



ALL INDIA BANK PENSIONERS & RETIREES CONFEDERATION (A.I.B.P.A.R.C.)



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Circular no 79-24

Date: August 04, 2024.

For circulation among members of the Governing Council, State Secretaries,
Special Invitees, Advisors, Affiliates, Constituents of CBPRO and Members.

Dear Comrade,

Sub: Resolution of Long Pending Issues of Bank Retirees

We are reproducing here under the text of our letter written on date to The Secretary,
DFS, MOF, GOI on the above-mentioned subject.

This is for information of members.

With best wishes and regards,

Comradely yours,

Suprita Sarkar
General Secretary
Encl: As stated

AIBPARC/DFS/Pending Issues/Email/2024

Date: August 04, 2024

Shri Vivek Joshi Ji, IAS,
Secretary,
Department of Financial Services
Ministry of Finance,
Jeevan Deep Building,
Parliament Street,
NEW DELHI 110001

Respected Sir,

Request to consider:

- (1) Pension Updation,
- (2) Relief in Medical Insurance Scheme,
- (3) Reckoning of Special Allowance for Superannuation Benefits and
- (4) issue of Gratuity

We wish to invite a kind reference to our letters written to DFS, IBA and Hon'ble Finance Minister on the above pending issues of Bank Pensioners and Retirees. We understand that the Ministry of Finance has



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forwarded our letter to your good self for consideration. We have seen in past that the timely intervention and sympathetic consideration on the part of Department of Financial Services and Indian Banks' Association have played a catalyst role in resolution of many of our long pending grievances in recent past. It is in this backdrop, we take this opportunity to earnestly request you Sir, to favourably consider the following issues to help the Bank Pensioners and Retirees and help realise their long pending legitimate demands:

i) Updation of Pension in terms of Regulation 35(1) of Bank Employees Pension Regulation 1995 by notifying the Updation Factor on the lines of RBI.

It is submitted that Regulation 35(1) provides as under:

"Basic Pension and Additional Pension, wherever applicable shall be updated as per the formulae given in Appendix - I" (amended in March 2003 and published in the Gazette of Union of India).

IBA, having filed a false affidavit in the M C Singla case in Hon'ble Supreme Court that there is no provision of updation in the Bank Employees Pension Regulations 1995, has now been sticking to the falsehood. We earnestly request you to get the issue examined in proper perspective without oblivion to Regulation 35(1).

ii) UNBEARABLE PREMIUM FOR MEDICAL INSURANCE SCHEM BE BORNE BY THE BANKS

We are happy with the development on Medical Insurance front, where it has been agreed to arrange for a combined policy for serving and retired bank employees. But as you are well aware, the introductory premium which was Rs.7454/- for an officer Retiree and Rs. 5621/- for an award staff Retiree has now risen to Rs.1,01,966/- per annum making the scheme unbearable for Bank Retirees. While the premium for the serving employees is borne by the banks, the retirees are forced to bear the premium, if they wish to be covered under IBA's Scheme. This is inconsistent with the Guidelines issued by DFS on 24.02.2012.

We feel highly discriminated and earnestly request you to advise the Banks that the Unbearable Premium for Medical Insurance Scheme be borne by the Banks in terms of the communication of DFS dated 24.02.2012 through which IBA was clearly advised to evolve the Medical Insurance Scheme both for serving and retired employees. IBA WHILE EVOLVING THE MEDICAL SCHEME IN 2015, unfortunately and unfairly forced the pensioners to bear the premium if they wish to join the scheme. We once again reiterate that the DFS Communication did not contain any such direction. The number of beneficiaries has drastically come down to little more than a lakh whereas the total number of retirees is about 800,000. We request that the direction of DFS should be given effect to in letter and spirit for the ensuing renewal due on 01.11.2024 with option to all retirees to join the scheme and Banks bearing the Medical Insurance Premium.

iii) Reckoning of the Special Allowance which carries Dearness Allowance for the purpose of Computation of Pension and Calculation of Gratuity.

We wish to draw your kind attention towards the following Judgements of various High Courts and Hon'ble Supreme Court:

1) Regional Provident Fund Commissioner (II), WB order by Supreme Court on Special Allowance.

2. Muralee Mohanan & ors Vs Corporation Bank Order dated 15.10.2019 by Hon'ble HC of Kerala on Special Allowance.



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It has been in public domain for quite some time that the aforesaid Judgements lend credence and substantiate our case for reckoning of Special Allowance as a part of Pay for the computation of Pension and calculation of Gratuity, which have been illegally denied to the bank pensioners and retirees ever since the introduction of Special Allowance from 01.11.2012.

