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Arise

August - October 2015

Rise : 2 - Ray : 3

Association of Retired IOB's Employees

**THERE IS NO SWEATLESS LABOUR -
THERE IS NO PAINLESS STRUGGLE**

BE HAPPY - ONLY A ROAD AHEAD CAN HAVE ROAD BLOCKS !

**SO CHEER UP COMRADES!
IT IS NOT A DEAD END!**

It is heartening to see the spirit of the retirees and age has not deterred any of them from reacting sharply to the way the 10th Bipartite Settlement ended with practically nothing given for the retirees except for the marginal relief in Medical Aid. The spirit now should be channelized towards concrete action programs. Let us have no illusion and get carried away by talks that Public Relations exercises and lobbying would work wonders. Let us not day dream that rapport with politicians or ministers is going to move things for us. They have a limited role and that too only after we get adequate attention with the public. Present Government having a brute majority is run by only one person and that person is the Prime Minister who has no time for commoners, and more so for retirees. The way he totally ignored OROP agitation by ex-service men until the compulsion of Bihar State elections is an indication that he does not care two hoots for the destiny of retirees. Mr. Narendra Modi is a man in a hurry to parcel out India to private corporate and foreign investment in the name of economic development. This is the unfinished agenda of all governments since the advent of Reforms.

If Mr. Raghu Ram Rajan, the RBI Governor is still not able to get approval of the Government for the amendment to Pension Regulations providing for Pension Updation passed years ago by RBI's Board, we have to be incredibly credulous to believe that PR, rapport and lobby would get us to the goal. No Bank's Board has passed a resolution for Pension Updation. No Bank's annual report makes mention

about this issue. No bank's Chairman & Managing Director or CEO has come out in support of Pension Updation. IBA is not at all inclined to espouse our cause with the Government. On the Contrary, RBI's Board passed a resolution approving amendment to RBI Employees Pension Regulations that would help Pension Updation. RBI's annual report mentions about this issue. RBI's Governor was laboring hard with the previous UPA dispensation and is still pursuing without let with the present NDA government to get approval for this amendment. LIC's Board has also passed a resolution for Updation of pension. In spite of the Boards being fully behind the pensioners and the heads of RBI and LIC also in favour of pensioners, the Government is not relenting. This harsh reality should be kept in mind when we chalk out our strategies and prioritize them.

The irony is that the Boards of RBI and LIC, which have no representatives of workmen employees and officer employees on the Boards, passed resolutions paving way for Pension Updation, but when bank pensioners required only implementation and not introduction of pension updation, the boards of public sector banks having representatives of both workmen and officer employees neither passed any resolution regarding implementation of Pension Updation nor spoke in favour of pensioners' demands because Banks' CMDs/CEOs steering the boards do not have any concern for retirees. CMDs/CEOs have absolutely no sympathy for the retirees, rather they have only contempt for the

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retirees. This has been evident in the language of the Record Note of IBA which has not been objected to by any bank's CMD/CEO so far. This has been again evident by almost all CMDs/CEOs invariably asking the retirees to bear the cost of insurance while the same CMDs/CEOs get unlimited, free of cost post retirement medical aid for self and spouse.

It pained every retiree when no Bank management voiced its dissent and disapproval to the views of IBA on banks' relationship with retirees in the Record Note signed along with 10th Bipartite Settlement concerning the issues of retirees. Not even the management of SBI, which sought IBA's permission in 2013 for *payment of D.R. with 100% Neutralization to the pre 1-11-2002 pensioners in SBI*, objected to the Record Note. Bank Managements, IBA and the Government are ill disposed towards bank pensioners because our cause is not yet an embarrassment to others in the eyes of the public; it is not an embarrassment because the people do not even know that we, the bank pensioners and retirees are victims of injustice, discrimination, violations and broken promises. We should, therefore, do everything to get attention that will make people talk widely about our issues and the surging public-opinion should force the managements and the Government take a positive decision. When people start talking about our issues, we need opinion makers to mould them in our favour, and PR exercise and Lobby that we may do now would then ensure opinion makers speaking in our favour. So *PR and Lobby have only this limited role to play, that too only after our issues get sympathetic public attention. How are we going to get that attention? This should be our first attempt in this struggle. Before we attract people's attention, we should know what we want, why want and how are we entitled to it.*

Highlight the discrimination and the broken promises. Not all government servants are discharging sovereign functions. Most of them are discharging not sovereign functions but are doing things which are equally done by private industry and enterprises. If those pensioners in such government run business, commercial or industrial enterprises can get Pension Updation, 100% DA Neutralization, and uniform 30% of pay as Family Pension without ceiling why should pensioners of public sector banks not get these things? When the Government pegged the serving bank officers' salary in the name of parity with the Government employees, how can the same Government ignore parity for bank pensioners by denying Updation to them while allowing Updation to Government pensioners? *IBA, of course at the instance of the Government, used to maintain during Pension negotiations in 1990s that Pension to bank employees could only be a second benefit and could only be on the lines of the Pension Scheme available for Central Government employees. Why is IBA, which told as nauseam that bank pension scheme could only*

be on the lines of Central Government Pension Scheme, is now unwilling, rather refusing to extend Pension Updation, Pension Upgradation, 100% DA Neutralization, 30% of Pay as Family Pension to all, full pension on completion of 20 years and pension at 50% of last drawn Pay instead of last 10 months' average Pay? Leave alone the legal merits of our case, we have a strong case on moral grounds too. But we are dealing with powers to whom morality and fairness are Greek and Latin. So we have to highlight the legal merits of our demands and these legal merits are discussed here below:

All our demands shown below have support in law.

i) Pension Updation is provided in **Reg.35(1)** of Bank Employees' Pension Regulations only because Government Pensioners started getting Pension Updation from 1986 and the formula for Updation was nothing but the formula adopted by the Government because our pension scheme is on the lines of Central Government Employees' Pension Scheme. Pension Updation was not only provided in **Reg.35(1)** but was also implemented once, when Pension scheme was introduced in banks in 1995 effective from 1/1/86 to update the pension of retirees belonging to 4th Bipartite Settlement as these retirees alone required Updation then. But its implementation for future settlements has been arbitrarily stopped by IBA/banks. This suspension of a facility provided in the Regulations is wrong and illegal.

ii) 100% DA Neutralization has to be paid to all pensioners because pensioners form one homogeneous class and any improvement made in pension scheme is to be applicable to all past pensioners. Further it was expressly agreed by IBA with Workmen Unions in the Settlement of 29.10.1993 that preceded Pension Regulations that DA would be paid to pensioners as per DA formula obtaining in RBI. It was also agreed by IBA in MOU with Officers' Associations that DA would be paid as applicable to servicing officers. Inasmuch as RBI like Central Government is extending 100% DA Neutralization to all pensioners and serving officers in banks are getting 100% DA Neutralization, bank pensioners have to be extended 100% DA Neutralization as per the Settlement/MOU signed by IBA. (See Box reproducing the exact clauses from Settlement and MOU.)

Memorandum of Settlement dated the 29th October, 1993 between the Managements of 58 Banks as represented by the Indian Banks' Association and their Workmen as represented by the workmen unions states- **“NOW, THEREFORE IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AS UNDER:**

1. The member banks set out in the Schedule I hereto introduce pension as second retirement benefit

scheme in lieu of contributory provident fund

6. Dearness Relief to pensioners will be granted at such rates as may be determined from time to time in line with the dearness allowance formula in operation in Reserve Bank of India.”

Joint Noteon Agreed Conclusions reached on 29/10/1993 between the IBA and AIBOC states – “ ...As a result of these discussions, the following conclusions have been reached:- (vi) A scheme of pension will be drawn up by mutual discussions between AIBOC and IBA. Such scheme, inter alia will provide for (a) ...**(d) dearness relief based on the Dearness Allowance formula applicable to serving officers ..”**

This agreement on DA in the Settlement/MOU was not superseded in the Pension Regulations. Hence Calcutta High Court in *WP 507/2012 of United Bank of India Retirees' Welfare Association & Others Vs. United Bank of India & Others* directed the Reserve Bank and the Government to issue guidance to UBI for removal of this anomaly depriving earlier retirees of this benefit.

iii) Uniform 30% of Pay as Family Pension to all pensioners of full pensionable service get uniformly 50% of last 10 months' average Pay as basic pension, the Family Pension payable to the families of deceased pensioners has to be also uniform to all Family Pensioners. Family Pension for a pensioner's family member cannot be at different percentages of Pay depending upon the scale of pay of the deceased pensioner. **Uniform Pension formula of 50% of 10 months' average Pay while alive but different formula of 15% to 30% of Pay on death is discriminatory and also violative of the understanding that pension scheme is modelled on what is obtaining in RBI and the Government.**

iv) Pension option to All – a) All Nationalized Banks are governed by Service Regulations and Pension Regulations, all subordinate legislations framed by these Banks in terms of powers conferred on their respective Boards as per Sec.19(1) & 19(2) (f) of Banking Companies (Acquisition & Transfer of Undertakings Act, 1970/1980). Government also issues guidelines in respect of these regulations. There cannot be any dissimilarity among Nationalized Banks in respect of these Regulations. Lapse/failure on the part of any Bank to carry out any amendment to/update these Regulations cannot be allowed to go against the interest of the employees or pensioners of any Bank. So the voluntary retirement provision not available in Officer Service Regulations in Nationalized Banks or Associate Banks of SBI cannot be allowed to affect the interest of the employees who voluntarily terminated their contract of employment on completion of 30 years. b)When compulsory retirees, after introduction of Pension Scheme, are entitled to pension, Pension option cannot be denied to those who were compulsorily retired on or after 1/1/86 but before the introduction

of Pension Scheme or before the date of second option for pension. Such arbitrary cut-off date to discriminate compulsory retirees though coming within the Pension Scheme period is struck down by courts as violative of Art.14 of the Constitution guaranteeing Right to Equality. Still IBA and Banks are denying Pension to these resigned employees and compulsory retirees.

v) Arbitrary withholding of Terminal Benefits – Can we blame the members who wonder “*What is the difference between IBA & arrogant bank managements on the one hand and terrorists on the other? Both defy law, have no respect for law and terrorize. Terrorists play with the lives of helpless people while IBA and banks play with our livelihood!?*” No, we cannot because When courts have repeatedly held terminal benefits governed by Statutes or Subordinate legislations (like Gratuity under Payment of Gratuity Act or Leave Encashment under Service Regulations) cannot be withdrawn or withheld except as per the provisions of these Statutes or Subordinate Legislations, IBA and Banks continue to disrespect these verdicts with contempt. While National Litigation Policy requires the State not to be a compulsive litigant but implement a principle once it is decided by courts without asking every affected person to knock the doors of judiciary, this advice is followed more in violation. This practice harms not only bank retirees but also the society at large. When courts are overburdened with docket explosion and are finding it difficult to dispense justice to the needy, this anti-labour practice of IBA/Banks is nothing but obstruction of justice to these needy and in that sense is also anti-national. Can CVC and CVOs guarding against undue loss to banks countenance Banks causing undue loss to employees/retirees? IBA, a mere society acting as an Agent of Banks on specific issues, is neither an arbitrator nor a tribunal. It has no statutory authority to interpret or issue instructions concerning Service Regulations, Pension Regulations or Conduct Regulations. Leave encashment is payable to Officers as per Officers' Service Regulations. But IBA instructed Banks in 2000 disentitling compulsory retirees of leave encashment and reversed that instruction in 2015 but only prospectively, thereby arbitrarily denying Leave encashment to all those who were compulsorily retired between 2000 and 2015 disregarding the verdicts of all courts in favour of compulsory retirees. What should we make of all those CEOs/CMDs who are willing to be instructed by their Agent IBA than by the law and courts? What kind of professionalism is this where the Principals (Banks) take instruction from the Agent (IBA)?

All the above legal position in our favour is known to IBA and Banks but taking advantage of the adverse reality of high cost and long time involved in litigation, they dare us to go to courts. Let us not be disheartened by these heartless people. *Our case is legal and legitimate and hence should get wide publicity. Sound propaganda of our entitlement as explained is a must. If a young Hardik Patel of Gujarat (whatever be the merits of his agitation) asking for OBC reservation for Patels or scrapping caste based reservation in the alternative, can mobilize millions through astute use of social media, can't we, more than thrice his age with*

rich experience and knowledge resources, mobilize ourselves to project and promote our cause?

SHALL WE NOT THEREFORE

- Start exposing IBA's discrimination and deprivation, and broken settlements, and its canards. Let the nation know the Truth, the Truth about two-decade long injustice done to bank pensioners?
- Expose the Myth of heavy cost of Pension updation when no actuaries had been done by IBA?
- Expose the Truth that the present Defined Benefit Pension being a close ended scheme with no new members allowed after 2010, the present pension corpus with its current rate of accretions should ultimately become NIL when the last eligible pensioner breathes his last and as such the pension corpus with the normal accretions as at present is more than sufficient to meet all the demands of the pensioners?
- Expose the myth of additional cost on Family Pension as after all ***when banks have already provided for 50% of basic pay to be paid as pension to a pensioner for his / her full life expectancy period as per AS 15® Standards, 30% of basic pay to be paid as Family Pension on the very same pensioner's death cannot and will not involve additional cost?***
- Expose the promises (settlements) broken by IBA, not only in the matter of Pension updation, but also in the matter of 100% DA Neutralization where having covenanted in settlement with workmen unions to pay DR at rates in operation in RBI and covenanted with AIBOC to pay DR at rates applicable to serving officers, IBA has gone back on these settlements and is dragging its feet citing cost which is a canard?
- Expose the canard of heavy cost on 100% DA Neutralization? – ***If banks are already paying 100% DA Neutralization to about 85 % pensioners and are going to pay to many more pensioners in the years to come, how is paying the same to less than 15% retirees is beyond the paying capacity of banks?***
- Compare the pension drawn by government employees because of Updation? Prepare a chart of all equivalent cadre of pensioners of Banks and Government between 1987 and 2012 and show how the pension of the Government pensioners has been updated with every pay commission while pension of Bank pensioners stagnates?

Our Pension is stuck and stagnates while that of all others around us move upward. Anything that stagnates stinks and the misery of our lot stagnating with the same pension stinks to a mile but the insensitive IBA and CMDs/CEOs of banks show no uneasiness. Can we allow them to remain insensitive to our legitimate demands? No, we have to stir them from their slumber of indifference. If the only way to do that is to rattle the skeletons in the cupboards of the banks, let us not hesitate to do that too.

Expose the ill-deeds, if any, of CMDs/CEOs in every bank and

the way they create big ticket NPAs and later parcel the NPAs collaterals at throw away prices to ARCIL. We will not be surprised if a scandal is unearthed out of these deals. Another suspect area is computerization. No bank seems to follow tender route for outsourcing computerization. CVC should look into this and conduct a forensic audit on various major agreements of computerization in every bank. The revenues lost by mismanagement, deliberate or negligent, shall not be allowed to affect resolution of pensioners' issues. Use Right to Information Act to the fullest extent to extract information on high ticket advances and the steps taken to bring to book the whole time board level appointees responsible for these acts.

Use RTI to get information on the pension corpus, the investments made out of the corpus and the returns on these investments, the data supplied by them to IBA in respect of Pensioners' issues that enabled IBA compute the cost of each of the issues of pensioners, which in turn supposedly forced IBA to make the infamous statement in the Record Note that there is no contractual relationship between banks and retirees.

We have no quarrel with UFBU or other unions. We do not want to ignore IBA too as that is the only representative collective body representing banks. But we cannot but expose those who are inimical to our interest. Let us not get carried away by the talk of past, but let us be guided by the present. Let us know who espoused and who opposed our cause in the present. Expose the unions that are inimical to our interest and are arrogant in their attitude. Name them and shame them. The unions have to say categorically whether they are with us or not. AIBOC has openly admitted that these are entitlements and issues already agreed in MOUs/pension regulations and very much within the paying capacity of banks. Let the other unions spell out clearly what they believe and not simply parrot what IBA says. The members of Pensioners' Associations should compel the leadership to be with the unions who believe the Pensioners' issues are their entitlements (rights already available) and within the paying capacity of Banks. The pensioners should compel their leadership to shake off relations with those unions who do not believe these are our entitlements and who spoil our case by expressly stating in letters to the Ministry that these are not existing rights. Having amidst us, unions that are harmful to our interest, is a grave threat as after all, enemy in friend's guise within your ranks is more dangerous than a known enemy facing you. It is therefore necessary to identify such unions, distance ourselves from them, and have co-ordination only with those unions like AIBOC who are openly defying IBA's observations in Record Note and are willing to espouse our cause.

While social media interaction is good for our movement we should be restrained in our language and we should not give way to outbursts. We should also be careful and guarded in expressing our opinions. Interpretation of court judgements is not easy and it requires patient reading of the whole judgement.

