there is virtually no review thereof. Review mechanism is totally absent. Review is generally on the papers and in almost all the cases reinstatement of the officer takes place only after the proceedings are concluded and final order is passed. At the time of passing

final order, the DA is niggardly in his treatment of the suspension period. In case of arrest of an officer, there is provision of deemed suspension after 48 hours of the arrest but there is no simultaneous provision of a deemed reinstatement after he is acquitted. There are different rules about payment of subsistence allowance in the government, in the award staff within the banking industry and within the different banks.

The Disciplinary Authorities are too niggardly in the matter of treatment of suspension period while passing final order. It has been seen that except in cases where the officer has been exonerated, suspension period is treated as such irrespective of the gravity of the penalty awarded and nothing more than the subsistence allowance already paid is paid at the time of reinstatement which is grossly unfair. Benefit of Annual increment also is not given even for calculation of the subsistence allowance.

### **Recommendation**

Ground rules of suspension must be meticulously followed. Suspension of an officer prior to completion of investigation should not be effected. The option to transfer the officer to a distant place instead of placing him under suspension should be mandatorily considered as it is good for the officer as well as Bank. In the rare case where suspension of an officer is the only choice, the officer should be given an opportunity to show cause before placing him under suspension. Review of suspension should be regular and meaningful. Suspension should not be continued after investigation completed since the accused officer would not then be in a position to tamper with the evidence or influence the witnesses. In case, the bank or the Investigating agencies fail to serve the charge sheet within the time stipulated in the Vigilance Manual or the proceedings are not concluded

within the given time frame the officer should be reinstated. In case of detention beyond a given period or conviction by a Court, there is a provision for Deemed suspension of the officer. Similar provision of deemed reinstatement needs to be provided in cases where regular bail is granted or when the conviction is set aside.

The rate of Subsistence Allowance should be uniform. For the first three months half the salary and allowances should be paid and after six months, which is the period provided for completion of proceedings, subsistence allowance equivalent to full salary and allowances should be paid.

If the disciplinary proceedings conclude in the imposition of the minor penalty, the suspension ought to be held as totally unjustified as already held by the Hon'ble Supreme Court , and full back wages should be paid. The Committee was of the view that barring the cases where the penalty awarded is cessation of service, full salary for the suspension period should be paid as there is no justification to continue suspension after the initial few months when investigation is conducted.

Notional annual increment should be taken into account for the purpose of calculating subsistence allowance and if salary revision is taking place during the period of suspension, arrears should be paid for the period prior to date of suspension and enhanced subsistence allowance from the date of suspension should be paid.

#### **(xii) DEFENCE REPRESENTATIVES**

The position is not uniform. In all the Nationalized Banks, Defence Representatives are allowed to have 2 pending cases at any point of time as



against 3 cases laid down in the CVC Manual. Only in State Bank of India 3 pending cases are allowed. Further, though there is restriction of 2/3 cases for the defence representatives, there is no such restriction for the Presenting Officer or the Inquiring Authority. There are also different provisions in this regard for officers and award staff. Whereas, in case of officers only serving officer is allowed to defend in case of workmen any office bearer of a registered Trade Union whether retired or serving and whether belonging to same or different bank is allowed to defend the charge sheeted employee. This distinction / discrimination is wholly unwarranted.

### **Recommendation**

There should be no restriction on the number of cases to be taken up by any defence representative as in the case of Presenting Officer / Inquiring Authority so that the Officers are not deprived off the assistance of trained persons who are not easily available and particularly because officers are not allowed to take the assistance of lawyers, there is a strong case for allowing the retired officers of the bank to give this service to the officers of his parent bank.

### **(xiii) AGREED LIST / LODI.**

This list of officers whose honesty / integrity is taken to be doubtful is prepared at the back of the officers and in many cases it is not as per the letter and spirit of the laid down norms. Even where after enquiry the fraudulent motive is not proved and the penalty awarded is not so serious and where acquittal is more or less on merit, names of officers are kept in the LODI and cases are not scarce when officers are unnecessarily put under watch by placing their names in the agreed list and the officers concerned do not even come to

know about it because the sensitive and non sensitive positions are interchangeable. The list of sensitive positions has been exhaustively drawn up by including a large number of assignments which are not sensitive at all. This results into under utilization of talent and experience and in many cases officers not actually placed in the agreed list when posted to these assignments get an impression that their integrity is under watch.

