



ALL INDIA BANK RETIREES' FEDERATION (REGD.)

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Ref: 2024/76

20.04.2024

The Office Bearers/ Central Committee Members/ State Committee Chiefs
A.I.B.R.F

Dear Sir,

Re: Updation of Pension

Re: M. C. Singla & Others case pending in Supreme Court.

As you know, AIBRF has been continuously and aggressively pursuing demand of Updation at various levels for last 7 years. As per the decisions taken in the Central Committee and Office Bearers' Committee Meeting held at Indore in January, 2024, even after grant of ex-gratia amount to pensioners, AIBRF will continue to make organisational efforts in coming days to achieve demand of Updation,

2. While sanctioning, ex-gratia amount to pensioners, IBA has incorporated the following clause in the Settlement dated 08.03.2024.

Para 36 : " The Unions/ Associations have been demanding Updation of pension along with wage revision settlements, The issue regarding Updation is already sub-judice before various Courts including Honourable Supreme Court . The Unions/ Associations requested that without prejudice to the court cases, some ex-gratia may be extended to pensioners/ family pensioners and it has been agreed that some ex-gratia could be considered for the current bi-partite from 1.11.2022 to 31.10.2027"

3. From the above, it is clear that IBA has taken stand that it would examine and consider Updation demand of retirees only after getting outcome of court cases on Updation presently pending in various courts, in particular in the case of M.C. Singla and others pending in Supreme Court.

4. In view of the above stand of IBA, M. C. Singla case presently pending in Supreme Court assumes importance for retirees in achieving demand of Updation. It will not be out of place to mention here that situation of similar nature had arisen in 2015 during 10th Bipartite Settlement when IBA refused to consider and grant 100 per cent DA to Pre- November, 2002 retirees as the matter was sub-judice in Supreme Court at that time. It is pertinent to mention that during organisational efforts being made by AIBRF simultaneously to achieve demand in 2015, there were signals/ feelers from the relevant quarters that 100 per cent DA could be considered in the settlement provided retirees agree to withdraw cases in 100 per cent DA matter in Supreme Court and accept the benefit from **prospective date**. Despite comprehensive and lengthy debate in the matter, consensus could not be arrived between option of **prospective versus retrospective** and due to this; the demand could not be clinched in 2015. Finally, with consistent and close follow up in subsequent years it could be achieved in October, 2023 even after losing the case in Supreme Court in 2017.

5. Therefore, it would be pertinent and relevant to know some important facts of **M. C. Singla** Case pending in Supreme Court

- (a) M. C. Singla & 8 others, retirees from PNB filed C.W.P. No. 6233 in 2008 in Punjab & Haryana High Courts for Updation of pension at par with RBI Pension Scheme and Central Government Pension Scheme.
- (b) In the writ petition, documents relied and on which case built were (i) **Clause 12 of Memorandum of Settlement dated 29.10.1993** which provides that rules will be made for commutation, Updation etc. through negotiated settlement.(ii) **Provisions of Regulation No. 56 of Pension Regulations 1995** Which says that in case doubt in the matter of interpretation, corresponding provisions of Central Civil Service Rules may be refereed.(III) **Minutes of Small Committee Meeting dated 26.03.1994.**
- (c) CWP filed by 9 petitioners was dismissed by Single Bench of Punjab & Haryana High Court headed by Justice K. Kannan on the grounds that though it was agreed to frame rules for Updation in the settlement dated 29.10.1993, in further rounds of discussion, this issue was not taken up and final Regulations were approved without provision of Updation. Provisions under Regulation No 56 cannot be source for claiming a right at par with RBI or Central Civil Service Rules for Updation. Justice Kannan while delivering the judgement had observed **“ they could have pressed for better rights through negotiations in the manner settlement talks provided. It would be open for petitioners to make the demand for parity if they are so advised and use their bargaining skill through their associations and press for reliefs through the mechanism provided under the Industrial Dispute Act. There existed no vested right now for petitioners to claim benefits in the manner sought. All the writ petitions are consequently dismissed , however , subject to the above observations.”**
- (d) Aggrieved petitioners (retirees) filed appeal in division bench of Punjab & Haryana High Court in 2013 against judgment of single judge. Division Bench also dismissed the appeal observing **“ Clause 12 of the settlement and 56 of the pension scheme , in our well-thought view, do not advance case of the appellant. A perusal of Clause 12 of the settlement makes it abundantly clear that it only provides for further negotiations as regards applicability, qualifying service, amount of pension, payment of pension, commutation of pension, family pension, updating and other general conditions and can not be read to provide for Updation of pension. Similarly, Regulation No. 56 deals with a situation where doubt arises in the matter of application of the pension scheme and mandates to clear that doubt by referring to the corresponding provisions of Central Civil Rules,1972” No such doubt is shown to exist as could necessitate a reference to corresponding provisions.”**
- (e) Petitioners (retirees) filed Special Leave Petition No. 5561 of 2016 in Supreme Court challenging judgment of division bench of Punjab and Haryana High Court. It is waiting for final disposal in Supreme Court since then. The case will be primarily examined and decided on the issues raised in original petition and the following documents relied in support of grant of periodic Updation:
- (i) Clause 12 of the Memorandum of Settlement dated 29.10.1993
 - (ii) Provisions of Regulation No. 56 of Pension Regulations, 1995
 - (iii) Minutes of Small Committee Meeting held dated 26.03.1994.