Picking sentences here and there from a judgement and mistaking *Obiter dictum* for *Ratio decidendi* is not the right way of understanding the ratio behind a judgement. For instance, the recent case of State of Rajasthan and Ors vs. Mahendra Nath Sharma (in Civil Appeal No.1123 OF 2015 [Arising out of SLP(C) No. 321 OF 2015], the Supreme Court was not deciding the question of Pension Updation entitlement because Pension Updation was already available to Rajasthan State Government employees. The question before the court was whether the pension of past retirees (i.e. those who retired before 1/9/2006) should be updated with reference to the lower band in the settlement grade available at the time of retirement or with reference to the higher band that was created on 11/9/2006. The pensioners who retired before 1/9/1996 succeeded at High court in getting their pension updated with reference to the newly created higher band of pay inasmuch as they had the qualification and experience necessary for this upgraded scale. Rajasthan State Government challenged the High Court Judgement on the ground that the newly created upgraded scale was not in existence at the time of retirement of these pensioners and hence these pensioners cannot seek Updation to a band of scale which they never had. Supreme Court rejected the contention of the State Government and held in substance that *inasmuch as the creation of a higher band of scale of pay is a liberalization as far as pension is concerned, even past pensioners would be entitled to Updation with reference to this higher band scale of pay because pensioners form one homogenous class and pensioners within this homogeneous class cannot be discriminated among themselves. (See detailed analysis of this case in page No.17)* This case does not concede Updation where it is not available in the rules but promotes the claim to update pension even to newly created higher band of scale of pay if otherwise the pensioners qualify for it and rules provide for Updation. This case will help our 100% DA Neutralization case. This case may also help old pensioners get the newly introduced additional stagnation increment.

Well, we have strong legal merits and legitimacy for our claims. We are willing to struggle but we cannot struggle endlessly. Unions have different priorities and forgot that delay in settling the issues of pensioners mean denial of the same to those pensioners who may not live to enjoy them. It is unfortunate the unions had forsaken their own settlement. IBA in its letter PD/KVK/85/G)II/2037 dated 4th January 1998 (*Please Refer Page 29*) says the settlement (of 29.10.1993) entered with the unions under Industrial Dispute Act is a binding settlement. IBA also admitted in Punjab and Haryana Highcourt that clause 12 of the settlement provides only for negotiation of pension updation and not for grant of pension updation itself. If the settlement is binding and if it provides for negotiation of pension updation, how could IBA say in the Record Note that IBA has no contractual relationship with retirees regarding these issues and why UFBU failed to challenge this stand

of IBA in the Record Note? Pensioners had high expectations on 10th Bipartite settlement and UFBU. Unfortunately the unions failed us. **James Baldwin** said, "*Not everything that is faced can be changed, but nothing can be changed until it is faced.*" So instead of looking up to the unions of serving employees to resolve our issues, it is time for us to face the challenge ahead on our own and get our act together. What should every one of you do?

- First know well your rights.
- Propagate those rights.
- Propagate far and wide in all media the deprivation and discrimination, and broken promises.
- Do not pay heed to those who say you have no rights.
- Shun and shame those unions who are browbeating us and join hands only with those unions who are willing to promote our cause.
- Unite and Agitate.
- We are not asking for One Rank One Pension (OROP) but only Pension Updation.
- We are not asking for revision every year as ex-servicemen are demanding but are only asking for Updation once in every 5 years.
- We are only asking for re-implementation of Pension Updation provided in Pension Regulations while Government pensioners and many (even loss making) PSU pensioners are getting Pension Updation for decades, and on top, now, Pension Upgradation too.
- Bombard the Finance Ministry with petition after petition on each of these issues. Every one of you start online petitions and every one of you sign every online petition.
- Let every one e-mail to the Prime Minister requesting to stop deprivation and discrimination
- Use RTI to the hilt to extract information from every bank.
- Question every statutory auditor of banks on the provision made for Updation provided in Reg.35(1) of pension regulations.

There is no need for us to sulk and remain hopeless anymore. It may be a long march but not too difficult a march. Destinations are never reached without undertaking the journey. We are not destined to be destitute. Dignified life need not remain a dream for long. Dreams come true to those who dare to dream and not to those who rue their destiny. Dreams come true to those who dare to stare at adversaries. Convert adversity into opportunity. IN THE END, IT IS A BATTLE WE HAVE TO FIGHT AND THE SALVOS HAVE TO GO FROM OUR SHOULDERS - YES COMRADES, IT IS A WAR THRUST ON US BY THE INSENSITIVE BUREAUCRACY AND SPINELESS HEADS OF BANKS- IT IS WAR WE HAVE DECLARED – LET IT BE A ‘NO HOLDS BARRED WAR’. ■

100% DA NEUTRALIZATION

IS THE CONCLUDING DECISION OF KOLKATTA HIGH COURT RIGHT

IN WP 507/2012

UNITED BANK OF INDIA RETIREES' WELFARE ASSOCIATION & OTHERS

Vs.

UNITED BANK OF INDIA & OTHERS? - NO

Kolkatta High Court rightly held that pre-Nov,2002 retirees too were eligible for 100% DA neutralization for the following reasons:-

1) Once the bank chooses to bestow the benefit of full compensation only on a certain category of employees, that is to say, those who retired after 1st November, 2002, then the bank became guilty of making an **artificial and unreasonable classification** between employees who retired before 1st November, 2002 and those who retired thereafter. This is arbitrary and discriminatory. *This is clearly impermissible and against the dicta of the Supreme Court laid down in the case of DS Nakara&Ors. Vs. Union of India reported in 1983 (1) SCC 305.*

2) **Memorandum of Settlement** was entered into between IBA and Unions on 29th October, 1993 and it was **not** superseded by the Pension Regulations,1995, and, this court was **not called upon** to adjudicate as to whether the regulations are in supersession of earlier circulars, notifications, memorandum etc. **but only called upon to come to a finding whether the stipulation in Clause-6 of the 1993 memorandum that the rate of calculation of the dearness allowance would follow the formula of the Reserve Bank of India in this behalf had been superseded or not.** Clause-6 of this settlement states, “Dearness relief to pensioners will be granted as such rates as may be determined from time to time in line with the dearness allowance formula in operation in RBI”, and accordingly bank was paying pension as per RBI’s DA formula even including 100% DA neutralization to post

1st November, 2002 retirees’ following RBI’s circular of 29/2/2006 in this regard but failed to follow RBI’s subsequent circular of 1/4/2008 extending 100% DA neutralization to pre-November, 2002 retirees too. This failure to follow RBI’s formula is a violation of the Settlement that still holds valid.

However, the High Court has erred in concluding, *“Since the Court cannot rewrite a policy or make the rules of service and since the members of the writ petitioner association are not parties and only two pre 2002 employees are parties, I am not quashing or setting aside the existing policy and circulars of the respondent bank for payment of dearness relief. I direct the Board of the respondent bank in consultation with the Central government and the Reserve Bank of India to take a reasoned decision, in the light of the above observations and findings regarding payment of 100% dearness relief to the pre November-2002 retirees’ of the respondent bank by 30th June, 2015.”* Writ jurisdiction of High Courts are invoked to protect Fundamental Rights and other Constitutional Rights while that of the Supreme Court is invoked to protect Fundamental Rights. Most writ petitions challenge, therefore, policies that are arbitrary and/or discriminatory, and courts do strike down or modify such policies. Even in D.S.Nakara’s case (which the High Court cited widely) what was challenged was the policy extending liberalized pension only to a section of retirees who retired after a cut-off date and the challenge was only by an individual and not by an association. So, the High Court having having

cited D.S.Nakara's case approvingly and having upheld the right of the pre-November, 2002 retirees to 100% DA neutralization must have granted the prayer .

We give below the extracts from the above Judgement in WP 507/2012: –

A Memorandum of Settlement was entered into on 29th October, 1993. Fifty eight banks were involved... Paragraph-6 of the Settlement provided that “dearness relief would be granted to pensioners at such rates as may be determined from time to time in line with the dearness allowance formula in operation in RBI.” In furtherance of this Settlement the Pension Regulations of 1995 were adopted by the bank. Appendix-2 to the regulations provided for the rates, and computation of payment of dearness relief... followed by the Reserve Bank of India. Full compensation against price rise was not provided by these provisions for dearness relief. The Reserve Bank of India was not providing full compensation against price rise, as dearness relief.... Now by a circular dated 20th February, 2006 the Reserve Bank of India, started giving full compensation against price rise, in the shape of dearness relief to employees who retired post 1st November, 2002... The Reserve Bank of India issued a circular dated 1st April, 2008 with effect from 1st March, 2008. This circular provided for payment of compensation in the form of dearness relief to those employees who retired before 1st November, 2002. This was for the reason that it was felt that those who retired before 1st November, 2002 were getting insufficient dearness relief. The Reserve Bank of India by a subsequent circular dated 1st January, 2010 extended payment of dearness relief to pre November, 2002 retirees' from February, 2005. The interesting question which is raised in the writ application is this: The respondent-bank has applied the full dearness relief policy of the Reserve Bank of India but had restricted their application to those employees who had retired on and after November 2002. The basis of classification of employees for payment of dearness relief is most arbitrary, it is alleged. There is no rational justification for this classification. One, who retires on 31st October, 2002 gets nothing, one who retires a day or two later gets everything. This case has been built up on very interesting premises by Mr. Dutta learned Advocate appearing for the petitioner. He showed me *clause-6 of the 1993 settlement. It reads as follows:-“6. Dearness relief to pensioners will be granted as such rates as may be determined from time to time in line with the dearness allowance formula in operation in RBI.”* The respondent-bank had introduced the United Bank of India (Employees) Pension Regulations,

1995, after the 1993 regulations. However, it continued to pay dearness relief to its employees from 1995 to 2007 on the formula evolved by the Reserve Bank of India. It should be noted that at this period of time the dearness relief, which was paid by the Reserve Bank of India, did not recompense a retired employee fully against rising prices. So, it was to be taken, by that the bank continued to follow the procedure of paying dearness allowance in accordance with clause-6 of the said memorandum of 1993.

Now, comes the most interesting part of the case. The Reserve Bank of India made the said circular dated 20th February, 2006. By this circular it granted 100% dearness relief to its post 1st November, 2002 retirees' but did not grant any relief to the pre November 2002 retirees'. The United Bank of India, followed this Reserve Bank of India circular and did not pay 100% dearness allowance to the pre November retirees'. By its circular dated 1st April, 2008 the Reserve Bank of India decided to give this benefit to its pre-November 2002 retirees' with effect from 1st March, 2008. This was followed by another circular dated 1st January, 2010, extending the benefit from February, 2005. Now, the position is that the Reserve Bank of India, by virtue of its above policy and circular is providing 100% dearness relief to its pre November 2002 employees whereas the United Bank of India since 2008 has stopped following the Reserve Bank of India policy regarding payment of dearness allowance to the pre November, 2002 retirees' and is providing only partial dearness relief to those employees. Furthermore, the Respondent-bank extended full dearness relief to post 1st November, 2002 retirees' as will appear from their statements in paragraph-3(i) (ii) (iii) (iv) of the Affidavit-in-opposition:

Mr. Majumdar, learned Advocate appearing for the respondent-bank states with great emphasis that each bank is a separate entity. He says that it is true that in banking matters, the Reserve Bank of India guides and controls the other banks of India. But each bank has its own service conditions, its own agreement between the management, its associations, unions and so on. The petitioners cannot argue that the United Bank of India can be compelled to pay dearness relief in accordance with the formula followed by the Reserve Bank of India. He cited an unreported decision of the division bench of the Delhi High Court in All India Retired Bank Employees Association and Ors. Vs. Union of India and Ors decided on 30th March, 2012. That judgment, he said was rendered on similar facts, and followed the principles laid down in the case of DS Nakara & Ors. Vs. Union of India reported in 1983 (1) SCC 305. Mr. Majumdar contended that the

United Bank of India had made a rational classification by omitting to grant dearness relief to the employees, who had retired prior to November, 2002. **There is some merit in the submission of Mr. Dutta that the 1995 regulations could not be taken as a body of rules derogating from the principles accepted by the parties in the 1993 memorandum with regard to dearness relief.** In Clause-6 of the 1993 memorandum it was that the dearness relief would be granted to pensioners at rates and in consonance with the dearness allowance formula "in operation in RBI". The foreword to the 1995 regulations was written by the General Manager (personnel) on 19th October, 1995. He wrote that the regulations of 1995 had been adopted by the Board of Directors having obtained prior approval of the Government of India and the Reserve Bank of India under Section 19(1) of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970. It was gazetted on 29th September, 1995. The foreword went on to state that the regulations superseded all other circulars and instructions. Mr. Dutta is absolutely right when he says that a foreword is not a part of the regulations. It is like a foreword to a book. It is a piece of introduction to the regulations by a senior officer of the bank. Whether or not the regulations were in supersession of all existing circulars and instructions are to be understood on a reading of and making an interpretation of the Regulations. **In my opinion, the recitals to the regulations cite the powers under which they are enacted, i.e. under powers conferred by Clause (f) of Section 19 (2) of the Banking Companies (Acquisitions and Transfer of Undertakings) Act, 1970. Hence, it is a statutory instrument. They were made by the bank in consultation with the Reserve Bank of India, upon taking prior permission of the Central Government. In the body of the regulations there is no provision that it is in supersession of all circulars, instructions etc. In this matter I am not called upon to adjudicate as to whether the regulations are in supersession of earlier circulars, notifications, memorandum etc. I am only called upon to come to a finding whether the stipulation in Clause-6 of the 1993 memorandum that the rate of calculation of the dearness allowance would follow the formula of the Reserve Bank of India in this behalf had been superseded or not.** These regulations to my mind are a piece of subordinate legislation. The provisions regarding dearness relief, in these regulations are provided in regulations 37. The rates are in appendix-ii. Admittedly these rates provided only partial compensation against price rise and are not fully compensatory. It appears

that the Reserve Bank of India was also not granting 100% Neutralization or full compensation by dearness relief at that point of time. There is nothing in the 1995 regulations which will lead the Court to the belief that the respondent-bank had abandoned its policy as spelt out in the 1993 Memorandum to follow the rates of dearness relief granted by the Reserve Bank of India. By its circular dated 20th February, 2006 the Reserve Bank of India granted 100% Neutralization in dearness relief to post 1st November, 2002 retirees'. By a circular of 1st April, 2008 the Reserve Bank of India decided to grant this benefit to pre November, 2002 retirees' with effect from 1st March, 2008. It issued another circular of 1st January, 2010 reiterating that 100% Neutralization in dearness relief had been extended to pre November- 2002 retirees' with effect from February, 2005. The United Bank of India continued to pay partial compensation. The respondent-bank is paying full compensation against price rise only to retirees' after 1st November, 2002. In fact the case of DS Nakara & Ors. Vs. Union of India reported in 1983 (1) SCC 305 relied on in the unreported judgment of the Delhi High Court answers the issue involved in this case. In that case the employees who were in service on and after 1st April, 1979 derived benefit from a liberalized pension formula. The Supreme Court through Mr. Justice Desai remarked that fixing an arbitrary date to grant or to deny pension to the employees was irrational. There was nothing to support the decision to award this extra pension to the employees who retired after 1st April, 1979 and denied to those who retired say on 31st March, 1979. The highest Court made it absolutely clear that pension was not an item of charity granted by an employer to an employee but is a reward for his post or service. Any decision to increase or decrease pension should be made judiciously. Exactly similar is the situation here. Employees, who retired on and after 1st November, 2002 would get full dearness relief whereas a person who retired just the day before would not get so. In my opinion, the classification made in this case just as in the case of DS Nakara, is arbitrary and highly irrational. There is no intelligible difference between the pre 1st November, 2002 and post 1st November, 2002 retirees'. The artificial classification is discriminatory of one class of retired employees.

But once the bank chooses to bestow the benefit of full compensation on a certain category of employees, that is to say, those who retired after 1st November, 2002, then the bank became guilty of making an artificial and unreasonable classification between employees who retired before 1st November, 2002 and those who retired

thereafter. This is arbitrary and discriminatory. This is clearly impermissible and against the dicta of the Supreme Court laid down in the case of DS Nakara & Ors. Vs. Union of India reported in 1983 (1) SCC 305. *“The classification has to be based, as is well settled, on some rational principle and rational principle must have nexus to the objects sought to be achieved. We have set out the objects underlying the payment of pension. If the State considered it necessary to liberalize the pension scheme, we find no rational principle behind it for granting these benefits only to those who retired subsequent to that date simultaneously denying the same to those who retired prior to that date. If the liberalization was considered necessary for augmenting social security in old age to government servants then those who retired earlier cannot be worst off than those who retire later.”*

Payment of dearness relief is a policy decision. This Court cannot rewrite by an order the policy of the respondent-bank. But this Court is entitled to make observations on an existing Policy or rule. This Court does observe that the policy and service conditions of the respondent bank for payment of dearness relief to its post November, 2002 retirees is arbitrary and discriminatory of the pre November, 2002 class of retirees. This Court makes a declaration to this effect.

