

Coordination of E Associate Banks' Retirees' Organizations.

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Date :17/08/2018

The Chairman
State Bank of India,
Mumbai.

Respected Sir,

Issue of payment of arrears of Pension including Dearness Allowance as per Pension Regulations and differential Commutation along with interest at 9% as per Supreme Court Judgment – remains unresolved

We have been corresponding with your kindself regarding implementation of orders of Hon'ble Supreme Court in Civil Appeal No.5525/2012 of Bank of Baroda Vs G Palani & Ors and other connected matters. The essence and law decided by the Hon'ble Supreme Court, while affirming the Judgments of Hon'ble High Court of Karnataka is that the Pension needs to be paid in terms of Pension Regulations as existed on the date of retirement. It is also decided that retrospective amendments cannot take away vested benefits and Administrative instructions cannot alter statutory prescription. In terms of decision of Hon'ble Supreme Court, which has also affirmed the Judgments of Hon'ble High Court of Karnataka, following benefits have to be paid to all those who retired during the period from 1.4.1998 to 30.04.2005 :

- a. Basic Pension calculated duly taking into account average of last ten months' 'Pay' drawn (Regulations 2 (s), 35 & 38) – Para No. 17, 29, 333 and 34 of Judgment of Hon'ble Supreme Court & Para 24 of Judgment of Hon'ble High Court of Karnataka ;
- b. Basic Pension calculated duly adding service to the maximum extent of five years (Regulation 29) – Para 34 of Judgment of Hon'ble Supreme Court & 24 of Judgment of Hon'ble High Court of Karnataka)
- c. Dearness Relief in terms of Appendix II (Regulation 37) – Para 9, 11, 15, 28, 29, 33 & 34 of Judgment of Hon'ble Supreme Court & Para 9, 16 (para 46 & 65), 24 & 25 of Judgment of Hon'ble High Court of Karnataka ;
- d. Commutation (Regulation 41) (Para 34 of Judgment of Hon'ble Supreme Court & Para 9 & 24 of Judgment of Hon'ble High Court of Karnataka) ;
- e. Interest at 9% (Para 34 of Judgment of Hon'ble Supreme Court) on the total amount due and payable, but not progressively.

Conveners:

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Advisory Committee:

- Dr. A. Ananthakrishna Rao
(Chairman) (eSBH))
- Shri. K Sukumaran (eSBM))
- Shri.Chandrasenan (eSBT)

Core committee:

- Shri.K. Vijaya Kumar (eSBT)
- Shri.C Gopinathan Nair (eSBT)
- Shri.C N Prasad (eSBM)
- Shri.Y N Ramesh (eSBM)
- Shri.R P Saxena (eSBBJ)
- Shri.B C Bassi (eSBP)
- Shri.D.S. Jattana (eSBP)
- Shri.Prakash Sarma (eSBIR)
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Since, Indian Banks' Association has extracted Civil Appeal Numbers in respect of appeals filed by State Bank of Mysore in the letter No.HR&IR/2018-19/G2/4786 dated 03.04.2018 and State Bank of India is also a party in the Hon'ble High Court, Hon'ble Supreme Court has affirmed the decisions of Hon'ble High Court of Karnataka and also Indian Banks Association has advised all Nationalised Banks to implement the decision of the Hon'ble Supreme Court, all similarly placed pensioners of State Bank of India who are drawing pension in terms of Pension Regulations, 1995 are entitled to all these benefits listed above. We are extracting from the letter No.HR&IR/2018-19/G2/4786 dated 03.04.2018, which are relevant and germane to all of the benefits listed above. :

5. When the matter came up before Hon'ble High Court of Karnataka, approached Hon'ble Supreme Court by filing Civil Appeals viz., C.A.Nos. 5525/2012, 3262/2013 C.A.Nos. 3257-3262/2013, 11205-11340/2014, 11342-11435/2014,9533-9646/2014, 8357/2014, 4711-4800/2014 and 1919-2087/2018 @ SLP(C)NOS.15640-15808/2013.

8. As directed by the Management Committee we have taken a Legal Opinion to the impact of the Judgment on various Banks which is given below :

- (a) All Nationalized Banks who have Pension Regulations, 1995 will have to give effect to the judgment and pay the differential amount of pension which was due and payable with 9% interest within 4 months from the date of Judgment, i.e 13.02.2018.
- (b)
- (c) Employees of the Private Banks approach the Civil Court on the basis said Hon'ble Supreme Court Judgment, they would procure a favourable Judgment.

In this regard, we would like to bring to your kind notice that Writ Appeals/Petitions are pending before various High Courts filed by similarly placed pensioners of eAssociate Banks, including those who retired from eState Bank of Mysore. Incidentally, even those who retired under Exit Policy during the years 2005 – 07 are also entitled to the benefit under Regulation 29 and in fact, one of those who retired under Exit Policy is also a respondent in Hon'ble Supreme Court.

The issue of payment of pension based on notional addition of service upto five years, also forms a part of this Judgment in Civil Appeal 5525/2012, as Hon'ble Supreme Court has dismissed Civil Appeals filed by State Bank of Mysore and affirmed the Judgments of Hon'ble High Court of Karnataka (para 34). Having decided to implement the decision in Civil Appeal 5525/2012 and extend the benefit to all similarly placed retirees of all eAssociate Banks in respect of 1616 -1684 points, this benefit of notional addition of service upto five years, needs to be extended to all similarly placed pensioners of all eAssociate Banks.

Further, our Bank is also a 'State' in terms of Article 12 and should be fair and reasonable. Further, in terms of Article 141, decision of the Apex Court, is binding on

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all the Courts in India, thereby on all. Since, Hon'ble Supreme Court has affirmed the Judgment of Hon'ble High Court of Karnataka, where State Bank of India is also a party and dismissed the Appeals filed by State Bank of Mysore, every similarly placed pensioners of eAssociate Banks are entitled to all the benefits listed above.

We request your kindness to be sympathetic to these pensioners, who have waited over 17 years for conclusion of this legal struggle. We humbly request to kindly order payment of all these benefits, without invoking technicalities. In any case, the Bank can only postpone eventual payment of these benefits to all similarly placed pensioners only for a short period of time, which have to be paid eventually, in view of provisions of Article 141 read with decision of Hon'ble Supreme Court. We are confident that our Bank would not indulge in any such avoidable action.


We humbly, pray and request your personal intervention and order payment of these benefits immediately. The beneficiaries who are in December of their life, would feel immensely happy and satisfied that our Bank has not compelled them to continue their legal struggle. It is also pertinent to note that it is over six months from the date of Judgment and over two months from the date upto which the Hon'ble Supreme court allowed time. Please pay and oblige.

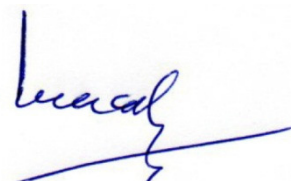
We have also appended notes/extracts prepared by us in respect all the issues listed above.

Please acknowledge receipt.

Thanking you,

With regards,


(CN Prasad)
Convenor


(V Sombabu)
Convenor