Association of Retired IOB's Employees (ARISE)
Regn. No. SL. No. 243 / 2003
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To

The Managing Director, **3/4/2023**
Indian Overseas Bank.

Dear Sir,

At the outset we congratulate you on the good results IOB is posting and express our gratitude for the patient hearing you gave us on 1st instant. The gesture behind your refreshing opening words "*What do you want from IOB?*" is beyond description. Those initial words exhibiting humanity became a subject of animated discussion among us after we left your chamber. Without waiting for us to come out with our requests, you asked, "*What do you want from IOB?*". That exhibits your care for our dignity and graceful acknowledgement of IOB's relationship with retirees. When we later learnt that the bank released the promotion list from clerical through SMG Scale IV at one go on the very same day, the first day of the financial year, we firmly fet that we have a CEO with magnanimity to reward performance without delay and a professional having the courage to trust and test the potential of his men and women. We wish and hope that our bank scale newer heights under your stewardship.

As already requested at the meeting, kindly endorse our cause with IBA and DFS regarding pension updation, 100% DA neutralization to pre November, 2002 retirees, reckoning special allowance for terminal benefits and banks bearing the cost of medical insurance premium. The first three are our statutory and/or constitutional entitlements as per the ratio enunciated in various verdicts of the Supreme court. Medical insurance premium requires to be borne by banks on a humanitarian angle and as well in keeping with the spirit of the Government communication on

extending medical insurance to working employees and retirees. Government would not have sent a communication to banks if the premium has to be borne by retirees.

In respect of bank level issues, we are thankful that most of them have already been addressed or getting addressed by the bank in the normal course. There are a few issues which we discussed with you, and which can be resolved with your kind intervention. Foremost among them is bank level subsidy of medical insurance till an industry level formula is evolved. The present contributory Retirees Medical Assistance Scheme (REMAS) in our bank, currently in suspension, may kindly be revived as early as possible.

We request your intervention in respect of the following issues which are mostly entitlements and not new requests.

1) *Medical insurance claims:* Bank may please take up with Insurance company/TPA to remove the difficulties presently faced by retirees in the matter of medical insurance claims. The details are given in Annex 1 and relevant citations are given in Annex II.

2) *Reference age for Reg 26 of Pension Regulations:* Upper entry age for recruitment of Probationary officer/clerk of the relevant period is reckoned to compute the number of years of relaxation in upper age limit given for specialist officers/clerks eligible for extra notional service for the purpose of pension under Reg.26 of Pension Regulations. In respect of all batches of eligible officers excepting 1979 batch, the upper age of PO was the same both when recruitment was advertised for specialist officers and when these specialist officers joined Bank's service. As the upper entry age for PO differed in 1979 (26 years) and 1980 (28 years), a difference of opinion arose on the reference age to be reckoned for specialist officers (viz. Agriculture, Veterinary, Co-op and Technical Officers) who applied for recruitment in response to Paper ad in 1979 but joined in 1980 or 1981 on receipt of appointment letters. Though the bank initially applied correctly the upper entry age of 26 years (applicable for1979 PO recruitment) as reference age, the bank reversed the decision and applied upper entry age of 28 years (applicable for1980 PO recruitment) as reference age causing loss of mostly 1 year and rarely 2 years of notional service. Only a handful of specialist officers of 1979 batch were affected by the change in the reference age. The

principle followed by the Central Government will be helpful in resolving this issue. Recently with a view to putting at rest many litigations for Old Pension Scheme from employees under National Pension System, the Government vide **OM No.57/05/2021-P&PW(B) dt. 03/03/2023** issued by Ministry of Personnel, Public Grievances and Pensions decided that, in all cases where the Central Government civil employee has joined the service on or after 1/1/2004 but ***appointed against posts advertised before 22/12/2003*** (*the Notification date for National Pension System*) may be given a one-time option to be covered under the Old Pension Scheme. (*Copy of OM attached).* Applying the same ratio, the ***specialist officers who responded to recruitment ad in 1979,*** though joined bank's service in 1980 or 1981, may *please be given notional service with reference to the upper entry age of **26 years** prevailing in 1979 for POs.*

3) Our request is already pending that inasmuch as Andhra Pradesh HC ordered to grant pension option to one of our bank resignees, the same may please be extended to all similarly placed resignees in the light of National Litigation Policy and MOL, GOI communication No. 3/25/64-I&E(1-5) dated on 8/8/1964. In any case, sympathetic consideration may please be had for the **10 officers who had completed 30 years of service** and originally applied for voluntary retirement (VR) under Officer Service Regulations when the Second Option pension settlement was on the anvil or signed. However, as they were all advised by then IR department executive that resignation instead of VR under OSR was alone appropriate for later conversion into VR under Pension Regulations, all these 10 officers requested bank to consider their application as resignation hoping that the bank will later consider these applications as VR under Pension Regulations for pension benefits. But that did not happen and the Bank refused to consider their resignation as VR under Pension Regulations. These officers need not and should not suffer for the wrong advice given by an executive of the department. It is only fair and just that their requests for VR under Pension Regulations are favourably considered. It may please be appreciated that the below mentioned Gurjarat High Court judgement is applicable to many among these 10 officers.

