

**ALL INDIA BANK RETIREES' FEDERATION(REGD.)**  
**D/1/ Sector C Scheme No. 71 Indore 452009**



**SILVER JUBILEE YEAR (1994-2019)**



**Ref. N.2019/314**

**29.09.2019**

Shri S.V. Srinivasan  
General Secretary  
All India Canara Bank Retirees' Federation ( Regd.)  
CHENNAI

Dear Comrade,

**Re: Implementation of Supreme Court Judgment dated 13.02.2018 on 50% of Pay as Pension (1616-1684 Index issue)**

We are in receipt of your letter N. 69:2019 dated 22.09.2019 addressed to Chairman, Canara Bank, Bangalore on the above subject.

2. We find that as far as payment of arrears on commutation amount to the eligible pensioners arising out of the above judgment of Supreme Court is concerned , the following two major issues emerges

(a) Whether eligible pensioner is entitled to receive arrears for difference in commutation amount

(b)How the difference amount should be recovered by banks.

3. On the issue of payment of arrears arising out of Supreme Court judgment, the judgment itself and IBA circular issued on the subject are absolutely clear and according to them arrears on difference amount need to be paid to the eligible pensioners. Banks cannot deny for payment. We find that Initially, Canara Bank only took action to pay commutation arrears and no other bank took action on this count. You will kindly recall that In view of this AIBRF took up the matter with IBA to again write to member banks to take steps to pay arrears for commutation difference. We had personally discussed also with IBA authorities as follow up measure. As a result of this IBA advised to member banks to consider payment of commutation arrears and take immediate steps in the matter. On the basis of feedback received in many banks payment of arrears on this count are under consideration and required steps are being taken.

6. However, larger issue is how the commutation difference paid should be recovered from the pensioner. Our stand is that the amount should be recovered in future after the actual date of payment as per provisions of regulation no. 41(5) of Pension Regulations 1995. However no bank management is ready to accept our stand in the matter. We understand Canara Bank management while paying arrears for commutation has also done simultaneous recovery from original date of commutation. We have come to know that the treatment given by Canara Bank management has resulted in recovery in large number of cases. To understand the consequences of treatment given by Canara Bank we made request one year back to you to provide a few calculation sheets. However we have yet to receive the required information.

7. We now understand from our concerned affiliates that banks like Bank of India, Punjab National Bank, Allahabad Bank Central Bank, Uco. Bank who are in the process of taking action for payment of commutation arrears after getting fresh advice from IBA have decided to pay arrears with simultaneous recovery of installments due. It is also understood from our concerned affiliates as informed by the bank managements that in large cases there would be net recovery of the amount. This situation has put our affiliates in fix and are doing detailed analysis to take organisational stand on it.

8. During the discussion with IBA officials on the subject IBA has come out with the following reasons in support of making simultaneous recovery of arrears p[aid

- (a) For delayed period, banks will be required to pay interest @ 9 % p.a. as per the Supreme Court order
- (b) The factor to be taken to determine quantum of commutation will be original date of commutation/ retirement and not date of actual payment. In other words pensioner has to be given benefit of higher factor.
- (c) Further payment of arrears no medical examination will be insisted as required if payment date is considered the actual date of payment as provided in pension regulations.
- (d) In view of the above banks are extending benefit of value date concept in this case. In terms of Regulation No. 41(5) commutation amount need to be recovered from the date of commutation. Therefore considering facts of the case date of commutation will be date of original payment and not date of actual payment. In view of this according to IBA simultaneous recovery is legal and in order.
- (e) On drawing their attention on communication issued by IBA on the subject and relevant provision in Central Pension Rules, they have taken stand that they are applicable when first time claim on commutation has arisen out of settlements/court order as happen in case of one more pension option settlement of 2010. In this case commutation entitlement was acquired first time by left over retirees in 2010 though they retired several years back. In such case their entitlement for commutation was computed based on factor applicable to the age they attained on the date of exercising option and subject to medical examination in terms of provision of pension regulations. In these

cases recovery of commutations started from date of actual payment and not from date of retirement in terms of extent guidelines of the government / IBA. However in present case, original commutation was taken by the affected retirees at the time of retirement and the claim of difference amount has arisen due to the court decision and the amount is being claimed with interest and factor also as of the date of retirement. In view of this the guidelines of the government/ IBA to recover the commuted amount after the date of actual payment is not applicable and date of commutation is to be treated date of original payment as per provisions of regulation no 41.