Since the Court cannot rewrite a policy or make the rules of service and since the members of the writ petitioner association are not parties and only two pre 2002 employees are parties, I am not quashing or setting aside the existing policy and circulars of the respondent bank for payment of dearness relief. I direct the Board of the respondent bank in consultation with the Central government and the Reserve Bank of India to take a reasoned decision, in the light of the above observations and findings regarding payment of 100% dearness relief to the pre November-2002 retirees of the respondent bank by 30th June, 2015. ■

PRE 1/11/2002 RETIREES' RIGHT TO 100% DA NEUTRALIZATION

We all know that Indian Bank Association (IBA) is denying benefits to retirees in settlement after settlement in violation of the Constitution and Statutes. Now the recent settlement has even christened Grade Pay as 'Special Allowance' with a view to making this component of 'Pay' ineligible to reckon for terminal benefits. IBA should know that "A rose is a rose by whatever name you call it" and so a component of pay that has to reckon for terminal benefits cannot be made otherwise by merely calling it a Special Allowance. Courts will pierce the veil to look at the characteristics of this allowance. (Please see our detailed article in the last issue). Well, the long and short of it is that IBA disregards and disrespects law on matters concerning pensioners and retirees by forcing unions to sign settlements that are violative of the Constitution and Statutes. IBA is not honouring even these settlements. The protestations of aged pensioners and retirees have fallen on deaf ears. They silence the critics with tales of paying capacity of banks while not making the agreed/required share of contribution to the Pension Corpus. Old pension scheme is a Defined Benefit Pension Scheme where the pension payment does not depend on the bank's paying capacity or the quantum available in pension corpus. The claim of pensioners is a charge on the income of the bank and not an appropriation out of the bank's profits. So the paying capacity is not the criterion to meet this demand. Be that so, since when paying capacity has given freedom to flout laws in our country? Every bank will make adequate profits even after meeting all the demands of the pensioners and retirees in banks.

The supreme sovereign of this country, the Parliament has been told that banks are following Pension Regulations framed/amended based on Settlements/Joint Notes which do not provide for 100% DA neutralization. The following reply in Parliament could not have been made by the Minister without being informed so by IBA. So IBA is even audacious to disrespect the Parliament and mislead it. IBA and every bank is bound by this open averment made in Parliament, and we will show how Parliament has been apprised wrongly because of which truth has become a casualty. (Please see the Box for details of the unstarred question raised in 2011 and the reply of Mr.NamoNarainMeenathe then Minister of State in MOF)

Q.NO.	Q.Type	Date	Ministry	Member	Subject
4871	UNSTARRED	02.09.2011	FINANCE	KAPIL MUNI KARWARIYA	DEARNESS ALLOWANCE TO RETIRED PENSIONERS OF BANKS
The Question and Answer given by Finance Ministry on 02/09/2011 was :					
<p>(a) whether the Government proposes to provide neutralization of Dearness Allowance hundred per cent to the pensioners of the Public Sector Banks retired prior to November, 2002;</p> <p>(b) if so, the details thereof alongwith the time by which such neutralization of D.A. is likely to be provided such retired employees of the said banks; and</p> <p>(c) if not, the reasons therefor?</p> <p>ANSWER</p> <p>The Minister of State in the Ministry of Finance (Shri Namoo Narain Meena)</p> <p>(a): There is no proposal for neutralization of Dearness Relief to 100% to the pensioners of Public Sector Banks retired prior to November, 2002.</p> <p>(b): Do not arise.</p> <p>(c): Pension to Bank employees are paid in terms of the Provision of Bank Employees Pension Regulations framed/amended based on settlement / joint note, which do not provide 100% neutralization of Dearness relief to those retired prior to November, 2002.</p>					

But Clause 6of the Memorandum of Settlement dated 29/10/1993 between IBA and workmen Unions states, “Dearness Relief to pensioners will be granted at such rates as may be determined from time to time in line with the dearness allowance formula in operation in Reserve Bank of India.” Kolkatta High Court in United Bank of India Retirees’ Welfare Association & Others Vs. United Bank of India & Others held that this clause is still valid and is not superseded by Bank Employees’ Pension Regulations. (Ed. This judgement is discussed elsewhere in this issue)

When RBI is now paying 100% DA neutralization to all its retirees irrespective of their date of retirement, banks which are required to follow the same formula of RBI as per the Settlement are not adhering to it, and are denying this benefit to pre-November, 2002 retirees, and on top IBA has misled the Ministry and consequently the Parliament, saying that the settlement does not provide for 100% DA neutralization.

100% DA neutralization is otherwise too payable to pre-November, 2002 retirees because pensioners forming a homogenous class cannot be arbitrarily and artificially classified further based on the date of retirement when such classification is not intelligible and has no rational nexus to the objective of full protection against inflation. If 100% DA neutralization is deemed necessary to give full protection against inflation, such protection is necessary for all pensioner and not only to those pensioners who retired after 31st October, 2002. Such a classification defeats the very objective of giving full protection against inflation. High Courts have held this classification as arbitrary and violative of the Right to equality guaranteed by our Constitution.

Supreme Court in the case of **Kallakurichi Taluk Retired Official Association, Tamil Nadu etc. vs. State of Tamilnadu and others alongwith Civil Appeal No 8853-8855 of 2012** (Madurai Corp Retired Officers Welfare Association vs State of Tamil Nadu,) was considering the validity of the Tamilnadu State Government’s GO directing that those who retired on or after 1/6/1988 shall be paid DA at rates lower than rates paid to those who retired before 1/6/1988. Division Bench of the Supreme Court hearing this appeal, held that the GO of State Govt. issued in 1988 is violation of Article 14 & 16 of the Indian Constitution.

State Government could not discriminate between one set of Pensioners and another, while calculating the pension payable to them”.

It is unfortunate that even SBI Management did not take objection to the Record Note of IBA on payment of 100% DA neutralization to pre-November, 2002 retirees. In fact the March, 2013 issue "SAMVAD" of SBI Pensioners Association carried the following news on 100% Neutralization of Dearness Relief to pre 1-11-2002 Pensioners:

"Response from the Bank : Our Bank has written to IBA recommending for its consideration payment of D.R. with 100% Neutralization to the pre 1-11-2002 pensioners. We have requested our Bank to resolve this issue without linking to the 10th Bipartite Wage Settlement. Our Bank has advised that it will pursue this matter with IBA for resolving this issue without linking to 10th Bipartite Wage Settlement."

SBI which promised to pursue the matter outside X Bipartite Settlement ultimately turned a mute spectator to the infamous Record Note. Not a whimper of protest against the language and contents of IBA’s Record Note that rejected inter-alia the right of pensioners to 100% DA neutralization. We need not be puzzled over this silence. We ought to realize at least now that every bank management in this country is anti-retirees though the CEOs/CMDs ensure that their own post-retirement interest is furthered. Neither the legitimacy nor the legality of our demands is going to move them. The only thing that can disturb them is embarrassment. Let us focus on strategies that can embarrass them to get what are our rights.

Let us wrest our rights from the tight fist of IBA. As Jeremy Corbyn, the newly elected Labour Leader of UK said, “**Let us not take what is given to us**” meaning we should get what we deserve and not what the managements give as gratis. Yes, **We will not take merely what IBA gives as welfare measure but we will take what we ought to get as our legal right.”** **DESTINATION DELHI WILL DECIDE OUR DESTINY.** Come in large numbers to make Delhi Dharna on 11th December, 2015 a grand success.

NEW MEDICAL INSURANCE SCHEME

As a part of the 10th Bipartite settlement/Joint Note dated 25th May 2015, a Medical Insurance Scheme for the Officers/Employees has been introduced by the Indian Banks' Association. The said Medical Insurance Scheme is being extended to the existing retirees also, subject to sharing the premium cost to be decided by individual banks. Almost all banks have decided that the premium shall be fully paid by the retirees. Payment of the premium by the retirees. Our Bank is in the process of issuing circular on this sooner. We have given suggestion on bearing / sharing the premium cost by the bank. While existing insurance cover under REMAS may be replaced by the industry wide insurance cover, the members' contribution to REMAS may continue as hither to. We have suggested to rationalise contribution to which bank is also favourable inclined and IOBOA, one of the welfare committee members is also favourably disposed. Notwithstanding the outcome on our above suggestions, we request all our members to join the new insurance scheme as it is a one time option.

Full details of the Medical Insurance Scheme worked out between IBA/Banks and Insurance companies, will be uploaded in our website www.thearise.co.in after issuance of the circular by our Bank.

Meanwhile, we give below the main features of the Scheme which would be of use to the retirees:-

1. Retirees will be asked to submit their consent letter to the Bank for the above Scheme within a specified period; this will be the onetime option and retirees will not be allowed to opt for the same thereafter;
2. Scheme covers retirees and their spouses;
3. Sum insured is Rs.4 lakhs for Retired Officer and Rs.3 lakhs for Retired Clerical Staff and Retired Substaff including part time substaff;
4. Premium payable per year is Rs.7493/- (Rs.6573+service tax Rs.920) for Retired Officers and Rs.5620/-(Rs.4930+service tax Rs.690) for Retired Retired Clerical Staff and Substaff;
5. Cashless facility available at network hospitals;

6. Pre-Existing diseases would be covered for reimbursement under the scheme;
7. Domiciliary treatment shall be covered under the scheme and the prescription by the Medical Officer is valid for 90 days;
8. Domiciliary Hospitalization under unavoidable circumstances shall be covered under the scheme;
9. Pre-Hospitalization expenses incurred 30 days before hospitalization and Post-Hospitalization expenses incurred 90 days after discharge will be covered;
10. Room and Boarding charges not exceeding Rs.5000/- per day and ICU expenses not exceeding Rs.7500/- would be reimbursed;
11. Ambulance charges upto Rs.2500/- per trip to hospital and Taxi and Auto expenses in actual with maximum upto Rs.750/= will be reimbursable.
12. Physiotherapy charges shall be covered for the period specified by the Medical Practitioner even if taken at home.

As regards the drawbacks in the Scheme as compared to the facilities extended to the existing staff of the Bank, we are taking up with Bank and also at Industry level and hope to succeed in our endeavour.

In view of the above mentioned benefits, and being more beneficial as a group policy. we suggest that all retirees may opt for the new Medical Insurance Scheme in spite of certain shortcomings, since it is one time option After all, there is always scope for improvement in any scheme in future.

DO NOT FORGET TO GIVE YOUR LIFE CERTIFICATE TO YOUR PENSION DRAWING BRANCH BEFORE 30th NOVEMBER 2015

A SETTLEMENT DOES NOT GIVE SANCTITY TO ILLEGALITY

SPECIAL ALLOWANCE HAS TO RECKON FOR TERMINAL BENEFITS

It has been time and again held by courts that no statute or subordinate regulation/rules having the force of statutes can be superseded even by a bipartite settlement between the management and the union in which the affected employee is a member. In spite of this clear ruling by courts, IBA continues to force unions to sign agreements that violate the law. Such violations mostly affect the retirees. Latest violation (in X Bipartite settlement) is the agreement **not to reckon Special allowance with applicable DA thereon for superannuation benefits.** Joint Note on 25th May, 2015 between IBA and Officers organizations and so also the Settlement between IBA and Workmen Unions state that the **special allowance payable from 1/11/2012 with applicable DA thereon** shall **not reckon** for superannuation benefits, viz, pension including NPS, PF and Gratuity.

While the Government called this allowance as **Grade Pay** reckoning for all superannuation benefits, IBA only with a view to denying superannuation benefits called it Special allowance instead of Special pay. If IBA thinks that it can hoodwink the courts in this country and if IBA has such a poor opinion about the intelligence of our courts that by a mere change of name of 'Pay' into 'Allowance' so as to exclude it from being reckoned for terminal benefits, IBA is sadly mistaken.

There are two parts in respect of Special Allowance, one the allowance itself and the other the DA payable on it. Payment of Gratuity Act says DA is reckoned for gratuity and so excluding DA on Special Allowance is against the Act, which is not permissible. In that case, it will be a legal absurdity to exclude Special Allowance but include DA on Special Allowance for gratuity. It stands to reason therefore that both Special Allowance and DA thereon has to reckon for all superannuation benefits.

Though there are many judgements to support the above view, we will cite one judgement relating to a part of settlement that was in violation of Payment of Gratuity Act. The court struck down that illegal portion of the settlement. We give here below the gist of the case (**WRIT APPEAL No.95 of 2008 and M.P.Nos.1 to 3 of 2008**) which relates to 6th Bipartite Settlement entered into in 1995 for the period 1/11/92 to 31/10/97 :

i) As per this 6th Bipartite Settlement, the revision of salary to the employees was given with retrospective effect from 1.7.1993 but in respect of payment of gratuity, the benefit of revised salary would be taken only in respect of employees who retired on or after 1.11.1994. An employee who retired on 31st May, 1994 was therefore not paid gratuity on the revised salary though he was paid revised salary from 1/7/1993.

ii) The affected employee (3rd Respondent) filed an application before the controlling authority under section 7 of the Act, claiming an amount of Rs.85,400/-, being the difference in gratuity based on the revision of salary with interest as per the Settlement stated above. Controlling authority (2nd Respondent) passed order on 21.3.2003 in employee's favour and the Appellate authority (1st Respondent) confirmed this order on 27.4.2005. Writ petition filed by the Bank against these orders was also dismissed. Hence the Bank filed this Writ Appeal No.95 of 2008 and M.P.Nos.1 to 3 of 2008.

*iii) It was the case of the appellant bank that only for the payment of revision of salary, the date '1.7.1993' was made as cut-off date as per the Settlement and for gratuity, the cut-off date was fixed as 1.11.1994 and inasmuch employee retired much before the said date viz., on 31.5.1994, he is not entitled for the revision of gratuity based on the revised salary. It was the contention of the appellant that the said different cut-off date for gratuity was challenged and it was ultimately **decided on 30.8.2002 in W.P.No.7365 of 1999 to the effect that the cut off date for gratuity, namely 1.11.1994, is valid.***

Deciding the above Writ Appeal on 28 April, 2009 the Hon'ble Mr. Justice P.JYOTHIMANI and the HON'BLE Mrs. Justice ARUNA JAGADEESAN of the High Court of Madras held –

a) Section 14 of the Payment of Gratuity Act, 1972 states that the provisions of this Act or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument or contract having effect by virtue of any enactment other than this Act. So this Act is given overriding effect notwithstanding any inconsistent provision or instrument or contract.

b) In *Syndicate Bank and others v. Celina Thomas and others* [2006 (2) LLJ 413], it was held –

“Any memorandum of understanding which includes any regulation cannot meddle with a statutory prescription. No nexus is pointed out for bringing any classification between those who retired between April 1, 1992 and October 31, 1994 and those who retired between November 1, 1994 and June 23, 1995. Both these artificial groups of retirees had retired from service prior to the date of arriving at the Memorandum of Understanding. They therefore form themselves into one class as all of them retired later than the date giving effect to the pay revision by the Memorandum of Understanding. When persons forming same class are treated differently it violates Article 14 of the Constitution denying them equal protection of law and equality before law. Denial of gratuity to the writ petitioners is therefore discriminatory. Consequently, on that reason alone, we have to sustain the view taken by the learned Single Judge.”

c) It was held by the learned Single Judge of the Karnataka High Court in *Y.R.SHENOY v. SYNDICATE BANK AND OTHERS* [2003 (2) LLJ 997],

“Any agreement which will offend the rights given under the Payment of Gratuity Act will be void ab initio and the offending portion of the agreement could be separated without nullifying the agreement and it is that portion of the agreement which is against the Payment of Gratuity Act will be declared as unlawful.

...Gratuity is a statutory right to be earned by long and continuous service, which is payable as a retiral benefit, a definite sum as lump sum payment on retirement. It is a right if accrued cannot be taken away by agreement between the parties. Amount payable is also definite, by agreement between the parties it **cannot be reduced**, but it could be enhanced.

.....if the term of the agreement is inconsistent with the provisions of the Payment of Gratuity Act, 1972 such a term of the agreement has no effect. Even otherwise the consideration or object of **an agreement** is of such a nature that **if permitted it would defeat the provisions of any law the said term of the agreement would be unlawful, void ab-initio and unenforceable**. When the gratuity payable to an employee is statutory right which he has earned by long and continuous service, thus when once it is accrued, by agreement of the parties what is accrued cannot be deprived. Merely because an employee had the benefit of the other provisions of the agreement that does not estop the employee from challenging that portion of the agreement which is unlawful, void ab-initio. ...