4) In any event, the case of **Mr. K.Gopalnathan** (Roll No.43004 -Retd AGM) among the above 10 stands apart as he **opted for pension on 03/09/2010** in response to Bank's circular dated *30/08/2010* based on settlement for second option pension signed on *27/04/2010*. ***Bank also deducted the required 2.8 times his basic pay*** towards contribution to Pension corpus and ***this deduction is still lying with the bank.*** As the second option pension process was yet to be completed in the bank, he submitted VR under OSR on 6/9/2010 as per initial clarification he received from the department. Later he was also advised to convert it to resignation as that alone would help its conversion later into VR under Pension Regulations. Accordingly, he also like the other 9 officers the letter of resignation. Subsequently when the second option pension process was complete he applied to the bank to consider the resignation as VR under Pension regulations. Bank acknowledging the fairness in his request is inclined to consider it if legal precedent is available and hence did not refund the recovery made for contribution to pension corpus. Gujarat High Court in R/**Letters Patent Appeal No. 156 of 2023** in R/Special Civil Application No. 21371 of 2017 with Civil Application (for stay) No. 2 of 2022 in R/Letters Patent Appeal No. 156 of 2023 of ***Central Bank of India vs. Kiritkumar Lallubhai Chauhan,*** decided on **10/03/2023,** the issue of pension option of an officer whose resignation was accepted on **30/4/2010** i.e **after 27/04/2010** when Indian Banks Association had entered into a settlement with the employees' union for providing another option of pension to the employees, **but before bank issued circular** on second option pension. In the light of the settlement, the resigned officer opted for pension and remitted the requisite 2.8 times the basic pension towards contribution to the pension corpus. Court held that the *jural relationship of employer-employee terminated only after acceptance of resignation on 30/4/2010 and not earlier* on 27/4/2010 when the settlement for second option for pension was signed. Therefore, the court held that inasmuch as the officer was in service on 27/4/2010 as required by the settlement, he was entitled to opt for pension and consequential pensionary benefits. *(Copy of judgement attached*). *Mr. K.Gopalnathan's* case merits still better as he opted for pension while still in service, that too, when bank had also issued a circular and his resignation was accepted much later.

5) *Simultaneous recovery of Commuted amount with interest:* Pension Commutation is nothing but receiving 1/3 basic pension of prescribed years (normally about 10 years) in advance and repaying it @ 1/3 basic pension for next 15 years similar to EMI for loans, where the recovery beyond 10 years for another 5 years represents the interest element. When court ordered payment of commutation arrears with interest for delayed period, the recovery should have been made over the next 15 years after the disbursement of commutation arrears. But Bank's simultaneous recovery of 15 years' 1/3 basic pension, that too with further interest is against Pension Regulations, order of the Court and unfair. **'Further interest'** is unfair because the 15 year recovery already comprises about 5 years recovery representing interest element. *Simultaneous recovery is nothing but* ***recovering all EMIs immediately on disbursing a loan.*** In any event, no interest can be levied on simultaneous recovery. This request relates to Karnataka High court order upheld by the Supreme court that directed to revise the pension (on merger of DA at 1684 points instead of 1616 points to those retired between 1/4/98 and 30/4/2005) and pay consequential pension and commutation arrears with interest. The interest charged by the bank on recovery is arbitrary and unreasonable for reasons stated above. The interest recovered may please be refunded even if reversal of simultaneous recovery is not agreeable.

6) Revising pension by releasing notional stagnation increment irrespective of their grade to all those eligible who retired before the date prescribed for release of monetary benefit during the 10th and 11th Bipartite settlement period.

While thanking you again we request you to kindly consider favourably the above requests.

