



# ALL INDIA BANK RETIREES' FEDERATION (Regd.)

(Regn. No:G 6601 under the Trade Union Act 1926)

D-1/1, Sector-C, Scheme-71,

Near Kasara Bazar School, Indore – 452 009.

## Chairman

Sri D.A.Masdekar

## President

Sri S.M.Deshpande

## Vice President

Sri J.B.Dave  
Sri D.P.Gupta  
Sri F.Martis  
Sri Anindya Basu  
Sri N.Mishra  
Sri C.N.Prasad  
Sri A.K.Mondal  
Sri H.C.Gandhi  
Sri K.Vishwanath Naik  
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## General Secretary

Sri S.C.Jain

## Dy. Genl. Secretary

Sri Debesh Bhattacharyya  
Sri S.V.Srinivasan  
Sri Ashok Patil  
Sri A.K.Bansal

## Organising Secretary

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Sri V.K.M.Varma  
Sri C.Gopinathan Nair  
Sri M.N.Pandit  
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Sri Rajan Dhargalkar  
Sri Suresh Sharma  
Sri R.Shirambekar  
Sri B.G.Raithatha  
Sri Ranjit Bhattacharyya

## Treasurer

Sri M.S.Chourey

Ref:2017/12

Date.01.02.2017

**Smt. Kalpna Sisodia**  
**Assistant Labour Commissioner (Central)**  
**Mumbai**

**Madam,**

**Re: Proceedings of 24.01.2017**

**Re: Submissions of AIBOC**

**Re: Our Counter Reply**

**During the proceedings of 24.01.2017 on AIBRF representation on 100 per cent Dearness Relief, AIBOC, one of the parties to whom notices were issued had submitted its response vide letter no. 2017/04 dated 07.01.2017 which was taken on record.**

**2.We find that observations made in the AIBOC communication is quite general in nature, based on their perception and not supported by specific facts and documents. We wish to offer the following comments on AIBOC response as under for your kind consideration and for appropriate action on them on the next date of proceedings on 28.02.2017 or on any date in future fixed for this purpose.**

### **AIBOC observation under Para No 1**

**"We are a registered trade union representing the vast majority of Bank Officers and duly recognized by the Bank Managements."**

### **Our Comments**

**No Comments**

### **AIBOC observation No. 2**

**"We have been negotiating Bipartite Settlements continuously on behalf of the Bank Officers with the Indian Banks' Association including the last settlement known as Xth Bipartite Settlement."**

### **Our Comments**

**We agree with the above statement**

### **AIBOC observation No.3**

**"Our Organisation had also negotiated the Pension Settlement for Officers in the year 1993 which was implemented as Bank Employees Pension Regulations identically in all Public Sector and Private Sector banks who are also members of the IBA"**

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## Our Comments

**It may be observed from Annexure 2 submitted with our detailed submission on 24.01.2017 that settlement dated 29.10.1993 was entered between IBA and AIBEA only (other two parties of the Notice). As per the record available with us, AIBOC was not signatory of 1993 Settlement.**

**We are not aware whether they have negotiated 1993 settlement without signing it as being claimed. They may be asked to submit copies of the minutes exchanged in support of their claim.**

## AIBOC Observation No 4

**"Terminal benefits and Pensionary benefits are part of the service matters and as such Superannuation Benefits are duly negotiated by us. We also like to state that Pension is termed as Deferred Wages for the past services rendered by the Employee"**

## Our Comments

**We agree that terminal benefits and Pensionary benefits are part of the service matters.**

**But, the issue we have raised in our representation under consideration pertains to the past retirees. In ruling given by Division Bench of Kolkata High Court ( Annexure 6 ), it is clearly stated that settlement under section 2(p) of the Industrial Dispute Act can bind only those who are party to the settlement. The retired employees are admittedly not party to the settlement which resulted in joint note. We below quote relevant portion of the High Court ruling for the ready reference.**