....Therefore, it is open to the petitioners who had the benefit of the remaining portion of the agreement to challenge that portion of the agreement which deprives them of a statutory right which has accrued to them by their long continuous service.”

d) In *P.SELVARAJ V. MANAGEMENT OF SHARDLOW INDIA LTD., CHENNAI* [2007(1) LLN 835], a Division Bench of this Court consisting A.P. Shah, J. (as he then was) and K. Chandru, J., held-

" The Gratuity Act is a beneficial piece of legislation and it should receive an interpretation consistent with the principles of equity and fair play. Therefore, the term "last drawn wage" found in S.4(2) of the Gratuity Act should receive its full meaning and it cannot give any fractured interpretation. Further, the settlement provides as to what should be the wages that should be paid to a workman and that the management cannot adopt an artificial interpretation with reference to the term "wages". It is in this context, the term "wages" which is defined under the Gratuity Act, must include not only what is paid but also what is payable to a workman."

e) It is brought to our notice that recently in similar circumstances, K. Chandru, J. in W.P.No.6746 of 1999 by order dated 2.2.2009 has also taken the same view and we are in agreement of the view of the learned Judge.

f) In view of the established legal position, the judgment of the Supreme Court in *HERBERTSONS LTD. v. WORKMEN* [(1976) 4 SCC 736] which relates to the Industrial Disputes Act and the settlement under section 18 of the said Act, that too, between two unions, on which reliance was placed by Thiru N.G.R. Prasad, learned counsel for the appellant has no application to the facts of the case.

The High Court observing as above, held that the agreement entered into cannot take away the rights of parties, particularly when a better benefit is given to the employees and dismissed the appeal of Indian Overseas Bank.

We request all our members to immediately send a simple request to the Bank claiming gratuity and pension on special allowance and if no reply is received within a month or a negative reply is received within that period file an application with the Controlling Authority for payment of gratuity. So we expect all our members to file the application with the Controlling Authority before 31st December, 2015. We do not want to lose time. Some members may also file with National Human Rights Commission who also hears the case of gratuity and has passed favourable orders. We will later guide you on further steps.

LET US RESPOND TO UNJUST CAPPING OF INTEREST ON DEPOSITS

½ % interest reduction in deposits - As the Bank does not appear to be reasonable, we request all our members to ask the Bank under RTI to spell out clearly the policy of RBI in respect of Staff Interest Rate and Senior Citizen Interest Rate for deposits, the split up of Senior Citizen Rate and Staff Rate given to the retirees for their deposits with the bank. Bank cannot give a different Staff Rate or a different Senior Citizen Rate to the retirees. Once the reply is received from the Bank, the members may move the Ombudsman.

News Line -

RBI PENSION UPDATE

Thiruvananthapuram, October 7: Reserve Bank of India retirees are frustrated over the Centre delaying final approval to the pension updation scheme of the apex bank. The in-principle approval came during March 2014, recall retirees.

Periodic updation

The scheme was introduced in the RBI in 1990 and made effective from 1986. It was similar to the one prevailing at the Centre. The bank had made a commitment to effect improvements, including periodic updations, as and when wage revision takes place at the bank as well as the Centre.

The pension of employees who had retired before November 1, 1987, was updated (effective from November 1, 1987) at the time of introduction of the scheme. This was done by the bank through an administrative order. A circular was issued on March 13, 1992, stating that periodic updations would be a permanent feature of the scheme.

Pension updation was granted on wage revision effected in 1987, 1992 and 1997 in the bank. Therefore, pre-1997 retirees continued to draw the benefits of pension revision. The status quo was suddenly disturbed when the Centre in August 2005 told the RBI that it had no powers to revise pension without seeking its prior approval. The Centre held that the pension could not have been granted by the bank without amending pension regulations. This put a cloud over the wage revision decisions of 2002 and 2007, which stays unresolved till date. Initially, the central board of the RBI resisted, but later agreed with the Centre and passed a resolution to withdraw updation in its meeting held in August 2008. Office-bearers of the RBI Retired Employees 'Association moved the Bombay High Court against this order. The court stayed implementation of the circular withdrawing updation already granted to pre-1997 retirees. But a decision with respect to wage revisions in 2002 and 2007 is still pending, which is what irks eligible retirees. PRR Nair, who retired as a general manager, said the RBI's central board is empowered to determine service conditions and allied benefits to employees and retirees.

Own corpus fund

The bank has its own corpus fund (Rs. 10,000 crore as on June 30, 2014) for pension and superannuation benefits, including periodical updation of pension. It has also been transferring gross/net profits to the Centre (see table). In

contrast, the expenditure for payouts to lakhs of government pensioners is met out of the public exchequer. Even the 'one rank, one pension' scheme announced recently to an estimated twenty lakh ex-servicemen and Army widows too involve huge expenditure for the exchequer. Pension updation for public sector bank depends on their overall annual performance and consolidated/aggregate profitability. Keeping all these factors in view, the retirees demand that the Centre move ahead fast to convey its final approval for pension updation.

*(Courtesy: Business Line print edition
October 8, 2015)*

See Box as to why Bombay High Court stayed RBI's circular withdrawing pension updation

Why Bombay High Court stayed the RBI's circular withdrawing the updation

Bombay High Court stayed the RBI's circular dt. 10.10.2008 withdrawing the updation already granted to pre-November 1997 retirees as per its interim order dt. 27.04.2009. The High Court was of the view that the government cannot override a decision taken by the RBI's central board just by writing a letter.

It added that any order or advice to RBI should be passed within the powers entrusted to the government as per Section 7 of the RBI Act, which states, "The Central Government may from time to time give such direction to the RBI after consultation with the Governor of the bank as considered necessary in the public interest."

However, these directions have not been given under any statutory provisions and, hence, do not have a legal validity to challenge the RBI circular, the court said. Official sources said an update of pension refers to revising the basic pension upwards after every revision of pay scales. The RBI pension scheme is on the lines of the central government's pension scheme, in accordance with an RBI circular issued in March 1992.

The circular in question, which had been issued by RBI on October 9 last year, had withdrawn the updation of pension for RBI employees following the government order.

Sources said that, unless RBI or the government approaches the Supreme Court, the circular on withdrawal

of pension updation benefits stands null and void. Thus, RBI's retired employees will have to be paid their full arrears, which had been pruned following this circular.

The Bombay HC order is seen as a major development which endorses the autonomy of the RBI's central board and its earlier decision to update its retired employees' pension.

Employees have alleged that the withdrawal of the pension updation is totally contrary to the decision of the central government to shower updation benefits, both in salary and superannuation, to millions of its own employees.

Employees are of the view that the pension issue could have been resolved amicably since its update requires Rs 10 crore only, while the corpus of RBI employees' contribution fund itself is Rs 4,500-5,000 crore, according to banking sources close to the development. RBI updated the pension scheme in 2003 for pre-November 1997 retirees, aligning their basic pension with the basic pay prevalent at that time. The decision was taken by RBI's central board in the presence of nominees of the Centre.

Incidentally, the RBI's pension fund is self-sustaining without any contribution from the exchequer and the **Fifth Pay Commission for Central Government employees had stipulated that autonomous institutions like the RBI may have their own pension scheme, subject to their fund position.**

PRESENT POSITION

RBI has filed affidavit on 11.09.2012 raising two points 1) due process of hearing the petitioners has already been concluded & 2) Bank has forwarded a proposal to Government seeking their approval to amend Pension Regulations **to provide explicitly for updation of pension** by the Bank and the proposal is lying with the Government. (Editor's comment- So RBI agrees that Pension Regulations **implicitly** provides for pension updation)

The association filed a rejoinder to the Bank's affidavit on 04.10.2012 refuting both the above points. The case was last posted for hearing on 29.10.2012. But no action has so far been taken either by the Government or by the Bank in the matter and the case is lying with the Bombay High Court in suspended animation. Consequently pre-November 1997 pensioners continue to get updated pension [but only upto wage revision of 1997 (i.e 7th Bipartite Settlement)] as prayed for in the petition as per Bank's circular of September 2003 due to stay granted by the Bombay High Court. ■

“Pension updation for RBI retirees – a test for RBI autonomy,” says S.S. Tarapore

S.S. Tarapore, an economist and former Deputy Governor of RBI. Pulling no punches, reacted sharply to the RBI's Annual Report's reference to Pension Updation issue. Here is the Extract from RBI's Annual Report (27 08 2015) :-

“Superannuation Benefits

X.28 *In 2003, the Reserve Bank, with the approval of the Central Board, had made some improvements in the monthly pension paid to employees who retired prior to November 1, 1997. However, the government had observed that the improvements in the pension scheme could not be effected without suitably amending Regulation 2(2) of the RBI Pension Regulations, 1990 and requested the Reserve Bank for their withdrawal. In October 2008, these improvements in monthly pension were withdrawn by the Central Board. This was, however, challenged in the High Court of Judicature in Bombay, where the Hon'ble High Court set aside the Reserve Bank's circular regarding withdrawal of improvements. Since then, there has been persistent demand from all the pensioners/retirees for improvements in pensions. However, the matter remains unresolved till date, though the Reserve Bank and the Government are fully engaged with the issue."*

The above report brings no solace to RBI's pensioners but it has left the pensioners wondering how can RBI and the Government be fully engaged over a simple issue for more than 3 years now, that too when the Central Government admitted in their affidavit before Bombay High Court that the Government is not against grant of pension updation to RBI pensioners but is only objecting to the non adherence of the procedure for amending pension regulations for granting pension updation. Referring to the above annual report, Mr. S.S. Tarapore was rightly anguished over the delay in implementation of pension updation in RBI. Referring to the long-standing issue of pensions (Problem of Retirees in RBI) in his column 'Common Voice'-in an article titled " A glimpse into RBI annual report " , he urges RBI **"...to use the retirees' pension issue as a test case of autonomy..." "By not allowing updation of pensions for RBI retirees- while this is taken as a matter of right by Central Government retirees- is tantamount to tyranny. Autonomy is never given, it is earned and taken. The RBI has certainly earned it and it is now for RBI to take its autonomy."**

A former Deputy Governor of RBI forcefully argues for pension updation. The present Governor of RBI is relentlessly trying to persuade the Government to render justice to RBI's retirees. . RBI's Board wants to give updation and has accordingly requested the Government to allow them amend Pension Regulations to explicitly provide for pension updation but to no avail till date. Babus in New Delhi are curiously against any public servant getting what Government servants have as a matter of right. The Babus are responsible for pensioners of armed forces not getting OROP. The Babus are responsible for RBI and LIC pensioners not getting Pension updation in spite of their Boards being in favour of the same. The Babus are responsible for the suspension of Pension updation in banks. So it is high time all in the financial sector came together to force the government to be free these institutions from the vice grip of bureaucracy so that they can act independently. ■

CULPRIT CHAIR PERSON GETS A MERE LETTER OF DISPLEASURE; BUT WHISTLE BLOWER GETS A NOTICE THREATENING HIS LIVELIHOOD

Only in our country's democracy such farce can be witnessed where a swindler gets a friendly chide of displeasure but the exposé gets a threatening charge sheet. The exposé (Whistle blower) is ridiculed, rubbished and reduced to penury for having answered his conscience and caused inconvenience to the powers that be.

Sawant, a popular union leader from Central Bank of India, has raised in his Public Interest Litigation (PIL) the issue of bulging NPAs of state-run banks and lack of action by the lenders as well as government and regulators.

Sawant's relentless battle in the past exposed the dubious dealings of the Bank's former chairperson Homai Daruwalla who only got a 'letter of displeasure'; Contrast this with the threatening notice of Central Bank of India issued to him for failing to maintain good conduct as a retired employee and providing 'misleading information' to the media about bad loans and their recovery. If the action is taken to its logical conclusion, Sawant's pension and benefits from the Bank would be affected.

Undeterred by such threats, Sawant retired from the Bank in 2009 continues to create awareness among the public about how funds are being doled out to chosen industrialists and has now filed a PIL in the Bombay High Court against, the Union government, Ministry of Finance, Reserve Bank of India (RBI), Central Vigilance Commission (CVC), the Bank, Central Bank Employees Federation and Indian Banks' Association (IBA). Sawant, however, stated in the petition that the issue he is raising is about NPAs of state-run banks and lack of action by the lenders as well as government and

regulators. He clarified that personal issues with the Bank should not be clubbed with the PIL and he will take appropriate steps in his personal capacity.

The Bombay High Court, admitting this PIL has asked the Bank to file an affidavit within two weeks.

There is every reason for Sawant to be justly agitated to file this PIL. Just 16 corporate groups account for bad loans of Rs4,255 crore in Central Bank of India. Of these, one particular loan is probably making the Bank's senior management very jumpy—it is the outstanding of Rs.316 crore to Sujana Towers, a company belonging to the recently inducted minister, YS Chowdary, of the Telugu Desam Party (TDP). Curiously the Bank claims that Sujana Towers is not an NPA when it is. The table reads like a list of the more outrageous rip-offs of Indian banking by corporate India. It includes the notorious Winsome Diamonds and Forever Diamonds. Three companies belong to the S Kumar group whose promoters continue to be rich, while they owe big money to lenders. Then there is Kingfisher Airlines with dues of Rs.365 crore, the Housing Development and Infrastructure Ltd and others.

Similar PIL should be filed against every public sector bank to bring to book the culprits in the top management who have caused to the banks loss of thousands of crores of rupees.

Tail piece:As a consequence of the support lent by Bank insiders to the whistleblower, the charges against Ms Daruwalla were proved. The Bank reportedly spent Rs.70 lakh in defending her through the politically-connected leading advocate. ■

Pension is not charity but is a deferred wage - Denial of pension updation is denial of deferred wage.

Are Managements who play with your livelihood different from Terrorists who play with your life?

Denying wage is no different from stealing wage.

Denying deferred wage of retirees is a human right violation.

What is the difference between Managements withholding wages and Pickpockets stealing money?

Bank Retirees! Rest not - Let us not settle for Less.

We have to get what we deserve and not what is given.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1123 OF 2015

[ARISING OUT OF SLP(C) NO. 321 OF 2015]

State of Rajasthan and Ors. ... Appellants

Versus

MahendraNath Sharma ...Respondent

J U D G M E N T

DipakMisra

The above case has occupied much of social media discussion among Bank Retirees. This case has been wrongly misconceived as a case on pension updation but it is not. This judgement is not about the right to pension updation but about the right of pension updation to a higher band of pay, even if newly created after pensioners retirement (see Editorial for exhaustive discussion on this case). We give here below the extracts of this judgement for the benefit of our members.

It is not in dispute that all of them were appointed in different years from 1950 to 1976 and all of them retired between 1991 to 2004. It is also not in dispute that all of them had been granted Lecturers (Selection Scale) on or before 1.1.1986.

Thus, all of them had completed three years of service in the said pay-scale prior to 1.1.2006. After the pay revision took place, on the basis of the recommendation of the 4th Pay Commission, the respondents/ similarly situated employees got the benefit of revision of the pay scale with effect from 1.1.1986 vide notification dated 3.6.1988.

.....it is quite clear that in the year 1986, the post of Lecturer (Selection Scale) was introduced for the purpose of revision of pay scale and the respondents since then had been drawing the pay scale of the post of Lecturer (Selection Scale).

4. In the year 2008, the Government of Rajasthan issued a circular/memorandum dated 12.09.2008, which envisaged that the pension/family pension of all the pre 1.9.2006 State pensioners/family pensioners be revised w.e.f. 1.9.2006 as per the provisions made therein.

6. It has also been stipulated therein that the amount so arrived at will be regarded as consolidated pension/family pension with effect from 1.9.2006. The relevant part of Paragraph 5 of the

said circular/ memorandum reads as follows:

“The consolidated pension (treated as final ‘Basic Pension’) as on 01.09.2006 of pre-01.09.2006 pensioner shall not be lower than 50% of sum of the minimum pay of the post in the running pay band plus grade pay introduced w.e.f. 01.09.2006 corresponding to the pre-revised pay scale of the post from which pensioner had retired, subject to the condition that the existing provisions in the rules governing qualifying service for grant of pension and minimum pension shall continue to be operative.”

7. At this juncture, it is apt to note that the aforesaid clause is central to the controversy calling for interpretation.

.....para 6.3.9 of the UGC Regulations as relied by the State, which stipulates as follows:-

“6.3.9 The incumbent teacher must be on the roll and active service of the Universities/Colleges on the date of consideration by the Selection Committee for Selection/CAS Promotion.”

..... the stand of the State Government is that newly upgraded pay scale has been introduced for the first time on 1.1.2006, whether it would be applied to the persons who have already retired on the date it has been created....

The financial liability is to be borne by the State Government. It is also to be taken into considerationwhether the pay scale in running pay band 37400-67000 and grade pay 9000/- is admissible to Lecturers who have completed three years in selection scale on or after 01.01.2006 only. ..