With warm regards and best wishes

(S.B.C.Karunakaran)
Gen.Secretary
9444772016

(K.S.Rengarajan)
President
9941304028

Annex I

VARIOUS GRIEVANCES WITH THE PRESENT TPA – SAFEWAY

CASHLESS FACILITY:

1. Many Main Hospitals are not covered in the Preferred Provider Network (PPN) Hospitals.
2. Most of those included are also inconsequential because they have not renewed their PPN agreements.
3. Purpose of PPN is to rationalize and thereby bring down the hospitalization cost by an agreed package between the insurance company/TPA and the hospital. PPN package costs are refused by the PPN hospitals on the pretext that these packages have lapsed and PPN has not been renewed. Even if this is true, it is the responsibility of TPA/Insurance Company to give full reimbursement or ensure that the Hospitals do not collect excess over the PPN package charges from the insured.
4. Though uniform rate of premium is collected from the retirees across the country, TPA arbitrarily sanctions less amounts to insured for treatments taken at centres other than large cities and metros.
5. TPA gives initial approval to the Hospitals but with instruction to hospitals to collect balance amount from the insured while releasing unfairly only a symbolic amount to hospitals. This is a mockery of the very purpose of cashless facility which may lead to double collection by the Hospitals. This may also result in double payment, once by the insured and later by the TPA. In fact, CAG has commented on double payments and excess payments by public sector insurance companies due to poor digital system.
6. There are many expenses disallowed or only partially allowed by the insurance company. Hence the insured spend sizeable amount from their pockets in spite of insurance cover. Hospitals give discount while finalizing the bill and this discount has to go to the account of the patient. But many hospitals do not credit this amount to the claimant. This is because, copy of the final bill settlement letter is not sent to the insured. Hence, it is requested that the initial and final approval letter shall be sent to the members concerned and discount passed on to them.

REIMBURSEMENT FACILITY:

1. We do not have caps for hospitalisation for most diseases as per IBA policy. But TPA, in violation of policy terms caps almost all the claims with heavy deductions turning them into a Co-payment policy for all practical purposes.

2. Reason for deductions are shown either as Package limit or **Reasonable** and ***customary*** charges. TPA interpreting customary charges to mean customary procedure is arbitrary and illegal. TPA deducts heavily where modern treatment procedure is used. Modern procedure preventing adverse consequences and requiring less period of recuperation is preferred on medical advice. Customary charges cannot mean and include customary procedure of treatment. So also citing the reason of reasonable cost without any elaboration, the TPA disallows expenditure. But not an empanelled hospital has been pulled up or blacklisted for charging unreasonably. This shows clearly that reasonable cost is a pretext and not a genuine cause to decline and disallow expenses. In any case, applying the principle of ***'Contra proferentem',*** interpretation of any ambiguous term in a contract should go against the drafter of the document and in favour of the other party. "*Reasonable cost and Customary charge*' in the insurance policy document prepared by the insurance company is an ambiguous term and its interpretation has to go against the insurance company (the drafter of the policy) and in favour of the insured.

3. **PPN packages are available only in 12 cities of the country. Further TPA has PPN with only a handful of hospitals** and even these PPNs are mostly disputed by those hospitals as lapsed agreements. Be that so, the very fact that there are only a handful of PPN hospitals it is evident that hospitals find the PPN rates too low to sign PPN agreements with the insurance company/TPA. Getting PPN with a few hospitals with a sole view to use them as a yardstick to cap expenditure of treatment taken in other hospitals is unfair practice. It is nothing but manipulation. A PPN rate that is not acceptable to most hospitals cannot be the fair market rate. Hence no cap, even assuming is permissible, on expenditure can be made by reference to the manipulative PPN rates. The policy never specified that caps will be applied with reference to arbitrary PPN rates. Such cap is nothing but Co-pay through the back-door. This has to stop.

4. As per IBA policy, Room rent limit includes only boarding charges. Nursing and RMO charges are to be reimbursed separately and have been so reimbursed by all insurance companies and TPAs till the present TPA. But this TPA arbitrarily includes Nursing and RMO charges also under the Room rent limit, which is against the policy terms.

5. IBA policy does not have proportionality clause limiting reimbursement of other charges in proportion to the room rent eligibility limit. Hitherto, all the earlier TPAs disallowed only the excess room rent above the eligibility limit without subjecting other charges to proportional deduction. But this TPA, in clear violation of the policy, disallows proportionately all other charges with reference to room rent eligibility. Even assuming the policy term has been amended in the renewal, the same is invalid inasmuch the change in renewal has not been brought to the notice of the insured.

