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STATE BANK OF HYDERABAD

Retired Employees' Association (SBHREA)

(Regn No 1051 of 1986)

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Legal Fund – An Appraisal to Members

In the recent past, a kind of discussion on the Legal Fund collected by SBHREA is sighted in social media like WhatsApp. In this back drop it is found obligatory to appraise the retirees who contributed to the fund with information, so that they can take a proper decision.

Genesis of Legal Fund:

On 16th October 2019, we convened a meeting at Bharathiya Vidya Bhavan to appraise the members about the need to convert the existing Confederation of E – Associate Banks Retirees Organisations (CEABRO), formed after merger in December 2017 into a Trade Union Organisation in the name of State Bank Retirees Association (SBRA) to fortify our Organisation in the struggle to achieve our benefits. In the process SBRA took its birth and was registered as Trade Union in 2020. In the said meeting it was explained that the new Organisation, SBRA shall spare no efforts to deliver the benefits through legal struggles. It was also claimed in the meeting that securing the benefit of payment of DA as per Pension Regulation 37 is the principal and chief item on the agenda of SBRA while securing inter alia, other benefits. It was explained that the benefit under Reg 37 is so huge that no other benefit will match with that and SBRA still avouch and affirm the assurances. We recall your memory that we have given a call to members in October 2019 for Voluntary Contribution of Rs 5000/- to be paid by those who are interested to secure various benefits including the benefit under Regulation 37. Even today it stands stout by its assurance. SBRA vocally assured that it will ensure that the benefits are paid to all those who contributed to the fund since they are all represented by SBRA in all its petitions. It is pertinent to inform the members that in the current year i.e 2022, SBI has restricted the benefit of 1684 fixation arrears (to those retired between 2001-2005) only to the members of the petitioner Association in State Bank of Indore, while the other members are denied forcing them to pursue litigation. This is not first time that SBI did so. Even in the case of exit optees issue for payment of benefit under Reg 29(5) in State Bank of Indore, SBI advised vide their letter no. SBD/BGS/3946 of 2010 to extend the benefit to those who have gone to court and others had to launch a fight again. To quote the latest, the request of one E- SBM retiree under VRS, to pay the difference of commutation as per court

orders is summarily rejected in writing by SBI vide their letter no PPG/12 dated 28/4/2020, quoting in their own words “ As you are not a petitioner, you are not eligible to receive difference of commutation amount along with interest.” It will be a Himalayan task for individuals / family pensioners to fight legally again. These instances are brought to your notice to make you aware how bank tries by all means to avoid payment to non petitioners on some pretext or other, knowing fully well that these poor non petitioners/ family pensioners, at their evening of their lives are feeble and disabled to fight individually.

PRESENT CASES:

SBRA is fighting in various High courts of Karnataka, Aurangabad and also in Supreme Court for a) Addition of notional service upto 5 years for those retired under VRS 2001 b) Commutation benefit payable for all pre 2005 retirees on account of refixation of pension at 1684 points in terms of SC judgment in CA 5525 dated 13/02/2018 apart from preparing for securing pension to Resignees.

Going by the present legal system in the country, if we initiate legal action now, you can only expect final verdict only after 18 to 20 years. Even from our own experience, you can observe that the five years notional service issue filed by SBM pensioners Commune in SBM in 2001 was settled only after 17 years on 13/02/2018. The case in the same issue filed by VRS retirees in 2010 in Telangana High Court is yet to come for first hearing. It is unfortunate that we are in such a legal system, the reform or transformation of this system is not in our hands. The ordinary member will naturally curse or blame the organisation for this, since the ground realities are known only to those who handle the issues from short and striking distance. Even to secure appointments from our own legal Counsels for follow up after paying hefty fees is nerve wracking. It is most thankless and unpleasant job for our leaders to stand for long hours before their offices mostly late in the night. It is really easier to be brave and easy going from a distance but actual field work is quite complex. It may look to us that they have a merry flight travel and hotel stay at places and please believe that it is only a bed of thorns. In fact SBRA is having intense desire and longing for young and talented retirees from all EABs who can actively take part in the legal struggle by SBRA in various courts including Supreme Court of India.

By the time we collected legal fund in the 1st quarter of 2020, the ghastly COVID VIRUS set in disturbing every sphere of life everywhere in the world. Courts were no exception and literally Courts stopped accepting new cases.