**" It is trite that a settlement signed under Section 2(p) of the Industrial Disputes Act can bind only those who are party to the settlement. The members of the banking associations and the members of the unions who are signatories to such a settlement would be bound by it in the present case. The retired employees' association is admittedly not a party to the Bipartite Settlement which resulted in the joint note. Therefore, the Bipartite Settlement cannot contain provisions which would be to the detriment of retired employees. All the retired employees form a class by themselves vis-à-vis the employees who are working. The circulars or joint notes issued cannot bind the retired employees especially if they are adverse to their interest. By means of the joint note issued on 2<sup>nd</sup> June, 2005 the Bank has excluded the pre-2002 retirees from the benefits of the dearness relief payable to those who have retired after November, 2002."**

**( Please refer Annexure 6)**

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In view of the above rulings of High Court, AIBOC may be asked to explain their stand whether they accept retiree as separate class and their right to negotiate and settle the issue independently or they have plan to challenge rulings of Division Bench of Kolkata High Court in the Supreme Court.

### AIBOC Observation No. 5

Hence, we strongly object to anybody trying to strike down our settlements, which we have signed, terming the same as arbitrary, discriminatory, illegal and bad in law.

### Our Comments.

(a) It may be clarified by AIBRF that its present representation under reference is not for striking down the settlement completely but we are challenging only those provisions of the settlement which are arbitrary, discriminatory, illegal and bad in law under "Blue Pencil Theory" of Jurisprudence. AIBOC was signatory to the settlement dated 02.06.2005 when Dearness Allowance was improved to 0.18 % of pay as per clause no. 7(2). (Refer Annexure 4). IBA debarred pensioners who retired prior to November 2002 from this benefit by taking administrative decision and advising member banks to act accordingly without any specific provisions in the settlement of 2005 in this regard. AIBOC may be asked to explain how it as signatory of this settlement permitted IBA to take administrative decision which was not in conformity to the provisions of the settlement and further such decision was arbitrary, discriminatory, illegal and bad in law. As signatory to the settlement, what steps it had taken to stop in implementing illegal administrative decision to protect interest of the past retirees. Further, it may be asked to explain whether AIBOC concur with the administrative decision taken by IBA in this respect.

(b) Further, AIBOC signed settlement dated 27.04.2010 along with other unions. In this settlement, clause No. 16(3) was included to amend clause No. 7(2) of the Settlement dated 02.06.2005 with retrospective from 01.02.2005. This clause with retrospective effect was inserted after lapse of 5 years in attempt to give legal sanctity to the arbitrary, discriminatory and illegal administrative decision apparently committed by parties to the settlement in 2005. AIBOC may be asked to explain its position on our submissions on clause no 7(2) Of 2005 settlement and clause no 16(3) of 2010 settlement.

### AIBOC observation No.6

"However, as regard to 100% DA neutralization to Pre-2002 Retirees our Organisation along with other UBFU constituents had raised the issues in the Xth Bipartite settlement and we are still pursuing with IBA to extend the same not only to those who retired between 01.04.1998 and 31.10.2002 but to all those who retired before 01.11.2002."

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## Our Comments

**(a) It is factual position that the demand of 100 percent dearness relief for pensioners retired before November, 2002 could not be achieved despite being raised during the negotiation for Xth settlement by AIBOC and other UBFU constituents as being claimed by AIBOC. AIBOC may be asked to explain exact reasons for non-achievement of this demand pending for more than 10 years.**

**(b) AIBOC and other constituents of UFBU on conclusion of negotiation for Xth Settlement signed Record Note dated 25.05.2015 (Annexure-15) giving status report on pending issues of retirees and proposed certain action plan in it to dispose of them. It indicates that the issue under reference was not discussed during the negotiation though raised. It may be stated that discussion on Xth settlement began in January, 2013 and concluded in May 2015 lasting for 29 months with 17 rounds of discussion. AIBOC may be asked to explain why 29 months period was not sufficient to discuss, consider and take final view on the issue under reference raised by AIBOC and other constituents of UFBU particularly they could sign settlement for employees.**