In various other States also, similar revision of pension has not been allowed due to the financial condition. All these aspects are required to be taken into consideration.

...The Division Bench appreciated the reasoning of the learned

Single Judge ... Elucidating the reasons ascribed by the learned Single Judge, the Division Bench stated that since the pay scales were revised with effect from 01.09.2006, it was clear that such revised pay scales were to be taken note of in the revision of the pension; that the University Grants Commission Regulations of 2010 notified on 30.06.2010, with special reference to para nos.1.3, 6.3, 6.3.9, 6.4.0 to 6.4.8, were applicable to the Teachers, who were in active service; and that these Regulations did not have any retrospective effect. Thereafter the appellate Bench observed that notwithstanding anything contained in the Regulations of 2010, if any Teacher/Librarian/PTI was given Selection Scale prior to the enforcement of the Regulations of 2010, it was not necessary for him to be considered again for the Selection Scale in accordance with the Scheme of the Regulations of 2010 as the Regulations did not take away the Selection Scale awarded under the earlier provisions. ***The Division Bench clarified by way of example that if a teacher was awarded Selection Scale in the year 2002 or prior to it under the old Regulation and was continuing, then the benefit of Revised Pay Scale Rules, could not be denied to him.***

12. After so stating, the Division Bench referred to the decision rendered by the Punjab and Haryana High Court in the case of State of Haryana and Anr.v. Satyapal Yadav and Anr.

(LPA No. 1955 of 2012 decided on 14.1.2013.)

Eventually, the Division Bench ruled thus:-

“It is admitted that all the respondents were serving as Lecturers in the Selection Scale on the date of their retirement, which is prior to 01.01.2006 when the recommendations of the Sixth Pay Commission were enforced. It is also admitted that all the respondents were considered for grant of Selection Scale pay in accordance with the then prevailing UGC guidelines.....

The Sixth Pay Commission recommended for two pay scales of Lecturers (Selection Scale). The first was applicable to those, who had not completed three years of service in the existing pay scale as on 01.01.2006, and the second category was of those, who have completed 3 years of service in the existing pay scale as on 01.01.2006 and onwards, subject to the guide lines issued in this regard. The University Grants Commission Regulations of 2010 could not be given retrospective effect and further these guidelines were not applicable to those, who were already placed in the Selection Scale. The respondents, therefore, after the award of the pay scales applicable of Lecturer (Selection Scale), could not be treated in the lower pay scale as they had completed 3 years of service prior to 01.01.2006. They could not be artificially placed back into the Selection Scale which was applicable, to those who had not completed 3 years service in the existing pay in the Selection Scale as on 01.01.2006.”

..... There is no cavil over the fact that the respondents have been fitted into a pay band and extended the benefit of pension under the revision of pay from 2006 as the respondents had completed three years of service..... . As the factual score would depict, the respondents were paid pension on a lower band after the revision of the pay scale despite the fact that the persons who were already in service with the similar qualification have been kept in the higher pay band plus grade pay.

19. Paragraph 5 requires to be scrutinised and on such a scrutiny it becomes graphically clear, the corresponding pay revision would be Rs.37400-67000 with Rs.9000 AGP. The only qualifier is three years service in that scale. There is no scintilla of doubt that all the respondents meet that criteria. It is a well known principle that pension is not a bounty. The benefit is conferred upon an employee for his unblemished career. In *D.S. Nakara v. Union of India* (2 (1983) 1 SCC 305) D.A. Desai, J. speaking for the Bench opined that:-

“18. The approach of the respondents raises a vital and none too easy of answer, question as to why pension is paid. And why was it required to be liberalised?

Is the employer, which expression will include even the State, bound to pay pension? Is there any obligation on the employer to provide for the erstwhile employee even after the contract of employment has come to an end and the employee has ceased to render service?

What is a pension? What are the goals of pension? What public interest or purpose, if any, it seeks to serve? If it does seek to serve some public purpose, is it thwarted by such artificial division of retirement pre and post a certain date? We need seek answer to these and incidental questions so as to render just justice between parties to this petition.

20. The antiquated notion of pension being a bounty a gratuitous payment depending upon the sweet will or grace of the employer not claimable as a right and, therefore, no right to pension can be enforced through court has been swept under the carpet by the decision of the Constitution Bench in *Deokinandan Prasad Vs. State of Bihar* (1971) 2 SCC 330 wherein this Court authoritatively ruled that pension is a right and the payment of it does not depend upon the discretion of the Government but is governed by the rules and a government servant coming within those rules is entitled to claim pension. It was further held that the grant of pension does not depend upon anyone's discretion. It is only for the purpose of quantifying the amount having regard to service and other allied matters that it may be necessary for the authority to pass an order to that effect but the right to receive pension flows to the officer not because of any such order but by virtue of the rules. This view was reaffirmed in *State of Punjab v. Iqbal Singh* (1976) 2 SCC 1}.

20. We may hasten to add that though the said decision has been explained and diluted on certain other aspects, but

the paragraphs which we have reproduced as a concept holds the field as it is a fundamental concept in service jurisprudence.

...It will be appropriate and apposite on the part of the employers to remember the same and ingeminate it time and again so that unnecessary litigation do not travel to the Court and the employers show a definite and correct attitude towards employees. It is the duty of the State Government to avoid unwarranted litigations and not to encourage any litigation for the sake of litigation. The respondents were entitled to get the benefit of pension and the High Court has placed reliance on the decision of another High Court which has already been approved by this Court.

...we do not perceive any merit in this batch of appeals and accordingly, the same stands dismissed. The benefit shall be extended to the respondents within a span of three months from today failing which the accrued sum shall carry interest @ 9% per annum till realisation. ■

BANK TOLD NOT TO NAME AND SHAME STUDENT BORROWER

Chennai: Terming the bankers practice of "naming and shaming" of students who defaulted on repaying education loans as violation of human rights, the National Human Rights Commission (NHRC) has issued notice to the Central Bank of India chairman.

It has also issued notices to the district magistrate and superintendent of police of Nilgiris district in Tamil Nadu and the manager of Central Bank of India's Major Branch, Nilgiris.

It is alleged that the student borrower's father died due to shock after receiving threatening telephone calls from the bank despite paying off half of the loan amount in the first month after the moratorium period.

In a statement, the NHRC said it has taken cognizance of a complaint alleging harassment by Central Bank of India by an education loan-taker and her family as the bank had displayed the photographs of the girl student and her father as "missing" and "defaulter".

"Publishing photographs of parents and students (defaulters) have the potential of exposing the students to irreparable loss, injury and prejudice," the statement said.

"Apparently, the bank appears to have believed that shaming the defaulters would pressurize the families to repay outstanding educational loans. Such display of photographs of defaulters of education loan (who normally come from poor families and particularly rural areas) would certainly amount to loss of their dignity apart from violation of their human rights," the apex rights panel said.

(Source – IANS)

A COMPARISON BETWEEN BANK EMPLOYEES' X BIPARTITE SETTLEMENT AND LIC EMPLOYEES' SETTLEMENT

Is the better settlement for LIC at the cost of second option for pension?

Bank Employees are circulating in social media the understanding reached in LIC on wage settlement which is likely to be signed soon. Sarcasm is the common theme in all these chats and some are openly asking, "How Bank Unions asked us to celebrate the X Bipartite settlement when LIC employees' union was able to clinch a far better settlement without compromising on the basic principle of wage revision which is to have concomitant increase in basic pension. But it is not yet clear whether the second option pension till now denied to LIC employees/retirees would be extended or not. Bank employees got second option in 2010 itself. If this demand for second option has been given up and it has been converted into a bargaining chip for this better settlement there is little to rejoice. If denying basic security of pension to a large section of retirees is the price to pay to better that social security to another section, it is cannibalism of modern man, though cannibalism is fast becoming the order in these days of liberalization and globalization. Be that so, Government Employees getting less pay than bank employees in 1970s narrowed that gulf gradually and they are now miles ahead of us. Now LIC employees too are likely to overtake us. It is therefore certain the General Insurance employees too would get similar hike in wages. Bank Employees are, therefore, going to be the worst wage-earners in the entire public sector. Thanks to inhuman bank managements and insensitive IBA, pension of Bank pensioners will soon become pittance. AIBOC wanted at least 19.5% increase on pay-slip components to maintain the increase at the same level of IX Bipartite Settlement. But a major union of UFBU was happy to settle for far less disrupting the unity of bank employees. Bank employees should have realized by now that one rotten apple is enough to spoil the whole basket of apples. You may look at the comparison table given below to judge for yourself.

Description	LIC	Banks
Gross increase in Wages (excluding retirement benefits)	20%	15%
DA Merger Points	4708	4440
DA% after Merger	0.10%	0.10%
Loading on Basic Pay	13.50	2.00%
Increase in Basic Pay over previous Settlement	93.77%	63.35%
Holidays/New Provision	All Saturdays/month	2 Saturdays/month
100% DA Neutralization to pre Nov,1997 (it is Pre Nov,2002 for banks) Retirees	Likely to get	No favourable response

ARISE MEETINGS AT VARIOUS PLACES

At Chandigarh on 23/08/2015

The meeting was held on 23rd August, 2015 at Hotel Park Grand, Sector 43, Chandigarh, which was attended by large number of members including veterans like Mr. H.S. Chadha. Com. P S Bhinder, Organising Secretary shared information and discussed the following issues with members in the meeting:-

1. 2nd & 4th Saturdays as holidays:

The Govt has finally accorded approval for declaring 2nd & 4th Saturday of each month as holiday in banks from 1st Sept.2015, in terms of 10th Bipartite Settlement.

2. DA payable to pensioners from Aug.2015 to Jan 2016: stand revised for pensioners.

3. Apportioning of arrears to get IT relief:

The payment of arrears received by retirees can be apportioned to get relief under Section 89 of IT Act - though beneficial only to those members whose IT slab gets changed upward due to payment of arrears.

4. Matters taken up by Association with the bank:

- a) Restoration of payment of additional interest on deposits @ .50% payable to senior citizens.
- b) Leave Encashment to Compulsory Retired Officers/employees to be given from retrospective dates and not only from prospective date of 30/04/2015.
- c) Compassionate Appointments to wards of deceased members be also permitted retrospectively, as it affects the dependents of deceased members, who are getting meager family pension.
- d) Retired Officers/employees be permitted to act as Defense Assistants to defend CSOs/CSEs as the bank has already engaged retired Executives to act as Inquiry Officers.
- e) The members were suggested to subscribe to PM Suraksha Bima Yojna to get Personal Accident Insurance cover of Rs.2 lacs, at much cheaper rate as we are eligible under the scheme up-to 70 years of age.
- f) The Association is discussing the cost sharing pattern of the New Group Medical Insurance Scheme providing cover up-to Rs. 4 Lacs to officers and Rs.3 lacs to staff; the members were provided with copies of the scheme framed by United India Insurance Co., (in terms of recent Wage Revision Settlement signed between IBA and unions/associations of workmen and officers), for their ready reference and record. The members were advised to opt for the scheme as and when the bank introduces the same, because the benefits available under the scheme are almost at par with members who are in active service



ARISE meeting at Chandigarh on 26.09.2015

of the bank, including facility of domiciliary treatment of certain diseases. The issue of premium payable by retirees is under negotiation. The scheme for retirees covers the member and his/her spouse only. But in the case of members, who are in active service, the whole family is covered. The option to join the scheme is to be exercised once only and that too within the given time frame only. No second option will be allowed by IBA/Bank.

The members appreciated the steps being taken by the association for welfare of its members. However, all of them were of unanimous view that the payment of additional interest on deposits @ .50% payable to senior citizens must be got re-introduced by the Bank for its retirees at the earliest.

Mr.Milap Kapoor, Ex-GM, having acquired professional qualification for treatment of temperamental behaviour in human beings, delivered a detailed lecture for the benefit of the members.

The date of next meeting is 26th Sept.2015 at the same venue.

The undersigned also apprised the members that he will be going to Chennai for attending Executive Committee Meeting of ARISE on 1st Sept. 2015.

Mr. Dhanesh Chander, Ex-GM while extending Vote of Thanks, appreciated the spirit behind organizing such meetings.

At Chandigarh on 26/09/2015

A meeting of ARISE, Chandigarh Region, was held to-day at Hotel Park Grand, Sector 43, Chandigarh. Com. P S Bhinder, Organising Secretary, apprised the members about relevant features of new medical scheme and replied the queries raised by them. They were advised that ARISE is trying its hard to negotiate with bank for bringing down the amount of premium



ARISE meeting at Chandigarh on 23.08.2015

to be paid while subscribing to the scheme. It is our endeavour to get the scheme introduced on the pattern of REMAS, if possible. Other issues like extension of insurance cover to dependent parents and medically declared dependent children (like spastic etc.) under the New Insurance Scheme being industry level issues, can only be dealt at industry level.

The unfortunate developments which took place behind the scene, due to which the issues of 100% DA neutralization and grant of 30% family pension could not be clinched along-with 10th Bipartite Wage Settlement, were also shared with the members. The issue of Updation of Pension was also discussed at length and basics of its justification were made known to the members. The difficulty being experienced by the association in getting restored additional interest @ .50% (payable to senior citizens) to retirees was also shared.

Since, the struggle before us is going to be tough, the membership was exhorted to be in readiness to fight battle of our own by following the agitation programme to be announced by Coordination Committee shortly. Since, running the affairs of the association and execution of agitation related programmes require lot of funds, the members were appealed to pay life membership fee of Rs.6000/- to strengthen the financial position of the organisation.

Mr. Rakesh Bhalla, DGM (Retd) appreciated the usefulness of such meetings. The date for holding next meeting is 31st Oct.2015 at the same venue. The meeting was concluded with 'Vote of Thanks' extended by Mr.A.P.Singh GM (Retd).

At Ahmedabad on 26/09/2015

We are happy to inform that the meeting of ARISE members was held on 23rd September, 2015 at Ahmedabad during the visit of our Com. Shri K V Acharya President of AIBPARC (also our Vice President). Com. Shri K Anandkumar, Vice President and Com. J D. Sharma, our patron and President of IOBOA also graced the meeting. Other office bearers of IOBOA in town Coms.Srinivasan, Mani, Saji and Ramkishan sent their greetings. With the honouring of the guests by the undersigned as convener of the Meeting and Com Nitin Vyas,

the Meeting The members were apparently upbeat and inspired by the visit of these leaders.

Com Shri K V Acharya in his address, apprised the members about the efforts lobbying being done with political and bureaucratic establishment to canvass support and solution to our long pending grievances. He explained in detail the representation made through post and in person to Finance Secretary in regard to pension updation and the family pension. As those efforts failed to yield desired the leadership of all the apex organizations of Retirees including AIBPARC decided to come together on one platform under the umbrella of a Coordination Committee. So a Co-ordination Committee of Bank Pensioners and Retirees was born and it decided to launch an action program. It will begin with the signature campaign involving all the members requiring them to sign the memorandum and dispatch the same to the Prime Minister. A well drafted memorandum will be provided to each and every member to mobilize the signature campaign followed by other programs as per decision and it will culminate into DHARNA at JantarMantar, New Delhi. Only if we make the Government feel the heat by a massive Dharna, our grievances will see the light of the day.

Com Shri K Anandkumar gave a graphic account of the salient features of the revised Health Insurance scheme. The need to get a favourable outcome is causing delay in issuance of insurance scheme circular by the Bank. He assured the members of a favourable outcome from the negotiations of ARISE with the Bank. He informed having requested the management to pay the insurance premium from the staff welfare fund and/or alternately drastically reduce the premium amount to be paid by the retirees. Com Shri J D SHARMA, our president, IOBOA shared his views and gave a detailed account of the support being extended to the problems of the retirees.

The meeting concluded with Vote of Thanks presented by Ex Office Bearer Com Shri Y U Asnani. The Meeting was followed by a pleasant family get together of IOB retirees at the same venue.

ROHIT A BHATT, Regional Secretary

ARISE MEETINGS AT VARIOUS PLACES

At Tiruchirappalli-24/10/2015

The members of Tiruchirappalli, Karaikudi and Dindigul Regions of ARISE participated in the deliberations. The meeting was presided by Mr Karunakaran, General Secretary. MR Jeevanandam, CRM, Mr Sudhakar AGS IOBOA, Mr Senthil AGS, IOBOA Nagapattinam Participated. MR Jawahar Ali, AGS, Tiruchirappalli welcomed the gathering and thanked CRM for participation, even though it was a Holiday for the Banks.

Mr Jeevanandam, CRM sought the blessings of the elders present and thanked them for contributing to the growth of IOB. He also mentioned that by using Face book technology young officers are motivated who would be the future leaders of the bank. He further added that he would call the retirees meeting to get their valuable suggestions for the growth of the bank.

