

Coordination of E Associate Banks' Retirees' Organizations.

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Email : statebankretirees@gmail.com

Date : 20/03/2019

The Chairman,
State Bank of India,
Corporate centre,
MUMBAI

Respected Sir,

Payment of benefit of Addition of Notional Service upto a maximum of 5 years for calculation of pension as provided under 29(5) of erstwhile Associate Banks Pension Regulations to those eligible retirees under VRS 2001

You are aware that the above benefit was paid to retirees of State Bank of Mysore under VRS 2001 in August 2018 implementing the decision of Hon'ble Supreme Court in Civil Appeal No 5525 of 2012 of the 13/02/2018, which also affirmed judgement of High Court of Karnataka dated 08/03/2012.

The above judgment of Supreme Court ordered payment of two benefits in terms of Pension Regulations viz., payment of pension taking into account the average of last ten months' pay and payment of pension duly adding the notional service upto 5 years as provided in Regulation 29(5) of Pension Regulations, 1995. Hon'ble Supreme Court also ordered that this amount which was due and payable be paid with 9% interest till the date of payment.

Thus , out of the two aforesaid benefits , the benefit at (a) is payable to all those retired between 01/04/1998 and 30/04/2005, the benefit at (b) above relates and restricts only to a few eligible retirees retired under VRS – 2001 from all erstwhile Associate Banks. These VRS Retirees are entitled to receive this benefit at (b) above in terms the judgment as they have all retired under the identical voluntary retirement scheme which was implemented in erstwhile Associate Banks by common instructions from the Corporate Centre and in terms of common Bipartite Settlement/Joint Note. Consequent upon Judgment of Supreme Court dated 13/02/2018, which covers both these issues, those who retired from erstwhile State Bank of Mysore have been paid with arrears in respect of both these benefits. But we are taken by surprise that only a part of the Judgment at (a) above is only honoured in the case of other erstwhile Associate Banks retirees, even though they are also entitled to receive both these benefits. Those who retired under identical voluntary retirement schemes of other erstwhile Associate Banks (other than those who retired under SBMVRS – 2001) have not so far received benefit of notional addition up to five years of service in terms of this Judgment of Hon'ble Supreme Court, which has affirmed the Judgment of Hon'ble High Court of Karnataka, which also ordered payment of cost of Rs.10,000/- to each of the petitioner/pensioners by the Bank, as the Bank filed Writ Appeals without merit as Pension Regulations have not at all been amended by the Bank. Similar situation exists in all other erstwhile Associate Banks.

Since, Our Bank has now paid both these benefits to SBMVRS-2001retireesin response to the judgment referred above, it has agreed and admitted that this decision of Hon'ble Supreme Court fully covers both these benefits. Since, those who retired under identical Voluntary Retirement Scheme introduced and implemented through same/identical instructions in all erstwhile Associate Banks, all similarly placed retirees of erstwhile Associate Banks are also entitled to above benefits covered by Judgment of Supreme Court dated 13.02.2018. Therefore, we request you to pay this benefit of addition of notional service to all other erstwhile Associate Banks retirees also, duly implementing the orders of Hon'ble Supreme Court.

Conveners:

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- Dr. A. Ananthakrishna Rao
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- 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)
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- Shri.V Sombabu (eSBH)
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The orders of Supreme Court need to be implemented in letter and spirit to other erstwhile Associate Banks' retirees also, as they are entitled for the benefit of 5 years notional service under Regulation 29(5) for the following reasons.