Meanwhile most of the banks in exercise of the powers conferred on them by Section 19 of the Banking Companies (Acquisition & Transfer of Undertakings) Act have amended the definition of Pay under the Bank Employees Pension Regulations 1995 to the disadvantage of pensioners by inserting an exclusion clause in respect of Special Allowance introduced wef 01.11.2012.

In this connection, we wish to submit that in terms the order of Supreme Court in the case of Provident Fund Commissioner (II) West Bengal Appeal No.6221 of 2011, the following rule of law had been laid down:

The Special Allowance has to be treated as a part of Basic Pay if -

- (i) It is paid to all the employees across the board
- (ii) If it is paid Universally, Necessarily and Ordinarily (UNO)
- (iii) It is not assigned to the performance of any specific function
- (iv) It is paid even during the period of leave

The specific case of Bank Pensioners is pending judicial scrutiny before various High Courts, including the High Court of Delhi. We believe that when an issue is pending before the Court for its adjudication, it is impermissible to amend the rules to the prejudice of the employees. Hence the amendments effected by the banks with the previous sanction of the Government is bad in law.

As you are aware the Gazette Notification in case of Banks appeared first in the case of Bank of Baroda on 28th June 2024. It also stated therein that the amendment shall be in force from 28.06.2024. Assuming without admitting that the Special Allowance component of Pay has been excluded for computation of Pension as per notifications in the Union Gazette of India, it not only strengthens our case but also makes it obvious for reckoning the Special Allowance for Computation of Pension in respect of those pensioners who had retired on or after 01.11.2012 but before 28.06.2024.

Further the crucial test for inclusion of Special Allowance and DA for the calculation of Pension and Gratuity is its Universality. Both the components viz, Special Allowance and DA there on passed the test of Universality to be included in the Basic Wages for calculating Pension and Gratuity.

You will appreciate that the definition of Pay is inclusive and hence the exclusion of Special Allowance from the component of Basic Pay is not permissible for the purpose of calculation of Pension and Gratuity, when it is included for the purposes of encashment of Privilege Leave even at the time of retirement.

Accordingly, it would be a natural corollary that the Special Allowance and the component of Dearness Allowance thereon are also included for the purpose of calculation of gratuity under the scheme of the Bank.



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4. **HC of Kerala** in the case of Muralee Mohanan & Ors Vs Corporation Bank & Ors held that exclusion of Special Allowance payable to Bank Employees and Officers for calculation of Pension is not correct. The petitioners were held entitled to Pension in terms of Bank Employees Pension Regulations by taking into account the Special Allowance.

5. **The Hon'ble Supreme Court** in the case of Palani Vs Bank of Baroda (DA merger @ 1616 points vs 1684 points) held that the definition of Pay cannot be altered by any settlement/joint notes signed by the parties against the spirit of Pension Regulation. On the same grounds, you will appreciate that Basic Wages cannot be different for the purposes of Encashment of Leave, Payment of Gratuity and Commutation of Pension.

In view of what has been stated in the aforesaid paragraphs, we request Your Good self -

I) to advise IBA to convey to all Member Banks to calculate Gratuity by including the components of Special Allowance with interest as per applicable rules and specified rates on the differential amount of Gratuity upto the date of payment.

II) to reckon Special Allowance to compute Pension in case of those who retired on or after 01.11.2012 but before 28.06.2024 calculating Commutation on the Special Allowance portion as entitled along with interest as applicable in such cases.

We earnestly request you to help the Senior Citizens of the Banking Industry by advising IBA/Banks not to fall back upon the irrational logic that the entire issue is Sub-judice. We shall be greatly obliged, if the Banks are not advised to go for further appeals in respect of the verdict of the Hon'ble Courts including the Division Bench of Uttarakhand High Court. We request your good self to also advise IBA to exhibit due respect to the Honest Litigation Policy of the Government of India for the senior citizens. We hope that the Government/IBA shall not engage in procrastination of these issues as the same would be a great injustice to the Senior and Super Senior Citizens of the Banking Fraternity, who are already in the evening of their life. Justice delayed is always justice denied. We hope and urge upon on Your Good Self that this dictum will be the cardinal guiding principle for all concerned. The money spent by Banks on litigations is charged to P/L Accounts with nobody having personal stakes but the people on the other side have to spend from their hard – earned and owned resources and sometimes even by borrowing. The referred judgements have given a scope to all concerned (Banks/IBA/DFS) to be kind and sympathetic to the Pensioners and Retirees of the Banking Industry and resolve these long pending issues.

We make an appeal to you to kindly consider our requests favourably in line with the landmark judgements cited hereinbefore.

With kind regards,

Yours faithfully,

K.V. Acharya.
President, AIBPARC
& Jt. Convenor, CBPRO

Suprita Sarkar
General Secretary