Going by past experiences of delay in the court cases, SBRA leadership rightly thought that the Regulation 37 issue will drag for decades if we climb from the bottom and so taking the best legal advice in the country, found it proper to implead / intervene in all existing pending cases where our Pension Regulations 1995 are subject matter so that a lot of time can be saved in the first stage of litigation, which is crucial to save time. Thus in a number of cases SBRA is fighting the issue regarding regulation 37 in different High courts. Also we inform you that SBRA made a fresh case of 5 years notional service in 2020 at Karnataka HC (because a case was already won at Karnataka HC), taking one petitioner from three of the E-Associate Banks including E SBH, and made a prayer for benefit under Regulation 29(5) for notional service as per Pension Regulations 1995 along with DA as per Regulation 37 of the same pension Regulations. We have also filed a separate writ petition in Aurangabad bench of Maharashtra clubbing Regulation 37 enlisting the cooperation from our eSBH retirees. Also SBRA has included the Reg. 37

benefit also in the pending contempt petition filed by AIRBEA in 2020, but on account of covid, the petition could not be decided yet and it is expected at any time. Very reputed counsels are engaged for arguments. As you all are aware that the contempt petitions do not take such long time but to our misfortune the Covid not only played havoc but caused untold misery to our cases too. Thus you will appreciate that SBRA is leaving no stone unturned to strive hard for delivery of the benefits, specially under Reg 37, which is a benefit denied, contravening Statutory Pension Regulations and this benefit is applicable to all those retired under all bipartite settlements till date.

Regarding the dissent that the information and full developments of the cases are not circulated, our appeal is that the previous experiences proved that it did more harm than good in taking the cases in right direction. A classic example of this is 100% DA neutralisation case which the bank retirees won the case before single judge of Calcutta HC and also before Division bench of Calcutta HC but lost in Supreme court for the simple reason that one All India organisation took hold of the case and argued the cases on totally unfitting and incompatible grounds, leaving the primary grounds on which the case was won at Calcutta High Court. It is worthy to cite here that you all must have seen in recent WhatsApp post, by a leader who is fighting for updation, accusing how 100% DA case was stealthily got tagged to Calcutta HC order. Reproducing his own words "The said Calcutta orders dt 4/3/2015 & 26/09/2016 could not be set aside based on any valid grounds either or fact of law through any speaking order of the Apex court dated 16/05/2018 (100% DA case) while illegally upholding Madras HC Division bench order dated 17/06/2013 Stealthily tagged to Calcutta HC order with the consent of AIBRF based on irrational validation of bipartite settlements.....". If this is not the apprehension, what else could stand between SBRA and its members to share information? To make the whole story short, in the above case one organisation unnecessarily interfered and damaged the result causing irreparable loss. Taking the moral from the idiom that "Too many cooks spoil the broth", only limited information is passed till such time that the case becomes unbending and uncompromising. We only request the members to be restraint and not become emotional. Please believe the leadership and your faith is fuel to SBRA while the organisation is only an engine. SBRA is converging all its energy on the issue of Regulation 37, since it encompasses all retirees regardless of the settlement one retired.

We also welcome retirees from e SBH who are interested and talented in legal matters and who can take pains to connect the case with forward and backward linkages and devotedly pursue the issue of Regulation 37 and request them to come forward to file a case in Telangana High Court also and the legal expenses can be taken care by the legal fund. This is proposed because that this is a befitting case to be fought at more than 1 or 2 High courts to succeed at any cost and request you to give a serious thought in this regard.

It is also widely discussed in WhatsApp that Fixed Assets are proposed to be acquired by Association. We make it clear that no such proposals are on card and this was only a suggestion received some time back by the Association, which is discussed in Managing Committee and deferred. We also confirm to every member that not even a single Rupee is diverted from the fund, and whatever is spent so far is for legal expenses and towards our share to SBRA and for the writ petitions filed by us towards funeral expenses and for the old pensioners appointed before 1959, who are covered under SBH Pension Regulations 1943. The legal fund accounts are totally distinct from regular Association

accounts and no revenue expenditure was ever charged to legal fund till now nor will it be charged in future. The present Managing Committee is taking all care and the committee's infallible vigilance on the fund is praiseworthy. This fund is created not by all but contributed only by some members and any benefits that may be created out of this fund in future should only flow to only those who contributed, like in the case of contributions to benevolent fund and hence many members suggested to create a "TRUST" for the legal fund and keep it out of the ambit of Association, albeit, with trustees combining both from members who contributed to the fund and also with some of the Managing committee members as was done in State Bank of Mysore Pensioners' Commune to have effective control on fund. These modalities shall be finalised after a broad discussion by a wide spectrum of the retirees who contributed to the fund and every suggestion will be taken for consideration.

