**08/05/2020**

**General Manager**

Indian Overseas Bank

Central Office,

763 Anna Salai,

Chennai 600002

**Dear Sir,**

**Sub: Payment of Pension arrears and Commutation arrears**

**due to DA merger at 1684 points for payment of pension**

We thank you for having ensured implementation of Reg.26. We would be much obliged if you could furnish the list of beneficiaries for our benefit.

As regards the other pending issue of payment of pension and commutation arrears due to merger of DA at 1684 points from 1/4/1998, we refer to our earlier correspondence resting with our letter of  **23/04/2020** and request as under:

**1)  Pension revision arrears to thoee retired between 1/11/2002 and 30/04/2005**

You will acknowledge that IBA’s letter **No. HR & IR/2018-19/G2/4786** dated 3/4/2018 advised member banks to implement the **Supreme Court’s judgment** and not merely its order in Pension Civil Appeal No. 5525 of 2012, filed by Bank of Baroda & Ors with other Civil Appeals. The very basis of payment of pension on notional basic pay by merger of DA at 1616 points instead of actual basic pay by merger of DA at 1684 points from 1/4/1998 was due to insertion of Explanation ( c ) to Reg 2(s) of Bank Employees Pension Regulations, 1995. The above cited Supreme Court judgement ***struck down Explanation ( c ) to Reg. 2(s)*** as *being arbitrary and repugnant to other provisions/Regulations namely 2(d), 38(1)(2).* This explanation which formed the very basis to pay reduced pension computed on an arbitrary notional pay has been struck down. Hence arrears have been paid to all those who retired between 1/4/1998 and 31/10/2002. All those who retired between 1/11/2002 and 30/4/2005 have been similarly affected by this ***Explanation ( c ) to Reg. 2(s)*** and as similarly placed retirees they should also get the benefit of the above judgement of the Supreme Court.  In fact, the Supreme Court in the following case went a step further and held that similarly placed persons, even if they were not the original petitioners, have a right to file contempt petitions to enforce the judgement in their favour.  In Contempt Petition (C ) No. 928 of 2016 In (Transfer Case (C) No.95 of 2015)and Contempt Petition (C) No.59 of 2017 In (Transfer Case (C) No.95 of 2015) of  GIRISH MITTAL Vs.  PARVATI V. SUNDARAM & ANR, the Supreme Court held on 26/4/2019,          *“* ***9.*** *We do not agree with that a contempt petition is maintainable only at the behest of a party to the judgment. The directions issued by this Court are general in nature and any violation of such directions would enable an aggrieved party to file a contempt petition.”*                                       You will therefore appreciate that the retirees between 1/11/2002 and 30/4/2005 are also entitled to receive pension arrears and commutation arrears on actual basic pay without having to litigate again for the very same purpose.  Pre May, 2005 retirees are all aged 75 years and above which itself is a good enough reason for immediate disbursement of their entitlement.  Kindly do the needful.

**2)  Payment of differential commutation arrears**

We invite your reference to **IBA** letter **No. HR&IR/2019-20/SKK/G2** dated 04/06/2019 addressed to UCO, United Bank of India and Andhra Bank on this subject. IBA stated therein  – “ We are of the view that Hon’ble Supreme Court vide its order [of 13/02/2018 in Civil Appeal No. 5525 of 2012 (Bank of Baroda Vs. G.Palani & Ors) has clearly stated that “*Let the amount which was due and payable be paid with 9%  interest, be calculated and paid within four months from today”*. As such, the pensioners who had commuted the pension with giving effect of 1616 CPI points instead of 1684 points are *entitled to get the* difference **if any,** in said commutation.” Consequently, our bank has decided to pay commutation arrears with 9% interest from the date of Original commutation. Any commutation is followed by its recovery over a period of 15 years. *We have now learnt that contrary opinions prevail over the matter of recovery, which essentially boils down to the date of commencement of the recovery.* Should the recovery commence from the Original commutation date  and if so, is it in order to effect recovery with interest, OR should the recovery commence the month following the actual date of payment of commutation arrears? This is the moot question. There is no denial that the recovery has to be as per Bank Employees Pension Regulations, 1995 and in case of doubt,  Reg. 56 of Bank Employees Pension Regulations, 1995 has to be invoked which provides for reference to corresponding provisions of Central Civil Services (Commutation of Pension) Rules, 1981 (*Relevant extract is annexed*).