6. Many claims are kept pending or delayed quoting that the intimation has not been given for hospitalisation, whereas the member would have already intimated the hospitalisation. There is no co-ordination among their own departments. On taking up with the Desk help, insured are asked to send a copy of intimation mail also along with the claims. If intimation of hospitalization can be sent along with claims immediate intimation is irrelevant. Hospitalization is not a routine affair like paying one's utility bills. Senior citizens, mostly living alone with or without their spouses will become panicky when one has to be hospitalized for any treatment and they will have no time to get to know or remember formalities like immediate intimation. Any procedure of claim has to ensure timely sanction of genuine claims and not for the purpose of getting a pretext to decline or delay settlement of claims.

7. While the TPA insist on time limit for sending claims or other documents to them, they do not have any time limit for their processing. TPA takes about 30 days just for registering the claims, takes further time for processing and takes still more time for payment even after auditing is done. The whole time consuming procedure without deadline is deliberately designed to earn interest on claim outlay delayed for months. To discourage this unethical business practice, there should be a time schedule for every process at TPA,

after which the members can send reminders and claim interest on the settled amount for the unncessary delay."

8. Queries are raised piecemeal, that too mostly irrelevant and are deliberately not sent to the respective mail ids of the insured or to their address, ostensibly to project the claims as pending for processing for want of replies. The insured come to know of the queries only on the insured taking up with the TPA. TPA is not able to clarify where these mails are sent! Also the queries are irrelevant. One such query is the mode of payment to the hospital and the calling for Bank statement, even when the member had paid cash.

9. Last but not the least, since our claims are centralised at our Central Office, we request that desk officials sitting at our Complex, should be of a sufficiently higher rank with authority to take decision and to direct the concerned staff at the processing centres such that he can get the things done from their office over phone or mail immediately.
   The present desk officials do only a postman's job and they are courteous but are hesitant to talk to their own high officials, for obtaining initial approval/final approval, even in case of emergency, and on matters of discrepancies on any queries.

   In short, what we were getting hitherto from our earlier TPAs since the inception of IBA policy, are being denied by Safeway TPA quoting one reason or other, thus making the claim settlements for the old retirees harder and also ***turning the policy indirectly (rather illegally) a policy with deductibles and in co-payment***. Hence the request to the bank to intervene and render justice to the retirees.

Annex II

C I TA T I O N S

1. On Contra Proferentem

In **Civil Appeal No. 4139/2020** of **Haris Marine Products v. Export Credit Guarantee Corporation (ECGC) Ltd.,** the Supreme Court observed that an ambiguous term in an insurance contract is to be construed harmoniously by reading the contract in its entirety. If after that, no clarity emerges, then applying the principle of ***contra proferentem***, the ambiguous term must be interpreted against the insurer (i.e., against the drafter of the policy) and in favour of the insured.

2. Changes in Renewed Policy

In **Civil Appeal No. 6778/2013** of **Jacob Punnen & Anr. Vs. United India Insurance Co. Ltd.** decided on **9/12/2021**, the Supreme Court dealing about making changes in the renewal policy held,
"…**Reg 11 (**of IRDA (Health Insurance) Regulations, 2016 on Designing of Health Insurance Policies requires that *specifications are disclosed clearly upfront in the product prospectus, documents and during sale process…..* ***These regulations only underline expressly what was implicit, i.e., the insurer's obligation to inform every policy holder, about any important changes that would affect her or his choice of product.*** ...The insurer was clearly under a duty to inform the appellant policy holders about the limitations which it was imposing in the policy renewed for 2008-2009. Its failure to inform the policy holders resulted in deficiency of service."
The concurrent judgement in the above case held, " **The Insurer had a duty to inform the appellants that a change regarding the limitation on its liability** was being introduced. …. the appeal be allowed on the basis that there was *unjustifiable non-disclosure by the Insurer about the introduction of clause of limitation* and, in this case, it constituted a deficiency in service and resultantly the appellants are entitled to relief."

3. Rejection of genuine claims on grounds of delay

In Civil Appeal No. 1069 of 2022 of Jaina Construction Company Vs. The Oriental Insurance Company Ltd. & Anr decided on 11/02/2022, the Supreme Court dealing

on rejection of claim merely on the ground of delay held, " While assessing the 'duty to cooperate' for the insured, inter alia, the ***court should have regard to those breaches by the insured which are prejudicial to the insurance company***. *Usually, mere delay in informing the theft to the insurer, when the same was already informed to the law enforcement authorities,* ***cannot amount to a breach of 'duty to cooperate' of the insured*****…..***when the claim of the insured was not found to be not genuine, the Insurance Company could* ***not have repudiated the claim merely on the ground that there was a delay*** in intimating the Insurance Company about the occurrence of the theft."