9. We also find that in support of your demand for recovery of commuted amount from future date, you have quoted Supreme Court judgment delivered on 28.08.2019 in Contempt petition filed by retirees of SBM pensioners. In this regard we wish to draw your attention that this contempt petition relates to 5 years notional benefit to be given to VRS retirees. As you know Supreme Court had originally delivered historical decision on this issue many years back in March, 2009 and all the banks have since implemented the decision and extended benefits of notional service to VRS optees including benefit of commutation. However some associate banks were not ready to pay the benefits to the pensioners. One of them was State Bank of Mysore management. Now it has been finally disposed of through this contempt petition including payment of arrears of commutation without applying restrictive provisions of regulation no 41 to deny payments of arrears due to expiry of long period. We do not know how it is directly applicable to the case of 1616-1684.

10. We find that after pronouncement of judgment on 1616-1684 by Supreme Court in March 2018, divergent views are being expressed and circulated by individuals/ retiree organisations on payment of commutation arrears and its recovery. Such divergent views have resulted in adding to the confusion rather than its resolution. Some individuals are also trying to paint the picture as if AIBRF is not in favour of payment of arrears in respect of commutation. But the factual position is different. Due to follow up by AIBRF IBA has advised banks to consider payment of arrears.

11. Since Canara Bank is the only bank who has taken step so far for payment of arrears to the eligible retirees, we shall be happy to know from you complete details of accounting treatment given for payment of arrears and its simultaneous recovery, whether it has resulted in net recovery in some cases in your bank so we can take view to deal with the matter to secure justice for retirees on All India level. Your early response in the matter will be highly appreciated.

#### **PAYMENT OF DEARNESS RELIEF TO PENSIONERS IN TERMS OF REGULATION NO. 37**

#### **APPENDIX II**

12. We also note from your above referred letter addressed to the bank that you have made representation to make payment of dearness relief to the pensioners in terms of Appendix II 2 under Regulation No. 37 of Canara Bank ( Employees' ) Pension Regulations 1995. We find this is new demand on DR payment and first time being raised by any affiliate of AIBRF.

12. As you know DR is paid to pensioners in banks as per the provisions contained in Regulation No.37 and Appendix II attached to it as amended from time to time after each settlement through administrative orders pending formal amendment of the regulation in due course. This practice is being followed right from beginning so the benefit of each settlement can be extended to employees / Retirees immediately without waiting for formal amendment. This position has not been challenged in the past by any party.

13. However when you demand payment of DR relief as per appendix II, we infer that you want that DR should be paid at the rate as per the table available in Regulation till the last amendment carried out and changes made through bipartite settlements can be made applicable till the relevant regulations and tables are incorporated through formal modification.

14. We find that State Bank of Mysore Pensioner Commune and its General Secretary have been raising demand for payment of DR as per the Appendix II of the Regulations which will result in much higher quantum to pensioners including to those who get benefit of 100 per cent DA. We find that the same was included in the above referred Contempt Petition filed them in the matter of 5 years notional benefit. But it is seen that the Supreme Court has refused to entertain this issue while delivering the judgment on it. However we find that countrywide campaign is being made on this issue by SBM Pensioners Commune to take legal course on this issue.

15. Raising this demand at this stage will have wide ramifications which will affect not only Canara Bank pensioners but pensioners from all bank. But since your organisations has raised this demand it requires detailed discussion at AIBRF level too. We propose to place the issue before for discussion in next central committee to take consensus stand on it.

16 We shall be glad if you kindly send us detailed paper on it after examining all relevant and connecting points. We propose to circulate this letter to all office bearers / central committee members so they can also offer their comments/ views on this important issue.

With Warm Greetings,

Yours Sincerely,



(S.C.JAIN)

GENERAL SECRETARY