Com.K.S.Rengarajan assured CRM of our cooperation for all his ideas for the development of the Bank. He explained about the agitational programme decided by the CBPRO including Dharna programme at Delhi on 11th December 2015 and requested the members to actively participate. Com.K.Anandakumar, Vice President in his address mentioned about the Xth Bi Partite wage revision and about the record note. He also covered in his address that one of the constituents of UFBU opposed the move to discuss the retirees issues with retirees organisations.

Com.S.B.C.Karunakaran, General Secretary explained that record note has kept the retirees issues alive. He dwelt at length about the issues viz. Pension updation, 100% D.A. Neutralisation, pension for those who have put in 20 years of service. He exhorted the members to join the New Medical Scheme for retirees without fail as the scheme is very good. He requested the members to become life members. Com.T.Iyanar, Organising Secretary and Com.S.Thyagarajan, Joint General Secretary assured the members to bring out an updated version of "benefits to retirees" They also apprised about our new website www.thearise.co.in. Com.Sundararajan proposed vote of thanks.

At Thanjavur - 24/10/2015

Com.Mahalingam, AGS, Nagapattinam welcomed the leaders on the dais and the members from Thanjavur and Nagapattinam Regions. Com.T.D.Mohanasundaram, DGS, (South), IOBOA mentioned that there is need for experienced persons in our bank and sought the blessings of elders. Com.T.Iyanar, Organizing Secretary mentioned that 'ARISE' is one organisation which is very active and informative among the retirees organisations in the Banking Industry.

Com.K.S.Rengarajan, President mentioned that the demands of retirees are just and requested the members to actively participate in the ensuing agitation programmes. Com.K.Anandakumar, Vice President in his address covered the wage revision exercise and about new medical scheme for serving employees and retirees. In fact he apprised that IOBOA was responsible for bringing out a comprehensive medical insurance scheme for serving employees and the retirees. Com.S.B.C.Karunakaran, General Secretary explained in detail on pension updation, 100% DA Neutralisation etc. He stressed that every member should participate in all action programme including dharna at Delhi on 11th December 2015. He gave a detailed account of New Medical Scheme for retirees at

Industry level and requested the members to join the scheme. Com.John Paul proposed vote of thanks.

At Mysore - 07/10/2015

The meeting was held at our K R Mohalla branch, Mysore. The meeting was commenced at 15.30hrs on 07.10.2015. More than 40 members participated. Sri S K Umesh, Chief Regional Manager, Mysore presided over the meeting. Com G Suryanarayana, Vice President, ioboa, and Sri K.V.Bhat, former GM, Sri B N Manjunathan, former DGM, Sri K V Upadhyaya, former AGM and a host of officers and award staff retirees attended the meeting.

Com K.S. Narasimha Murthy, Organizing Secretary [karnataka] welcomed the participants and commenced the meeting. He explained the efforts of "arise" in pursuing the just demands of the retirees not only with our Bank Management. Arise with the cooperation of IOBOA has pursued the management but also with the central government and Indian Banks Association to reduce the premium amount to be paid by the retirees for the new IBA Scheme of Medical Insurance. It was expected to get a positive decision. He also explained that Com K V Acharya, as President of AIBPARC and Com. M r Gopinatha Rao, DGS of AIBPARC and both our Vice Presidents- are addressing meetings all over India to build up a formidable movement of bank retirees to get what we deserve. He requested all the retirees to upgrade their membership to become life member of ARISE by payment of one time subscription.

Com. G. Suryanarayana lauding the contribution of Com. K V Acharya and Com. MR Gopinatha Rao extended his greeting and assured of IOBOA's support. Sri S.K. Umesh, the Chief Regional Manager also praised the contribution of Com. M R Gopinatha Rao and Com. K V Acharya not only to IOBOA but also to the Bank. He thanked all serving and retired IOBIANs for their co-operation and support that has made Mysore Region become a success story. He wished ARISE the best in the years to come.

Com MR Gopinatha Rao, in his response explained as to how the ARISE came into existence after SVRS was introduced. The causes of SVRS retirees was taken up, both with the management as well as with IBA and many benefits which was initially deprived to SVRS optees was restored in our bank much earlier than in any other bank with the efforts of ARISE.

He explained about the 'REMAS' introduced in our bank and also the benefits derived by many members in this regard. He explained the efforts of ARISE to convince the top management about the contributions of members already made towards REMAS and reasons for considering reduction in premium to be paid as per the new IBA medical scheme. He requested members to counter the bad media coverage of our Bank, recalling how the Bank turned around in 1990s. He also exhorted the members to upgrade to life membership and reach Delhi in massive number to make the Dharna on 11th December, 2015 a grand success. Though there is talk of 100% DA neutralization being through soon we cannot be complacent. He concluded by informing about the induction of Com. K.Anandakumar (former GS of IOBOA) as Vice President of ARISE and thanking IOBOA for their continued support and assistance.

The curtains came down with vote of thanks by Com S Ashok, Regional Committee Member, ARISE, Mysore.

NEWS FROM (A.I.B.P.A.R.C)



ALL INDIA BANK PENSIONERS' & RETIREES' CONFEDERATION (AIBPARC - A wing of AIBOC)

C/O. BANK OF INDIA OFFICERS' ASSOCIATION (EASTERN INDIA BRANCHES),
BANK OF INDIA, KOLKATA MAIN BRANCH, 23-A, NETAJI SUBHAS ROAD, KOLKATA - 700001,
TEL : 033 2213 2429, MOBILE : 98304 03145, E-mail : aibprc@gmail.com.

Letter by Com. K.V.Acharya, President, AIBPARC to Prime Minister

Camp: Gurgaon
J-208, Vijay Rattan Vihar, Sector 15, Part-II, Gurgaon-122001
Dated: 01.10.2015

To,
Shri Narendra Modiji,
Hon'ble Prime Minister of India,
Prime Minister's Office,
7, Race Course Road, New Delhi.

Respected Sir,

A fervent Appeal by Bank Pensioners and Retirees

It is with great hope and expectations we are making this appeal to Your Good-self after making several appeals to the Dept of Financial Services, Govt of India and Indian Banks Association in regard to the pressing issues of Bank Pensioners and Retirees who have been subjected to denial of justice in spite of very articulated and defined provisions in the Pension Settlement and Pension Regulations. Confederation of Bank Pensioners and Retirees Organisations (C.B.P.R.O.) consisting of all apex Bank Pensioners and Retirees Organisations with a membership of over 3.50 lacs has decided to approach Your Good-self as the ultimate authority to redress the grievances of the Bank Pensioners and the Retirees. We earnestly hope our following submissions will receive your immediate attention and action as you are known for prompt delivery of justice and high standard of good governance.

1. UPDATION OF PENSION

The pension scheme in Banks is formulated exactly on the model of Central Government and Reserve Bank of India Employees Pension Schemes. It is clearly spelt out not only in the Bank Pension Settlement but also in the Bank Employees Pension Regulations 1995 which was duly published in the Government Gazette that the Basic Pension and Additional Pension shall be updated. Still the same is not implemented nearly

for 30 yrs except for a batch of Retirees who retired between 1st January, 1986 to 31st October, 1987 and to them also it was subsequently denied. This has created a deep hurt and humiliation to the Bank Retirees and has caused a peculiar situation where a senior most Bank Official including the rank of General Manager who retired in 1990 getting a pension as low as about Rs.22000/- where as a junior staff retiring today getting a pension more than the General Manager. There has been numerous judicial pronouncements from the Courts and from the Supreme Court that the pension payable to the senior cannot be less than that of a junior. This grievous anomaly has to be set right.

2. UNIFORM DEARNESS ALLOWANCE

It is painfully amusing to note as to why the pensioners who retired on different dates would be given the dearness relief at different rates though the inflation hits everybody uniformly. Denying uniform dearness relief (with 100% neutralisation) to a section of Retirees (those who retired before year 2002) is constitutionally invalid and policy-wise irrational. Uniform dearness relief is given to all Central Government retirees and RBI retirees and even the cost of this constitutionally entitled right will not be much as the number of so deprived pensioners are just few thousands as retirement before year 2002 used to be very few and many of them are in the advanced age of more than 80 yrs or already ceased to exist. Hence there is absolutely no justification to deny this simple request of the organisations.

3. IMPROVEMENT IN FAMILY PENSION

Family pension has been improved to 30% of pay both to the Government of India and Reserve Bank of India retirees. But unfortunately it is still pegged to 15% of pay to the Bank retirees and that too with a ceiling of less than Rs 10000/-. The request from the Bank Pensioners and Retirees organisations is to treat this as the most compassionate and humanitarian issue and denial of the same amounts to discrimination and dishonour to the spouses of the retirees. We are certain the issue will be resolved with the urgency it deserves.

4. PENSION FOR ALL.

The very concept of pension is ensuring Social Security to the retirees in the evening of their life and the Pension Fund is created out of the Provident Fund surrendered by the employees. The only requirement is that an employee should have put in a minimum service of 20 years. Some of the retirees who wanted to opt for voluntary retirement after putting the required minimum service of 20 yrs have been forced to resign mainly because of the delay in framing the regulations from the time of Settlement, i.e. November 1993 to the time of approving the regulations in November 1995 and in certain cases refusal by the Bank Management to accept the voluntary retirement on the ground of manpower shortage. Though the Supreme Court has held that in such cases the employees should be considered as voluntarily retired and they should be permitted to draw pension, unfortunately the relief given in the judgement is restricted to the petitioners only and not to the similarly placed employees.

5. ANOMALY IN THE JUST CONCLUDED SETTLEMENT

The last Pay Commission Recommendations for the Central Government employees included a component called Grade Pay in addition to the Basic Pay and both the Basic Pay and Grade Pay are reckoned for Dearness relief as well as for other terminal benefits. But unfortunately in the just concluded Bi-Partite settlement for Bank employees a Special Allowance component is introduced for all categories of employees, i.e. from Sub-Staff to General Manager, on the lines of Grade Pay to the Central Government employees. But for Bank employees the Special Allowance component is not reckoned for calculating the Basic Pension though dearness relief is given on that allowance. This has resulted in heavy erosion in the Basic Pension for those who retired between November 2012 and the date of settlement (i.e., 25.06.2015).

6. Respected Sir, All the above issues will not cost much and the entire extra outgo can be easily absorbed by the Bank Employees Pension Fund itself which has got a huge corpus amounting to more than Rs 125000 crores (Rupees one laced twenty five thousand crores) and the Pension Fund is created out of the Provident Fund surrendered by the Bank employees. It is also pertinent to note that a good percentage of Bank retirees are already in the age group of 80 yrs and above and number of Retirees who would be alive to receive pension will be very meagre beyond year 2035. Those who are recruited in the Bank from April 2010 are not covered under this defined pension scheme and hence there would be no liability on the pension fund in respect of them.

7. Respected Sir, We are very confident and hopeful that the above issues will receive your very special attention and we also earnestly request you to give an audience to the delegation of Confederation of Bank Pensioners and Retirees organisation (C.B.P.R.O.) to personally apprise and appeal to your good-self. We also request you to instruct Indian Banks Association to formally call our Confederation to discuss and resolve the above issues.

Thanking you,

Yours Sincerely,
sd/- (K V Acharya)
President.

STOP PRESS -Reply has since been received from PMO that the representation has been forwarded to Department of Financial Services, MOF,GOI for appropriate action.

CIRCULAR NO. 32/15. August 05, 2015.

(For circulation among members of the Governing Council, Special Invitees and State Secretaries with a request to percolate information to the grassroots)

Sub : (i) All five apex level organisations of Pensioners and Retirees of the Banking Sector meet at Delhi on 28th July, 2015 on coordination.

(ii) State of Kerala throbs with hectic organisational activities launched by AIBPARC State Committee and Different affiliates.

Dear Comrade,

Following organisations met at New Delhi on 28th July, 2015 to take stock of the present situation :

- All India Bank Pensioners & Retirees Confederation,
- All India Bank Retirees Federation,
- Retired Bank Officers' National Confederation,
- All India Retired Bank Employees Association,
- Federation of State Bank of India Pensioners' Associations.

2. Our organisation was represented by Com. K.V. Acharya, President, Shri P.S. Patki, Vice-President, Shri S.B.C. Karunakaran, Vice-President and Shri S. Sarkar, Joint General Secretary. Prolonged discussion took place among the leaders on different issues/subjects which include, inter alia, the objectives, structure, name of the Co-ordinated body, Action Plan, code of conduct, finance and formation of a Joint Action Committee.

3. The important decisions taken in the meeting are being enumerated hereunder for information of members : All the five (above mentioned) organisations of Retirees and Pensioners have resolved in the meeting to work together for resolving industry-level issues concerning pension, medical facilities and other welfare measures of pensioners and retirees of the member banks of Indian Banks Association and for this purpose the organisations would constitute a united forum in the name of "Confederation of Bank Pensioners and Retirees Organisations (C.B.P.R.O) and become members of this forum. The organisations have also resolved to adhere to certain codes of conduct. "4. The Joint Action Committee will be formed by taking two members each from the

Federations and there will be a Convener. Shri R.N. Banerjee, President, Federation of SBI Pensioners' Associations proposed the name of Shri P.P.S. Murthy, General Secretary of the Federation as the first Convener. The representatives of AIBPARC and several other organisations supported the proposal. General Secretary of AIBRF requested for some time for consulting the apex body of the organisation before taking a decision in this regard. It was decided that the next meeting of the body will take place within August, 2015. Meanwhile, a draft representation is being prepared which will be finalized soon for submission to GOI/ IBA.

5. In view of all that has been said above, we may reasonably expect that action programmes will be finalised in and declared from the next round of talks. Members will be duly apprised of developments. Till then, organisation should go on with its preparatory exercises by having meetings at various points.

6. Massive organisational activities at Kerala during the period 18th to 20th July, 2015 : The entire state witnessed lot of organisational activities at different places. The state committee had its meeting on 18th July at Kochi; on the same day, Ernakulam District Committee had its convention at Kaloor; Federal Bank Retired Officers' Forum had its national conference on 19th July at Aluva and Thiruvananthapuram District Convention was held on 20th July at the State capital. All the meetings/ Conferences were largely attended and enthusiasm of members was at peak. The meetings were addressed by various leaders. Prominent among them are Com. K.V. Acharya, President, Com. P.V. Mathew, VicePresident, Com. P.B. Thomas, State President, Com. R. Chandrasenan, State Secretary, Com. Abraham Shaji John, State Secretary, AIBOC and others.

Com. K.V. Acharya in his address at different places criticised the negative attitude of IBA and certain unlawful utterances made by IBA in the initial portion of the Record Note. The funds available in the Pension Corpus, he felt, was sufficient to meet the aspiration of pensioners. He expressed optimism about the outcome of the All India Meeting of all retiree organisations proposed to be held at Delhi on 28th July, 2015. We congratulate the District Committees and State Committee of AIBPARC for undertaking series of programmes within a short span of time. It will surely help further consolidation of Retirees in the State.

With best wishes,

Sd/- (S. SARKAR)
JOINT GENERAL SECRETARY

CIRCULAR NO. 34/15.

August 10, 2015

(For circulation among members of the Governing Council, Special Invitees and State Secretaries with a request to percolate information to the grassroots)

Sub : (1) Minutes of the meeting of all 5 apex level organisations of Pensioners & Retirees of the Banking Sector held at Delhi on 28th July, 2015.

(2) AIBPARC gears up its organisational activities in different parts of the Country.

Dear Comrade,

We have already intimated the highlights of the above meeting through our circular No. 32/15 dated August 5, 2015. Members of Governing Council from different parts of the country have expressed their willingness to know the full details of discussion. We are, therefore, reproducing the entire text of minutes for information of members. It may please be noted that in the list of objectives there may be a few additions and the same will also be communicated to members in due course.

Text :

MINUTES OF THE MEETING ON CO-ORDINATION OF THE FEDERATIONS OF BANK PENSIONERS AND RETIREES HELD ON 28-07-2015 AT NEW DELHI.

A meeting for bringing together the major apex level organizations of the Bank pensioners and retirees was organized on 28-07-2015 at New Delhi. The following Federations of Bank Pensioners and retirees attended this meeting.

1. Federation of State Bank of India Pensioners' Associations
2. All India Bank Retirees' Federation
3. All India Bank Pensioners' & Retirees' Confederation.
4. Retired Bank Officers' National Confederation and
5. All India Retired Bank Employees' Association

The participants from the above organizations are furnished in the Annexure hereto.

2. Before the commencement of this meeting, two minutes silence was observed in memory of former President Shri A.B.J. Abdul Kalam. Shri P.P.S. Murthy, General Secretary, Federation of S.B.I Pensioners 'Associations, while welcoming all the participants stated that this meeting is very important for strengthening the movement of Bank Pensioners and Retirees by bringing together all their important apex level organizations. He conveyed that the disappointment caused to the pensioners by the 10th bipartite Settlement and the declarations made in the Record

“Note released by I.B.A along with the 10th bipartite settlement have created the need for collective and combined efforts by all the above organizations. Shri R.N. Banerjee, President, Federation of SBI Pensioners' Associations brought to the notice of the participants the efforts made by his Federation over the last 25 years including the legal action for securing legitimate pension benefits from S.B.I. He said collective efforts by all of us with commitment are necessary for resolving our common issues.