In the above appraisal, a clear picture is placed before you about legal fund. In some WhatsApp groups some members desired to withdraw from the fund. In the light of the facts placed before you now, we once again request you to review your opinion and still if you hold that you wish to withdraw nothing can stand between you and SBHREA for taking refund of legal fund. We request the members to kindly keep note that the option for refund by members, if any, is open till the end of **April 2022**, after which date no refund will ever be entertained. Only appeal is let us not use the social media to impose your opinions on others with inciting comments as if funds are embezzled / diverted, may be such comments made either due to lack of knowledge or in a frenzy manner because you all know today's social media takes the information, right or wrong, faster than the velocity of sound and many a time, such information travels gathering many more distortions, ultimately damaging the organisation for no mistake.

It has also come to light that some ante-SBHREA campaign is raising its ugly head, commenting among groups that SBIPA is doing much better belittling SBHREA quoting distorted versions and a kind of negative feeling spread among a group of members acting as a threat to the existence of SBHREA, our mother organisation. We have no conflict, whatsoever, with SBIPA. We have friendly relations. In fact we gave a letter to their federation as long back as in 2018 that they can take support of our membership for any agitational programmes but we only wanted to retain a distinctive identity since our Pension Regulations are linked with other Nationalised Banks. It is perfectly right and they also appreciated. So we request members to exercise caution against such disruptive / divisive forces as it is our imperative need to protect our rights under our pension Regulations on our own, legally or otherwise as no other category of union other than belonging to our Regulations can be our saviour. This is proved by the arguments by SBI in Supreme Court case in Civil Appeal No.2463 of 2015 (Radheshyam Pandey, SBI employee vs SBI) decided on 2nd March 2020 (after merger) as per extract of para 13 of the above judgment given below.

".....Regulation 28 was amended in 2002 providing for 15 years of service. It applies to employees who are governed by the Bank Employees Pension Regulations 1995 (not to SBI). These Regulations do not apply to SBI employees as the SBI Pension Rules govern them....." Thus there cannot be any comparison of SBI employees with the employees of other Nationalised Banks (including E-Associate Banks whose Pension Regulations 1995 are same as Nationalised Banks). The clarification dated 11/01/2000 has also been relied on by the Bank.

By the above statement of SBI in Supreme Court, you will agree that SBI treats us as a heterogeneous group in the bank, may be a way fairly, because our Regulations and retirement benefits are materially different from SBI. You have also seen that critical illness facility introduced after merger as a welfare benefit is confined by bank only to SBI retirees, treating EAB retirees differently by denying the benefit. No other Association in bank ever even protested for our sake. SBRA protested and also initiating legal action. We do not know how many such differential treatments EAB retirees still witness in future is a big challenge. As an important unit of SBRA we shall rise to the occasion and we wish more members from our unit participate intellectually and emotionally to meet challenges as SBH, either before or after merger, retired or while in service, never run dry for intellectuals. Let us be optimistic. So we have to govern our interests for ourselves and protect ourselves and cannot expect outside help. Elaboration on such outside help cannot be made in appraisal like this for better reasons known to members and we are sure our intelligent members understand the underlying factors. For example, fight for Reg 37 benefit or for Reg 29 or any injustice that may be caused in future under any of our Regulations have to be fought and protected by ourselves and cannot expect a different group governed by different Regulations to come to our rescue and it is unreasonable for us to expect others to evince interest to solve our problems. The last batches of retirees and family pensioners under our pension regulations 1995 in all EABs will be there till the end of the present century and so we should have a longer perspective. It is pertinent to note here that many serving employees in SBI, appointed in EABs before merger have approached SBRA, regretting for a wrong option of SBI Pension Rules at the time of merger instead of our Pension Regulations 1995, due to lack of guidance and also very short time given for option. SBRA had already taken up with SBI and also making ready for legal conflict.

OTHER ISSUES - NEED FOR CAUTION:

Some disgruntled elements are also spreading that SBHREA/ SBRA is silent on sanction of stagnation increments issue and SBIPA is active. We suggest to such tribe to keep their eyes open and see the amount of fight SBRA had put in the issue with Corporate Centre and also at the local circle level. Any attempt to paint SBHREA in poor light will be considered as ante Association activity and shall be dealt seriously. Any member is free to discuss with executive/ managing committee and bring it before the Managing Committee for discussion but the constitution does not give any member freedom to show SBHREA in poor light in public domains and social media.

Before we conclude, we assure all the retirees and family pensioners, regardless of membership taken, that the SBHREA will be happy to help you always and by all means and you can approach any Managing Committee member and feel free to discuss and resolve your issues.

With greetings,



PRESIDENT



GENERAL SECRETARY