### **Recommendation**

There is a need to revisit the issue and carefully draw the list of sensitive assignments. The officers whose names are placed in LODI / Agreed list should be informed so that they can at least make a representation to the Competent Authority to review their decision. The laid down period of three years / one year for keeping the name in LODI and Agreed List respectively should be adhered to and not prolonged. On expiry thereof, names should be automatically deleted from the list.

### **(xiv) JURISDICTION OF CAT.**

The Central Administrative Tribunals were first established in the year 1985 with the laudable objective of reducing the burden on the various Courts and to reduce pendency as also to provide the persons covered by these tribunals a speedy and relatively less expensive and effective remedy. The Tribunals have served the declared objective to a great extent but only the employees of the Central Government and other notified organizations are covered. Bank employees have not been brought within the jurisdiction of these tribunals so far even though banks are now owned by the Government. As a result the bank employees are suffering enormously as they are at the mercy of the bank management and do not get justice in most of the cases. The handling

of the cases in the banks is highly subjective, perfunctory and whimsical. However, the bank employees in general and officers in particular keep suffering and do not in most cases approach the Court of Law because of the huge cost and delays involved.

### **Recommendation**

Since the tribunals are working satisfactorily and have now come to stay and through these the working class is able to get speedy and less expensive adjudication of disputes in respect of recruitment and condition of services as also the employees are able to challenge instances of gross miscarriage of justice in disciplinary matters where Principles of natural justice are violated at will by the Disciplinary / Appellate authorities. We strongly recommend that special administrative tribunals for bank officers and employees should be set up by the government.

### **(xv) PROCEEDINGS AFTER RETIREMENT.**

The provisions in the Service Rules that Disciplinary proceedings may be continued after retirement of the officer was kept to take care of the situations where some fraud or gross misconduct is committed shortly before the superannuation of the officer. However, in practice this provision is grossly misused and even abused to stall / stop the normal retirement of the officer by digging out some act of misconduct committed years before the date of retirement and charge sheets are issued on the very eve of the actual retirement. Cases are not lacking where the alleged misconduct was discovered years before the retirement date but the proceedings like

investigation, preliminary explanation etc proceed at snails pace and actual charge sheet is issued when the officer is on the eve of his retirement by invoking the provision to keep him in bank's service for the limited purpose of completing the departmental proceedings. Resultantly, his retiral benefits are withheld and the officer is made to undergo all sorts of stigma and social ignominy. Out of sight is out of mind. Once the officer is not on the rolls, the proceedings progress at even slower pace and the officer keeps suffering for years on end. Government instructions to put up such cases at least one year before retirement and these should be subjected to quarterly review by an authority no less than the CEO himself are not being adhered to.

### **Recommendation**

It should be clearly provided that this particular rule can not be applied for misconduct which is more than say one year old at the maximum. Further, this rule 19 (3), 20(3) in some banks should not be invoked in the last quarter unless some fraud / act of misappropriation has been unearthed. It should be further provided that if the proceedings are not completed within three, or at the maximum six months of the date of superannuation, the retiral benefits will be released. Even when this rule is invoked and officer is retained in service for the purpose of completion of proceedings, the amount of leave encashment, which is not a retiral benefit, should not be withheld. Further, such officers are being paid provisional pension so that the organization is not legally called upon to pay salary for the period, proceedings remain pending. Provisional commutation value should also be paid. Similar relief should be provided to officers who are not pension optees.

### **(xvi) OTHER ISSUES**

**(a) Effect of criminal proceedings**

Since criminal proceedings takes a long time to conclude and even if decided, against the officer result in award of a sentence under the law, it should not affect the promotion and / or retirement of the officer, if it is not related to misconduct pertaining to official banking transactions.

**(b) Provision of additional documents**

As in the case of government employees and as per the provisions of the CCA Rules on which the bank officers disciplinary rules are also based, all the management documents must be accompanied with the charge sheet and additional documents should not be allowed to be presented by the prosecution side unless so agreed by the charged officer since presentation of additional documents in case of government employees is taken as amendment to the charge sheet itself. The existing rules about amendment of charge sheets may be reviewed.