3. Shri S.C. Jain, General Secretary of All India Bank Retirees' Federation

NEWS FROM (AIBPARC)

referred to the challenges before us and the disappointment and frustration of the pensioners after the 10th bipartite settlement was concluded. He is in favour of co-ordination for bringing unity among all of us. He said that U.F.B.R.O was formed for this purpose. They could achieve certain benefits in the form of Ex-gratia to pre 1-1-1986 retirees and their spouses, could arrange for establishing grievance redressal machinery and secure the facility of one-more pension option. He felt that U.F.B.R.O could itself be utilized for the purpose of our co-ordination. He does not however have any reservation on forming a new organization of all the above Federations. He considered that we should explore the legal option for securing the updation of pension by obtaining an expert legal opinion.

4. Shri K.V. Acharya, President, All India Bank Pensioners' & Retirees' Confederation favoured the immediate formation of co-ordination of the above five Federations of Bank Pensioners and Retirees. He said that ex-gratia to pre 1-1-1986 retirees was granted first by the Indian Overseas Bank in 1996 before other Banks provided this facility. He said that I.B.A should discuss with the organizations of Bank Pensioners and Retirees on issues concerning them. He said that although we have reservations on the position taken by I.B.A as disclosed in the first paragraph of the Record Note, there are certain salutary features offering scope for providing some improvement in our pension benefits. We therefore need to explore the possibility of taking advantage of these observations made in the Record Note. He also brought to the notice of the participants the various programs of action taken by his Confederation for focusing and resolving the issues of the pensioners. He said that the provision for the updation of pension is statutory and denying the updation of pension is in violation of this regulation. He also suggested that our Co-ordination could be widened by including the corresponding organizations of R.B.I and L.I.C. As age is not with us, he felt that there is a need for us to forge our unity without delay.

5. Shri R.D. Deshpande, General Secretary, Retired Bank Officers' National Confederation shared the view that the time is now ripe for all of us to take a positive decision on forming our co-ordination. Our members would not be satisfied without beneficial results. He said that our issues should get prioritized and action plan drawn up. He said that the second option issue of the resigned and those left overs should be addressed. Shri R. Acharya of All India Retired Bank Employees' Association concurred with the view on forming a co-ordination of all the above organizations.

6. All the participants agreed to enlist the support of U.F.B.U and other organizations of the serving employees of Banks. All the participants unanimously agreed on forming a co-ordination of all the above five Federations with the following objectives, structure, name, action plan, code of conduct, finance and Joint Action Committee..

I. Objectives

- a. To remove the discrimination caused in the payment of dearness relief to pre 1-11-2002 pensioners.
- b. To secure the upgradation of basic pension/ family pension by merging dearness relief neutralized with 100% up to 4440 points as on 31-10-2012.

- c. To secure family pension at 30% of pay uniformly to all on the same basis as followed by Reserve Bank of India. To remove the extant ceiling on family pension of Rs, 5,930/ and Rs.9, 284/ on Ninth and Tenth bipartite pay scales respectively, pending consideration of this proposal,
- d. To take steps for securing improvements as obtaining in the Pension Scheme of Reserve Bank of India
- e. To secure the updation of pension on every revision for meeting aging needs of Bank pensioners.
- f. To secure improvements in medical facilities to the pensioners and family pensioners.
- g. To take steps for strengthening the Pensioners/ Retirees Movement in the Banking Industry by mobilizing more members and by bringing together the multiple organizations of Bank pensioners/retirees in each Bank if any and
- h. To serve the ageing members of our society and co-ordinate with similar organizations in the service of the aged.
- i. To secure pension option for the resigned and all left overs with eligible pensionable service.

II. Structure

The Structure can be a collective body without a formal registration under the Societies Act for the time being or as may be decided at this meeting "III. Name.

The participants agreed to form a new organization in the following name with the above five Federations as its members.

Confederation of Bank Pensioners and Retirees Organizations (C.B.P.R.O)

IV.. Action Plan

Our action plan may be decided according priority to achieve our above objectives.

- i. Our first option can be to represent our issues with the Government/ IBA/ Management of Banks through negotiations/ meetings.
- ii. To seek political support.
- iii. To seek support through print and visual media and press conferences
- iv. To fix a time frame for the above negotiated efforts depending on the developments
- v. Depending upon the progress through negotiated efforts, the other program of direct actions like peaceful Dharna or agitation can be planned..
- vi. Against decisions taken deliberately causing untenable and unjust deprivation and discrimination to the pensioners, legal action may be necessary. We should get prepared to resort to legal action, although it is very costly and time consuming. Before taking a decision on resorting to a legal action, sufficient funds should be mobilized.

V. Code of Conduct

- i. All members of this apex body should work together for achieving our objectives by strengthening fraternity among ourselves.

NEWS FROM (AIBPARC)

- ii. All members of this body would do well to commit themselves against any mutual criticism or against carrying on any activity which would not be conducive for maintaining the unity amongst them and
- iii. All members of this body should give an assurance that they would always abide by the decisions taken by this body.

VI. Finance

All travelling expenses incurred for attending the meetings of the co-ordination/action committee and also for program action to be organized at different centres will be borne by the respective organizations. The expenses for the future meetings of this committee can also borne by the respective host organization. For the present, finance would be required only for meeting the expenses connected with communications. A token contribution from each member should be sufficient for this purpose .Any other suggestion is welcome.

VII. Formation of a Joint Action Committee

This Committee may consist of a convener and two members each from the Federations. Shri R.N.Banerjee, President, Federation of SBI Pensioners' Association proposed Shri P.P.S.Murthy, General Secretary of Federation of SBI Pensioners' Association as the first convener of the Joint Action Committee. Shri S.C.Jain said that he would consult his Governing Council in this regard, as the mandate given by his Governing Council on forming this coordination stipulates his nomination as the first convener.

6. For the purpose of representing our core pension issues as per the above objectives, a draft of our appeal will be prepared. Shri S.C. Jain, General Secretary of A.I.B.R.F has agreed to prepare the draft of our appeal. It was decided to hold the next meeting before the end of August 2015. The list of the participants and the Resolution Passed at this meeting are enclosed.

P.P.Sankaranaryana Murthy
General Secretary
Federation of SBI Pensioners'
Associations

Chennai
31-07-2015

Unquote

CIRCULAR NO. 40/15.

September 4, 2015.

(For circulation among members of the Governing Council, Special Invitees and State Secretaries of AIBPARC)

Dear Friends

Sub : i) Latest position of unity talks.

ii) All India Central Bank Retired Officers' Federation holds its 1st General Body Conference at Nagpur.

iii) Government finally agrees to allow one pension for one rank in case of Defence Employees.

Dear Comrades,

You are well aware of the fact that the meeting of all the 5 Retiree-organisations took place at Delhi on 28th July, 2015. It was decided that the next meeting of the coordinated forum (CBPRO) would take place within August, 2015. It was the natural expectation of all that some programmes of action would be declared from such meeting. Because of some unavoidable problems faced by a constituent, the proposed meeting was deferred by a few weeks. Now it has been decided that the All Union meeting of Retirees will take place at New Delhi on 22nd September, 2015. We know that members are impatient, restless and anguished. They want some demonstrative programmes to give vent to their feelings. We request members to hold patience for some time more. We shall employ all our efforts to give an honest trial to solidarity because we consider it to be the only time tested step to come cover over the difficult phase. We assure our members that we shall not wait for an indefinite period. If nothing transpires even in the second meeting, we shall be declaring our programmes of action which have already been decided in the meeting of Managing Committee (extended) held at Chandigarh. We shall request all concerned to hold patience and wait for the next communication from AIBPARC. Members are also requested not to fall in trap laid by certain people who are trying to take the advantage of the frustration of "people and to misdirect the movement in a way not desirable by castigating all concerned under the sky.

2. 1st Triennial General Body Conference of AICBROF took place at Nagpur on 23rd August, 2015. The well-decorated hall was packed to capacity. Shri K.V.Acharya, President, AIBPARC, Shri A.R. Saifullah, Ex-General Secretary of AICBOF and Shri Anant Kulkarni, Secretary, AIBOC, Maharashtra State Unit III were among the noted guests present in the meeting. Shri Acharya complimented the organisation for such a large gathering. Right from the formation of AIBPARC till today, he touched upon the major activities of the organisation in the interest of Retirees. He was extremely critical about some of the assertions of IBA in the Record Note on discussion. He also criticized the nonpositive roles played by certain CMDs and thanked the General Secretary of AIBOC for his pro-active roles. He reported in brief the outcome of the dialogue that he had with Union Minister Shri Nitin Gadkari on 22nd August, 2015. The business session was a disciplined and orderly one. It was a show of unity and solidarity. The House paid rich tributes to the valuable contribution made by Com. Kalyan Kr. Sengupta and expressed deep anguish at his passing away. Shri A.K. Nagar was elected as the President and Shri N.K. Pareek was elected as the General Secretary. We congratulate all the elected members and expect that our affiliates in Central Bank of India will move from strength to strength.

3. One Rank One Pension : After a long lapse of time Government of India conceded the demands of the defence employees and agreed to pay one pension to one rank. Although there are some minor aberrations which are yet to be settled, the principal issues have been sorted out. It is the outcome of a long drawn struggle. We congratulate all the defence employees and their organisations for this spectacular victory. We convey our thanks and gratitude to the Government for doing justice to the people who staked their lives for the defence of the country. It is the victory of a principled demand and we hope that its benefits would be very reasonably extended to retirees of other sectors.

With best wishes,
(S. R. SEN GUPTA)
GENERAL SECRETARY

NEWS FROM (AIBPARC)

CIRCULAR NO. 44/15.

29th September, 2015

(For circulation among all the members of the Managing Committee as well as the Governing Council of AIBPARC and also Special Invitees)

Dear Comrade,

Sub : Action programmes declared by Confederation of Bank pensioners & Retirees Organisations Please refer to the earlier Circular No. 43/15 dated 23.9.2015 on the above subject. We have received today the minutes of the meeting of CBPRO held at New Delhi on 22.9.2015. We are quoting hereunder the relevant extract from the papers sent by Shri PPS Murthy, Convener, CBPRO. All affiliates and State Committees are requested to take needed steps at a very early date to see that the programmes can be made a great success :

1. In the month of October :

a) A draft appeal addressed to the Prime Minister will be sent to all affiliates who will arrange for a signature campaign and the said paper will go by speed post to the Prime Minister within 31st October, 2015.

b) CBPRO will send letter to Finance Secretary, Govt. of India seeking an early appointment.

c) On a prefixed date, a delegation of leaders will submit memorandum to IBA on demands of pensioners.

d) Appeals will be sent by each affiliate to the management of each bank for consideration of the demands of pensioners. Preferably, delegation to Chief Executives of Banks should be led.

e) Convener of CBPRO will write to each component of UFBU for taking active initiative with IBA so that the demands of pensioners are considered.

2. In the month of November :

a) Meetings of pensioners/retirees will be organised at major metro centers and press conferences are to be held in as many places as possible to highlight the demands of pensioners.

b) Demonstrations will be organised before selected head office of a PSU Bank at metro centers where pensioners and retirees of all banks stationed in that centre will join.

3. In the month of December : A massive demonstration will take place in New Delhi on Friday, the 11th December, 2015 where pensioners will assemble from different parts of the country and express their grievances in the national capital. More details about successful implementation of the action programmes will follow in next few days.

With best wishes,

Yours sincerely,
(S. R. SENGUPTA)
GENERAL SECRETARY

ARISE – Executive Committee Meeting

An Executive Committee Meeting was held on 1st September 2015.

Com.S.B.C.Karunakaran, General Secretary presented a report spelling out the difference between One Rank One Pension (OROP) and Pension Updation and the impact of Industry level 10th Bipartite settlement & Record Note on the retirees' issues. He also mentioned about co-ordination of Bank Pensioners and Retirees organisations coming together and efforts to be taken for unity among Retirees organisations in the Financial sector.

The Committee observed two minutes silence on the death of People's President Dr.A.P.J.Abdul Kalam.

Com.K.Anandakumar former General Secretary of IOBOA and one of the first patrons superannuated on 31.08.2015 and he was felicitated in the Committee Meeting. Com.S.B.C.Karunakaran suggested to appoint him as Vice President of our organisation and the Committee unanimously approved the same.

Com. K.V.Acharya gave a graphic account of the efforts being taken by AIBPARC and by him as President of AIBPARC to mobilise support at political and bureaucratic level.

Com.B.Srinivasan, incumbent General Secretary of IOBOA attended the Committee and assured our comrades that the same spirit and enthusiasm will continue.

General Secretary also apprised the Committee about medical scheme for the retirees and the ongoing discussion with the Bank. He also clarified on the various issues raised by the Committee members.

Message from **S.KRUPARAM**



S.Kruparam
Joint Secretary
ARISE
CHENNAI

TO

The General Secretary
ARISE
Chennai

Dear Comrade ,

Best Wishes

I wish to bring to your notice the following

I had been to New Delhi recently on a personal visit and made use of the opportunity to visit parliament to call upon the MPs as the parliament was in session.

In the Parliament lobby I could meet Mr. D.Raja (MP, belonging to CPI) who was the chief guest in our AIBPARC Inaugural Conference at New Delhi and who assured us that he would fight for our cause in the Parliament.

I narrated to him how IBA/GOVT./BANKS were turning deaf ears to our just demands of Pension updation, 100% D.A. Neutralisation to pre November 2002 retirees among other demands. I brought to his notice the fact that though our Pension Regulations provide for Pension updation and our Pension Settlement of 1993 provide for 100% D.A. Neutralisation, the authorities concerned were ignoring us and things were not moving in the right direction. I sought his help in this regard.

I am glad to to inform you that he assured that he would follow it up with govt and would do his best.

Yours Comradely ,
sd/- (S.Kruparam)

IBA's Letter to Member Banks

No. PD/KVK/85/G(II)/2037

Januray 4, 1998

Dear Sir,

Voluntary Retirement under Bank (Employees;) Pension Regulations

In terms of Regulation 29 of the Bank (Employees') Pension Regulations, 1995, on or after 1st November, 1993, an employee governed by Pension Regulations and who has completed 20 years of qualifying service can seek voluntary retirement subject to the terms and conditions mentioned in the Regulations.

The Settlement regarding Pension Scheme was signed with the Workmen Unions and minutes was signed with Officers' organizations on 29th October 1983 providing for introduction of Pension Scheme with effect from 1st November, 1993. Further, the Draft Pension Regulations was circulated and the serving employees were asked to submit their option on or before 30th November 1994. In terms of Regulation 3(9), such option exercised by the employees are to be treated as 'deemed option'. As the adoption of Pension Regulations took sometime and finally adopted on 28th September, 1995, during the intervening period some of the employees who had opted for pension sought voluntary retirement in terms of Pension Scheme already circulated. However, the banks did not accept the request of such employees for voluntary retirement at that time taking a view that only after adoption of the Pension Regulations, voluntary retirement under Pension Scheme can be considered.

In view of the above, such employees have resigned from the service of the bank or voluntarily retired in terms of the service rules as applicable to them with a request that as and when the Pension Scheme is implemented, their case may be considered for Pension under Voluntary Retirement Pension in terms of Pension Regulations. **We may mention here that in the case of workmen employees, the Settlement entered with the Unions under Industrial Disputes Act is a binding Settlement** and the employees get the benefits of the Settlement from the date mentioned therein i.e. 1.11.1993. Even in respect of officers, joint minutes have been signed providing for Introduction of Pension Scheme with effect from 1.11.1993. Therefore, we are of the view that wherever an employee/ officer had sought voluntary retirement under Pension Regulations after 1.11.1993, and if such request has not been considered due to reasons that Pension Regulations are yet to be adopted, the Bank may consider such cases for granting voluntary retirement Pension provided that the employee concerned fulfil the requirements in terms of Regulations 29, Regulation 50 etc. Such cases have to be considered afresh by the Banks upon receipt of request from the employees with reference to the Pension Regulations, 1995.

We have clarified the position as above to concerned banks in this regard. Please find us in order.

Yours faithfully

Sd....
(K.V.KRISHNA MURTHY)
PERSONNEL ADVISER

Yet another verdict upholding Resignees' Right to Pension

SUPREME COURT OF INDIA
(CIVIL APPELLATE JURISDICTION)
CIVIL APPEAL NO. 10251 OF 2014

ASGER IBRAHIM AMIN Vs. LIFE INSURANCE CORPORATION OF INDIA

.. J U D G M E N T by
VIKRAMAJIT SEN, J.