Reg. 41(6) of Bank Employees Pension Regulations, 1995 states in proviso clause, *“Where, however, payment of commuted value of pension could not be made within the first month after the date of retirement or within the first month after the date when the commutation becomes absolute as the case may be, the difference between the normal monthly pension and the commuted pension shall be paid for the period between the date on which commutation becomes absolute and the date preceding the date on which commuted value of pension is deemed to have been paid.”*  The difference between the normal monthly pension and the commuted pension pension is the amount recoverable for 15 years. It is stated herein that no such recovery shall be made and instead this difference shall be paid upto the date preceding payment of commuted value of pension.

If however doubt still persists, Central Civil Services (Commutation of Pension) Rules, 1981,  has to be referred in terms of  Reg. 56 of Bank Employees Pension Regulations, 1995. *The proviso clause to* ***Rule 6*** *therein states that the reduction in the amount of pension becomes operative* ***only after*** *actual receipt of commuted value of pension.* The Proviso clause to **Rule 6** is reproduced here under:

***(a)*** *in the case of an applicant who is drawing his pension from a treasury or Accounts Officer, the reduction in the amount of pension on account of commutation shall be* ***operative from the date of receipt of the commuted value of pension*** *or at the end of three months after issue of authority by the Accounts Officer for the payment of commuted value of pension, whichever is earlier, and*

***(b)*** *in the case of an applicant who is drawing pension from a branch of a nationalized bank, the reduction in the amount of pension on account of commutation shall be* ***operative from the date on which the commuted of pension is credited*** *by the bank to the applicant's account to which pension is being credited.*

The Proviso clause to **Rule 10 A** states, “*when the commutation amount was paid on more than one occasion on account of upward revision of pension, the respective commuted amount of pension shall be restored on completion of fifteen years from the* ***respective date(s).”***

Bank Employees Pension Regulations, 1995 require monthly **recovery** of commuted value of pension **to commence only subsequent to the date of actual receipt of Commutation amount and not** when commutation became absolute.  So, the 15 year monthly recovery of commutation amount is **not past due** to attract interest. As monthly **recovery becomes due and  payable only after receipt of commutation** **value** and not earlier there can be no recovery of any interest on the amount to be recovered.

In view of the above, kindly pay commutation arrears with interest and commence monthly recovery of commuted value only after receipt of commutation value by those who retired between 1/11/2002 and 30/4/2005.  Please also consider sympathetically all the other requests made in our letter of  **23/4/2020.**

Please Stay safe.   Thanks and regards.

**(S.B.C.Karunakaran)                                             (K.S.Rengarajan)**

**General Secretary                                                       President**

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**6. Commutation of pension to become absolute –**

**1)** The commutation of pension shall become absolute in the case of an applicant referred to

 (i) in sub-rule (1) of Rule 13, on the date on which the application in Form 1 is received by the Head of Office ;

(i-a) in sub-rule (3) of Rule 13, on the date following the date of his retirement ;

**Provided** that

**(a)** in the case of an applicant who is drawing his pension from a treasury or Accounts Officer, the reduction in the amount of pension on account of commutation shall be *operative from the date of receipt of the commuted value of pension* or at the end of three months after issue of authority by the Accounts Officer for the payment of commuted value of pension, whichever is earlier, and

**(b)** in the case of an applicant who is drawing pension from a branch of a nationalized bank, the reduction in the amount of pension on account of commutation shall be *operative from the date on which the commuted of pension is credited* by the bank to the applicant's account to which pension is being credited.

 (2) In the case of an applicant referred to in Rule 9 or Rule 10, the commuted value is paid in two or more stages, the reduction in the amount of pension shall be made *from the respective dates of the payments as laid down in* **Clause (a) or Clause (b) of the proviso to sub-rule (1).**

**10 A. Restoration of Commuted Pension –**

**“**The commuted amount of pension shall be restored on completion of fifteen years from the date the reduction of pension on account of commutation becomes operative in accordance with rule 6:

Provided that when the commutation amount was paid on more than one occasion on account of upward revision of pension, the respective commuted amount of pension shall be restored on completion of fifteen years from the respective date(s)”

**13. Application for commutation of pension –**

1) An applicant, who is in receipt of any pension referred to in Rule 12 and desires to commute a percentage of that pension any time after the date following the date of his retirement from service but before the expiry of one year from the date of retirement, shall –

(a) apply to the Head of Office in Form 1 after the date of his retirement ;

(b) ensure that the application in Form 1 duly completed duly completed, is delivered to the Head of Office as early as possible but not later one year of the date of his retirement;

**Provided that** in the case of an applicant-

(a) referred to in Clause (iii) of Rule 12, where order retiring him from Government service had been issued from a retrospective date, the period of one year referred to in this sub-rule shall reckon from the date of issue of the retirement orders ;

(b) referred to in Clause (v) of Rule 12, the period of one year referred to in this sub-rule shall reckon from the date of the issue of the orders consequent on the finalization of the departmental or judicial proceedings.