As per law of the country, at appeal stage, petitioners are not permitted to raise new issues. In Supreme Court, in our considered opinion, it is likely to be heard and disposed on the basis of documents mentioned above and legal interpretation on them.

6. We find that many vital points of substantive nature which strengthen and support demand of Updation in the larger prospective are not part of the WP/ SLP directly.

- (a) Concept of Defined Benefit Scheme
- (b) Concept of Social Welfare which has been completely diluted/ destroyed in the absence of periodical Updation
- (c) Concept of Social Security
- (d) Discriminative treatment being meted out to past retirees.
- (e) Principles laid down in famous Nakara case for pension Updation in defined pension scheme.

As stated above, this SLP pending in Supreme Court has assumed importance among bank retirees as IBA in the 12th settlement has tagged Updation demand of bank retirees with this case. Outcome of the case will have significant consequences on achieving demand of Updation. Unfortunately, pendency of this case has given handy tool to IBA in becoming successful in postponing the demand of Updation for some time more. AIBRF is committed to pursue demand of Updation vigorously and closely and achieve it irrespective of outcome of the Court judgement in this case.

We have thought it necessary to present details of the case sequentially to enable the membership and bank retirees at large to understand and appreciate M. C. Singla case objectively and in its proper prospective instead of being carried away by unconfirmed information being circulated in social media frequently.

7. Whether Grant of Ex- Gratia has strengthen Updation demand of Bank Retirees or weaken it

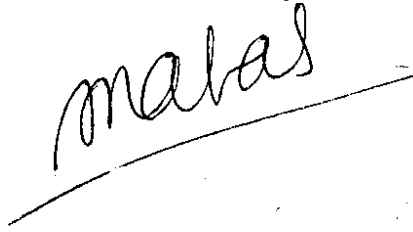
There are divergent views on payment of ex-gratia to retirees. Therefore it needs to be critically analysed. On this issue the following important points need to be noted

- (a) In no way, grant of ex-gratia has debarred unions/ retirees from raising and demanding pension Updation in future. It is stated in the relevant clause of the settlement that “ ex-gratia is being granted without prejudice of demand of Updation
- (b) Ex-gratia has been granted for temporary period of 5 years indicating that it is temporary arrangement as interim relief.
- (c) Grant of ex-gratia has further fortified demand of retirees for Updation as IBA itself has felt need for giving additional pensionary benefits to retirees on immediate basis even without waiting for outcome of case pending in Supreme Court and despite filing various affidavits in courts opposing Updation demand of retirees. In nutshell, by grant of ex-gratia, IBA has acknowledged need for Updation.
- (d) With some additional monetary benefits in the hands of the retirees in the form of ex-gratia, it will strengthen hands of retirees in pursuing demand of Updation more vigorously and forcefully in coming days.

8. We call upon all our affiliates and leaders and cadre to be united and be ready for vigorous and continuous efforts and struggle to achieve demand of Updation. We are confident we shall achieve it as has been insured in the case of 100 per cent DA. Kindly ignore rumours being spread by some disgruntled elements. They need to be marginalized.

With Revolutionary Greetings

Yours Sincerely

A handwritten signature in cursive script that reads "mabas". Below the signature is a long, slightly curved horizontal line that extends from the left side of the signature towards the right.

(S. C. JAIN)
GENERAL SECRETARY