Though courts have been repeatedly emphasizing that a legislation or rule providing for pension is a beneficial legislation/rule and has to be therefore liberally interpreted to bring within its ambit more and not less number of employees. Interpretation should facilitate inclusion and not exclusion. But managements, be they in banks or insurance or any sector are hell bent on excluding employees even if their number is meagre not having any significant cost impact. Supreme Court in the above case upheld the right of a resignee to pension though he resigned before pension settlement was signed but resigned after the effective date of pension inasmuch as the resignee completed the service required for Voluntary Retirement Pension. Its reason is that termination of employment in such cases does not remain unalterably in the nature of resignation. It also held that in cases of continuing or successive wrongs, delay and laches or limitation will not thwart the claim so long as the claim, if allowed, does not have any adverse repercussions on the settled third-party rights. We give below relevant extracts from this judgement:

1 The question which falls for consideration is whether the Appellant is entitled to claim pension even though he resigned from service of his own volition and, if so, whether his claim on this count had become barred by limitation or laches.

2 The Appellant joined the services of the Respondent Corporation on 30.6.1967 on the post of Assistant Administrative Officer (Chartered Accountant) at the age of twenty seven. He worked for 23 years and 7 months in the Corporation before tendering his resignation on 28.1.1991, owing to "family circumstances and indifferent health", presumably having crossed fifty years in age. The request of the Appellant for waiver of the stipulated three months notice was favourably considered by the Corporation vide letter dated 28.2.1991, and the Appellant was allowed to resign from the post of Deputy General Manager (Accounts), which he was holding at that time. We shall again presume that the reasons that he had ascribed for his retirement, viz. family problems and failing health, were found to be legitimate by the Respondent, otherwise the waiver ought not to have been given. Thereafter, the Central Government in exercise of power conferred under Section 48 of the Life Insurance Corporation Act, 1956 had notified the LIC of India (Staff) Regulations, 1960 and thereafter the Life Insurance Corporation of India (Employees) Pension Rules, 1995 (hereinafter referred to as "Pension Rules") which, though notified on 28.6.1995, were given retrospective effect from 1.11.1993. The Pension Rules provide, inter alia, that resignation from service would lead to forfeiture of the benefits of the entire service including eligibility for pension.

3 On 8.8.1995, that is post the promulgation by the Respondent of the Pension Rules, the Appellant enquired from the Respondent whether he was entitled to pension under the Pension Rules.....; the Respondent replied that the request of the Appellant cannot be

acceded to. The Appellant took the matter no further but has averred that in 2000, prompted by news in a Daily and Judgments of a High Court and a Tribunal, he requested the Respondent to reconsider his case for pension. This request has remained unanswered. It was in 2011 that he sent a legal notice to the Respondent, in response to which the Respondent reiterated its stand that the Appellant, having resigned from service, was not eligible to claim pension under the Pension Rules. Eventually, the Appellant filed a Special Civil Application on 29.3.2012 before the High Court, which was dismissed by the Single Judge vide Judgment dated 5.10.2012. The LPA of the Appellant also got dismissed on the grounds of the delay of almost 14 years, as also on merits vide Judgment dated 1.3.2013, against which the Appellant has approached this Court.

4 As regards the issue of delay in matters pertaining to claims of pension, it has already been opined by this Court in *Union of India v. Tarsem Singh*, (2008) 8 SCC 648 that in cases of continuing or successive wrongs, delay and laches or limitation will not thwart the claim so long as the claim, if allowed, does not have any adverse repercussions on the settled third-party rights. We respectfully concur with these observations which if extrapolated or applied to the factual matrix of the present case would have the effect of restricting the claim for pension, if otherwise sustainable in law, to three years previous to when it was raised in a judicial forum.

5 The second issue which confronts us is whether the termination of service of the Appellant remains unalterably in the nature of resignation, with the consequence of disentitling him from availing of or migrating/mutating the pension scheme or whether it instead be viewed as a voluntary retirement or whether it requires to be regarded so in order to bestow this benefit on the Appellant; who had 'resigned' after reaching the age of fifty and after serving the LIC for over twenty three years. The Appellant resigned from service under Regulation 18 of LIC of India (Staff) Regulations, 1960, The following Regulations, on which learned Senior Counsel for the LIC has placed reliance, came to be introduced on 16.2.1996, that is after the Appellant had 'resigned' from service. We have called for and perused this Notification, and as we expected, these provisions apply retrospectively with effect from 1.11.1993. These Regulations ordain, inter alia, that an employee may be permitted to retire (a) on completion of the age of 55 and (b) after completing 25 years in service. In other words, the Corporation has the power to compulsorily retire an employee who has attained the age of 50 years if in its opinion such decision is in the interests of the Corporation; and the employee may seek permission to retire upon completion of 55 years of age and after rendering 25 years of service. This very position finds reiteration in Rule 31 of the Pension Rules under the epithet 'voluntary retirement', which pandect appears to have been available from the inception i.e. 1.11.1993.....

6 As we have already recounted, the Appellant received a waiver of the requirement of giving three months prior notice of his resolve to “discontinue his service in the Corporation”, bestowing legitimacy to the reasons that compelled him to do so. It also brings to the fore that the 1960 Staff Regulations did not provide for voluntary retirement or VRS as has become commonplace today. This Court has clarified and highlighted that ‘resignation’ and ‘retirement’ have disparate connotations; that an employee can ‘resign’ at any time but, in contradistinction, can ‘retire’ only on completion of the prescribed period of qualifying service and in consonance with extant Rules and Regulations.

7 We shall now consider the Pension Rules of 1995. Rule 3 of Chapter II thereof, provides that the Rules are applicable to employees (1) who were in the service of the Corporation on or after 1.1.1986 and had retired before 1.11.1993; or (2) who retired after 1.11.1993; or (3) who were in the service before the notified date and continued to be in service on or after the notified date; or (4) who were in the service on or after 1.1.1986 but had retired on or after 1.11.1993 and before the notified date. What is discernible from these dates is that the Pension Rules of 1995 have included two classes of beneficiaries into one homogenous class, to wit, the employees who had retired before the notified date and those who were to retire after the notified date. In our opinion, the advantage of these beneficent Rules should be extended even to the Appellant who was similarly placed as the retirees mentioned in Rule 3 but for the fact that he had ‘resigned’ rather than retired. The two provisions caught in the crossfire are Rule 2(s), which defines “retirement” and Rule 23, which deals with the “forfeiture of service”.....

Voluntary retirement, noted in the sub-Rule (ii) of Rule 2(s), has been defined in Rule 31, and it reads as follows:

31. Pension on voluntary retirement - (1) At any time after an employee has completed twenty years of qualifying service he may, by giving notice of not less than ninety days, in writing, to the appointing authority, retire from service:

Provided that this sub-rule shall not apply to an employee who is on deputation unless after having been transferred or having returned to India he has resumed charge of the post in India and has served for a period of not less than one year:

Provided further that this sub-rule shall not apply to an employee who seeks retirement from service for being absorbed permanently in an autonomous body or a public sector undertaking to which he is on deputation at the time of seeking voluntary retirement.

(2) The notice of voluntary retirement given under sub-rule (1) shall require acceptance by the appointing authority:

Provided that where the appointing authority does not refuse to grant the permission for retirement before the expiry of the period specified in the said notice, the retirement shall become effective from the date of expiry of the said period.

(3) (a) An employee referred to in sub-rule (1) may make a request in writing to the appointing authority to accept notice of voluntary retirement of less than ninety days giving reasons therefor; (b) on receipt of a request under clause (a), the appointing authority may..... if it is satisfiedmay relax the requirement of notice of ninety days on the condition that the employee shall not apply for commutation of a part of his pension before the expiry of the notice of ninety days.

It seems obvious to us that the Appellant’s case does not fall within the postulation of Rule 23 as the last four categories or genres or types of cessation of services are in character punitive; and the

first envisages those resignations where the right to pension has not been earned by that time or where it is without the permission of the Corporation.

8 The Respondent Corporation has vehemently argued that the termination of services is under Regulation 18 (supra) of the LIC (Staff) Regulations, 1960 and is not covered by the Pension Rules of 1995. Respondent Corporation has controverted the plea of the Appellant that at the relevant date and time, viz. 28.1.1991 there was no alternative for him except to tender his resignation, pointing out that he could not have sought voluntary retirement under Regulation 19(2A) of LIC of India (Staff) Regulations, 1960. If that be so, the Respondent being a model employer could and should have extended the advantage of these Regulations to the Appellant thereby safeguarding his pension entitlement. However, we find no substance in the argument of the Respondent since Regulation 19(2A) was, in fact, notified in the Gazette of India on 16.2.1996, that is after the pension scheme came into existence with effect from 1.11.1993. Otherwise there would have been no conceivable reason for the Appellant not to have taken advantage of this provision which would have protected his pensionary rights.

9 We also record that the provisions covered by the definition of “retirement”, which do not entail forfeiture of service, are sub-regulation (1), sub-regulation (2), and sub-regulation (3) of Regulation 19 of the Life Insurance Corporation of India (Staff) Regulations, 1960 and Rule 14 of the Life Insurance Corporation of India Class III and Class IV Employees (Revision of Terms and Conditions of Service) Rules, 1985. None of these provisions provides for voluntary retirement like Rule 31 of the Pension Rules nor does the definition of “retirement” make any mention of aforementioned Regulation 19(2A).

10 The facts of the case disclose that the Appellant has worked for over twenty years and had tendered his resignation in accordance with the provision of Regulation 18 of LIC of India (Staff) Regulations, 1960, which, as is apparent from its reading, does not dissimulate between the termination of service by way of resignation on the one hand and voluntary retirement on the other, or distinguish one from the other. Significantly, there was no provision for voluntary retirement at the relevant time, and it was for this reason that the Pension Rules of 1995 specifically provided for it under Rule 31. In this backdrop of facts, we need not dwell much on the issue because the case of Sheelkumar Jain v. New India Assurance Co. Ltd., (2011) 12 SCC 197 is on all fours of this case.

11 In Sheelkumar, ... This Court observed:

20. Sub-para (1) of Para 5 does not state that the termination of service pursuant to the notice given by an officer or a person of the Development Staff to leave or discontinue his service amounts to “resignation” nor does it state that such termination of service of an officer or a person of the Development Staff on his serving notice in writing to leave or discontinue in service amounts to “voluntary retirement”. Sub-para (1) of Para 5 does not also make a distinction between “resignation” and “voluntary retirement” and it only provides that an employee who wants to leave or discontinue his service has to serve a notice of three months to the appointing authority..

31. The general purpose of the 1995 Pension Scheme, read as a whole, is to grant pensionary benefits to employees, who had rendered service in the insurance companies and had retired after putting in the qualifying service in the insurance companies. Paras 22 and 30 of the 1995 Pension Scheme cannot be so construed so

as to deprive of an employee of an insurance company, such as the appellant, who had put in the qualifying service for pension and who had voluntarily given up his service after serving 90 days' notice in accordance with sub-para (1) of Para 5 of the 1976 Scheme and after his notice was accepted by the appointing authority.

13 The Appellant ought not to be deprived of pension benefits merely because he styled his termination of services as "resignation" or because there was no provision to retire voluntarily at that time. The commendable objective of the Pension Rule is to extend benefits to a class of people to tide over the crisis and vicissitudes of old age, and if there are some inconsistencies between the statutory provisions and the avowed objective of the statute so as to discriminate between the beneficiaries within the class, the end of justice obligates us to palliate the differences between the two and reconcile them as far as possible.

14 Reserve Bank of India v. Cecil Dennis Solomon, (2004) 9 SCC 461 relied upon by the Respondent, although distinguishable on facts, has ventured to distinguish "voluntary retirement" from "resignation" in the following terms:

10. In service jurisprudence, the expressions "superannuation", "voluntary retirement", "compulsory retirement" and "resignation" convey different connotations. Voluntary retirement and resignation involve voluntary acts on the part of the employee to leave service. Though both involve voluntary acts, they operate differently. One of the basic distinctions is that in case of resignation it can be tendered at any time, but in the case of voluntary retirement, it can only be sought for after rendering prescribed period of qualifying

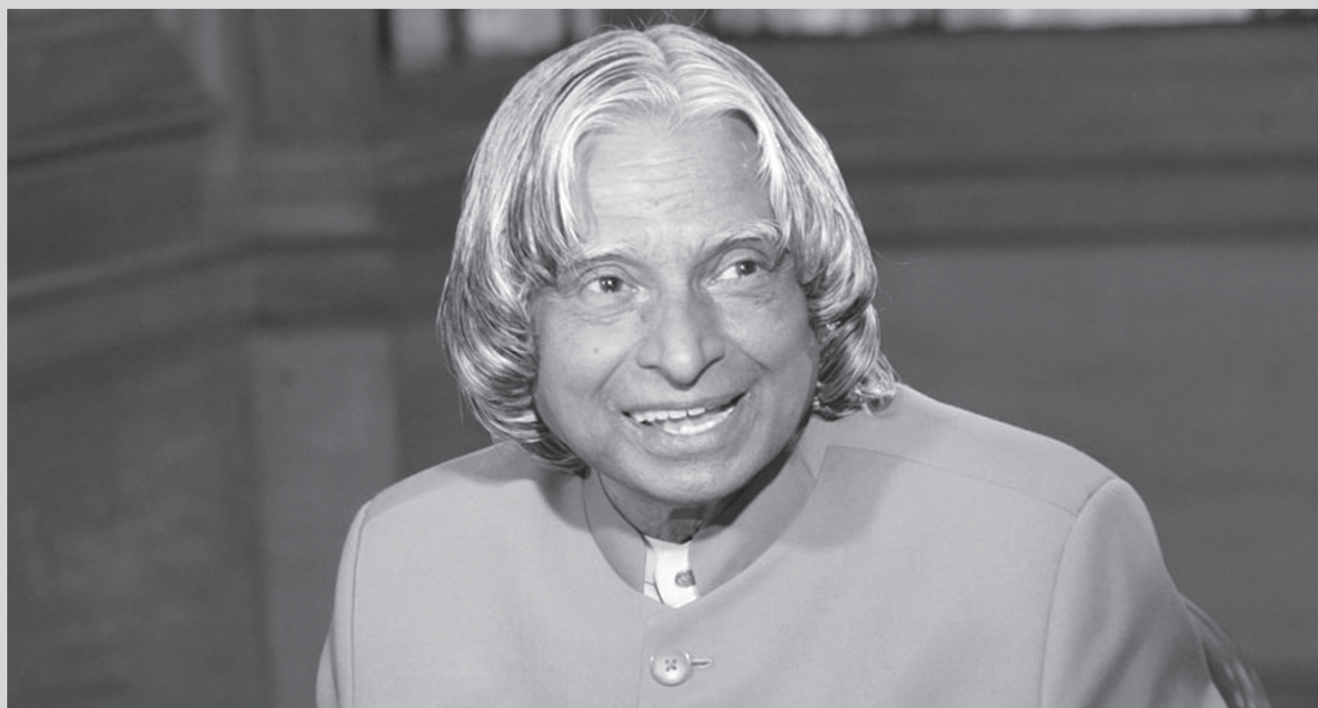
service.In Punjab National Bank v. P.K. Mittal (1989 Supp (2) SCC 175) on interpretation of Regulation 20(2) of the Punjab National Bank Regulations,..... In Union of India v. Gopal Chandra Misra ((1978) 2 SCC 301) it was held in the case of a judge of the High Court having regard to Article 217 of the Constitution that he has a unilateral right or privilege to resign his officeThe legal position deducible from the above observations further amplifies that the so-called resignation tendered by the Appellant was after satisfactorily serving the period of 20 years ordinarily qualifying or enabling voluntary retirement. Furthermore, while there was no compulsion to do so, a waiver of the three months notice period was granted by the Respondent Corporation. The State being a model employer should construe the provisions of a beneficial legislation in a way that extends the benefit to its employees, instead of curtailing it.

15 The cases of Shyam Babu Verma v. Union of India, (1994) 2 SCC 521; State of M.P. v. Yogendra Shrivastava, (2010) 12 SCC 538; M.R. Prabhakar v. Canara Bank, (2012) 9 SCC 671; National Insurance Co. Ltd. v. Kirpal Singh, (2014) 5 SCC 189; UCO Bank v. Sanwar Mal, (2004) 4 SCC 412 relied upon by the parties are distinguishable on facts from the present case.

16 We thus hold that the termination of services of the Appellant, in essence, was voluntary retirement within the ambit of Rule 31 of the Pension Rules of 1995. The Appellant is entitled for pension,

17 The impugned Judgments of the High Court are set aside and the Appeal stands allowed in the terms above. However, parties shall bear their respective costs.

Janathipathi Truly you were People's President Dr. A.P.J.Abdul Kalam



You will remain for ever in the memory of every Indian