**(c) AIBOC along with other constituents have signed Record Note dated 25.05.2015 ( Annexure-15) giving action plan to dispose of retiree issues listed there in. More than 18 months have lapsed since signing of the Record Note. Only on continuous follow by AIBRF, IBA has advised to AIBRF by letter dated 22.11.2016, Para 5 thereof ( Annexure 14) that IBA does not hold mandate from member banks to deal with the retiree issues. It is further stated by IBA in this communication that its Management Committee in the meeting held on 29,07,2016 did not consider the Note prepared by the department for this reason. In view of this factual position AIBOC may be asked to explain whether they were aware at the time of signing Record Note on 25.5.2015 that IBA was not having any mandate to deal with retiree issues. If so, it may be asked to explain what was the logic in signing such document without IBA holding adequate authority from the principals as being claimed now. It appears from the facts coming out in this regard that this document appears to have been signed without clarity and seriousness and probably to satisfy sentiments of the retirees . If AIBOC and other constituents were not aware about the mandate position on 25.05.2015, AIBOC may be asked to explain what action they have taken in last 18 months to ensure that IBA meets its commitment made in the document and what action AIBOC proposes to take on stand now being taken by IBA on absence of mandate ( Annexure15- Para 5)**

**(d) In view of the developments taken place on Record Note dated 25.05.2015 subsequent to its signing and approach of the parties to settlement as narrated above, there is growing feelings among lakhs of retirees that parties to the settlement are not serious on**

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implementation of the commitment made in it.

(e) In fact IBA has already closed the issues of retirees raised in the Record Note in the meeting held on 29.07.2016. We do not find any reaction coming from AIBOC or other constituents of UFBU who are signatories of the document on IBA stand taken on the issue in the meeting held on 29.07.2016 even after lapse of more than 7 months. In view of this, AIBOC being signatory of this document may be asked to explain its stand on IBA decision under reference and future course of action it propose to take to dispose of them.

### AIBOC observation No.7

"Even in the Pension Settlement when it was originally concluded it was very clearly stated that the DA formula will be as existing in RBI. Accordingly when RBI extended the 100% DA neutralization to Post-2002 retirees the same was similarly extend to post October 2002 retirees in Banks also. But surprisingly later on when RBI extended the same to Pre-2002 Retirees, the IBA started dragging its feet. Hence our Organisation also has been demanding extension of 100% DA to all pre-2002 retirees."

### Our Comments

As stated in earlier Para, AIBOC may be asked to explain the reasons for signing wage settlement of 2005 and of 2010 which included provisions of DA for those retired earlier to November 2002 which were contrary to clause 6 of 1993 Pension Settlement which was negotiated by AIBOC and thereby sacrificing interest of retirees. AIBOC may also be asked to advise whether they have any specific plan including legal one to ensure that provisions of clause 6 of 1993 settlement are implemented as per the statement made by them under the above observation.

### AIBOC observation No 8

"Our stand in this regard to extension of 100% DA to Pre-2002 retirees is also in line with the principles of the famous NAKARA's judgment by the Hon'ble Supreme Court."

### Our Comments:

We are happy to note that AIBOC at the organizational level is of the view that extension of 100 DA is also needed on the basis of principles laid down by the Supreme Court in famous NAKARA case. But as stated by AIBOC under observation No 7 IBA is dragging its feet in granting 100 percent DA to pre-2002 retirees. It is fact that AIBOC has signed the settlements which deprived pre-2002 retirees from the benefit of 100 DA despite knowing that such provisions are contrary to clause 6 of 1993 settlement and also in violation of principles laid down in NAKARA case.

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In view of this AIBOC may be asked to explain whether they have any definite action plan to correct the situation and whether they are ready to appear in support of the retiree at legal forum as per the statements made in their letter under reference.

### AIBOC OBSERVATION No 9

"In the light of the above, we once again wish to state that in as much as the superannuation benefits are part of service matters, we as a recognized body of the Officers, have been signing the settlements both in regard to wages and superannuation benefits."

### Our Comments

Kindly refer our comments given under Observation No.3

### AIBOC observation No 10

"We also wish to reiterate that our demand for extension of 100% DA neutralization to Pre-2002 retirees is immediately conceded and implemented."

### Our Comments

We note AIBOC intention on the issue of 100 % DA to pre-November,2002 retirees and according to it, AIBOC wants grant of 100 DA immediately. AIBOC may be asked to explain whether the above statement is limited to expression of intention only as we find that in last 10 years it has failed to achieve. Further, various settlements signed on this issue has made the situation more complex and complicated for this group of retirees.

With Respectful Regards,

Yours Sincerely,

( S.C.JAIN )  
GENERAL SECRETARY

### Copy to

1. General Secretary, AIBEA
2. The Chairman, Indian Bank Association.

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