1. State Bank of India was one among the Respondents in Writ Petition No.5528/2002 filed by retirees of State Bank of Mysore and State Bank of India is one of the respondents in Writ Appeal No.4831-4832/2011. These Writ Appeals filed by State Bank of Mysore and subsequent Civil Appeal No. 1919/2018 were dismissed by Hon'ble Supreme Court on 08/03/2012 and 13/03/2018 respectively. Therefore, the decision of Hon'ble Supreme Court is binding on State Bank of India. In fact, both the decisions have not restricted payment of benefits to Petitioners. Consequently, all Banks, including our Bank has paid one of the benefits (i.e in 1616 - 1684 pay issue), to all those who are entitled to receive this benefit. The Constitution of India provides that all the orders and rulings of Supreme Court of India becomes the law of the land and is binding on all, more particularly the Public Sector Organisations like Banks , being defined as "State" within the ambit of Article 12 of the Constitution of India. Therefore, all those who have retired under VRS are entitled to addition of service upto five years ;
2. All the erstwhile Associate Banks retirees are similarly placed in all respects including the VRS-2001 together with its terms and conditions, as they are introduced by a common circular issued by the Corporate Centre. It is pertinent to note here that all the Pension Regulations of erstwhile Associate Banks are identical and are made by State Bank of India in exercise of powers conferred by the same sub section (2) of section 63 of the same SBI (Subsidiary Banks') Act 1959 and this adequately tells that all the retirees of e-Associate Banks are similarly placed.
3. Indian Banks Association, in their letter No.HR&IR/CIR/G2 BRK/4684 date 16th March 2018 in a similar situation gave directions at para 6 to all PSBs including SBI that "Banks being State within the ambit of the Constitution of India should act in a fair and reasonable manner and should not restrict it only those who demand it. Such stand, if any, adopted by the banks may invite strictures from the Courts". Further, in the Judgment of Hon'ble Karnataka High Court, while dismissing Writ Appeals filed by State Bank of Mysore in respect of same issue, it has stated 'We mention this for the reason that it appears to us that the extremely scarce time of the Court as well as the Bank's resources have been avoidably and unnecessarily expended on an exercise of futility. The questions canvassed before us, it is plain to us, are no longer *res integra* as the learned counsel for the appellants have comprehensively failed to dislodge the opinion of the two learned Single Judges to the effect that Mohandas completely covers the controversy. Furthermore, so far as the State Bank of Mysore is concerned it has not carried out any amendment to the Pension Regulation 1995. Nevertheless it has filed and vehemently and extensively argued its Appeals. Their sanguine expectation is that we shall persuaded to ignore Regulations having statutory strength.' In fact, Writ Petitions/Appeals filed by the retirees of all othererstwhile Associate Banks in respect of the benefit of 5 years notional service are pending before various High Courts. Since, the Bank has now paid the benefit to all SBMVRS 2001 retirees including non petitioners, it is thus agreed and admitted that this issue of payment of pension under Regulation 29(5) is covered by decision of Hon'ble Supreme Court. We request you to render justice as these pensioners are already made to pursue the legal battle for 18 long years and dragging the issue further, despite three judgments of 2009, 2014 & 2018 by Apex court would put these pensioners who are old, to much hard ship. We are bringing to your kind notice, legal principles applied by Supreme Court in their verdicts of 2009, 2014& 2018 and also by Karnataka High Court which was affirmed by Supreme Court on 13/02/2018, in respect of extension of benefit of addition notional service under regulation 29 ;

The Supreme Court in its judgments in 2009, 2014 & 2018 gave rulings in unequivocal terms to the effect that :

- i. Executive instructions cannot be issued in derogation of the statutory Regulations and no circular can be a substitute of the statutory rules framed by the authority of law and these rules cannot be over ridden by executive orders or executive practice. Merely because the Government has taken a decision to amend the rules , does not mean that the rule stood obliterated. Till the rule is amended, the rule applies ;
- ii. There is no estoppel against Statutory Regulations.
- iii. Pension should be paid as per Pension Regulations, as in existence on the date of retirement only.
- iv. Retrospective amendments of statutory Pension Regulations taking away vested rights is impermissible.
- v. Statutory Regulations cannot be altered through contractual scheme (Voluntary Retirement Scheme), (Regulation 29 cannot be applied in parts. Cherry picking is impermissible) ;

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Respected sir, when the same issue is decided thrice by SC in 2009, 2014 and 2018 as above, still dragging the issue will make the lives of the poor aged pensioners who retired in 2001 more miserable and they deserve the gift of your sympathy. We are confident that you would understand the agony of these aged pensioners and end the issue by making payment of the benefit.

You are also aware that decisions of Hon'ble Supreme Court is binding on all other Courts in the Country. Consequently, there cannot be any other decision in respect of VRS-2001 retirees' five years issue in view of the decision in the same matter of notional service covered by three judgments of Hon'ble Supreme Court. Therefore, you are requested to kindly order payment of Pension, duly including service upto five years under Regulation 29 in terms of the decision of Supreme Court on 13/02/2018, without forcing these pensioners who are in last quartile of their life and please do not compel them to expend their scarce resources. Please bring smiles and happiness by ordering immediate payment. It would be a great honour, if your order could avoid perusing avoidable legal battle. We request you to kindly consider the age of these pensioners and order immediate payment of pension in terms of Regulation 29, as this matter is well settled on all fours by Supreme Court thrice.

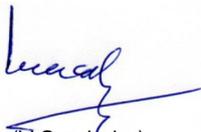
Sir, we have now presented once again before you all the facts of the issue for your kind and sympathetic consideration. We now humbly pray and request the Bank to order payment of the benefit of addition of notional service upto 5 years to all eligible VRS – 2001 retirees of other erstwhile Associate Banks also as per Regulation 29 (especially, Regulation 29(5)) of Pension Regulations as ordered by Supreme Court vide its judgement dated 13/02/2018. The beneficiaries are few in number and the benefit is very small and they are all in December of their life and they would feel immensely happy and satisfied that our Bank had not compelled them to continue their legal struggle. This gesture would go a long way in brightening their lives, as they are crippled with the meager pension that they are getting now, in the present inflationary conditions.

Please acknowledge receipt.

Thanking you,

With regards,


(CN Prasad)
Convenor


(V Sombabu)
Convenor