



ALL INDIA BANK PENSIONERS' & RETIREES' CONFEDERATION

(A.I.B.P.A.R.C.)



C/O BANK OF INDIA OFFICERS' ASSOCIATION
(EASTERN INDIA BRANCHES)
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Circular no. 104-23

Date: December 23, 2023

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

Dear Comrade,

Sub: Reply of Hon'ble MOS, Finance in Lok Sabha on 18.12.23 to an un-starred question number 2472 raised by Dr. Ravi Kumar D, Hon'ble member of Parliament.

We reproduce hereunder 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/PENSION UPDATION/EMAIL/2023.

Dated: 23.12.2023

**Shri Vivek Joshi, I A S,
Secretary (FS),
Department of Financial Services,
Ministry of Finance, Government of India.
New Delhi.**

Respected Sir,

Sub: Reply of Hon'ble MOS, Finance in Lok Sabha on 18.12.23 to an un-starred question number 2472 raised by Dr. Ravi Kumar D, Hon'ble member of Parliament.

1. The reply of Hon'ble MOS, Finance has shocked the entire community of Bank Pensioners and Retirees. The standard procedure followed by any Ministry to reply such questions is to get the inputs from the concerned departments and institutions. In this case the inputs are supplied by the Indian Banks Association (IBA) which is an unregistered private body consisting of the Scheduled Commercial Banks including



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those operating as Foreign Banks, Private Banks, Public Sector Banks etc. IBA is not only an unregistered body but is not a Government Body either. It is basically in the nature of a Club of the member banks and largely managed by the Retired Bank Executives. Its actions and decisions must therefore be viewed with askance more so when it is not accountable to any body including, Government, RBI etc. It has assumed the status and standing of being a law unto itself.

In this backdrop, the reply by the Hon'ble Minister on the basis of the advice of IBA, is found not only oblivious of the facts on record especially Regulation 35(1) of the Bank Employees Pension Regulations 1995 (amended in 2003 and published in the Gazette of the Union of India) but also leaves the essence of the unstarred question unanswered.

We representing the Senior and Super Senior Citizens of the Banking Industry, are pained to note that IBA has not briefed the DFS correctly about the facts. The DFS also does not appear to have carried out any fact-check about the inputs supplied by IBA vis-a-vis our Pension Regulation 35(1). So, the reply by the Hon'ble MOS Finance is contrary to the facts of the of Updation of Pension and Bank Pensioners and Retirees are perplexed and hugely disappointed. The factual inaccuracy harms the interest of the Bank Retirees and puts at naught the right that has already been granted by the NDA-1 government headed by the Late revered A.B. Vajpayee Ji as late as March 2003. We shall, therefore, make a modest attempt to put on record the facts which are ignored and undermined in the reply.

2. The point Nos. (b) & (c) of the question want to know “the present position of the Ministry over the issue of pension updation of the PSBs and ask whether the committee set up to look into the matter of pension updation of PSBs submitted its report and if so, the details thereof?

3. The reply of the Hon'ble MOS, Finance in brief tells the following facts:

“(b) & (c) Pension, a funded scheme, was introduced in nationalised banks through Bipartite Settlement. The Boards of the respective nationalised bank accordingly made Employees' Pension Regulations in exercise of their power under section 19 of the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970/1980. These regulations do not have provision for revision of pension. However, pensioners of banks are being granted DR on pension and the same is being increased from time to time i.e. on half yearly basis.”

As per IBA, the committee set up to look into the matter of pension updation of PSBs has submitted its report to the Hon'ble Supreme Court and the matter is sub-judice.

4. For the above reply of the Hon'ble Minister of State, Finance, we wish to place before you the correct position both in respect of the existence of Statutory Regulation 35(1) as amended in the year 2003 and the enforceability of the same instead of IBA misleading the Ministry and the Hon'ble Ministers of State, Finance, almost repeating the same reply from time to time whenever the question regarding Updation of Pension is raised by Hon'ble Members of both the Houses of Parliament.

* The Pensioners (Retired or in Service on the prescribed date) while opting for pension under Bank Employees Pension Regulations BEPR (1995) which is a Defined Benefit Scheme surrendered their right to receive the bank's contribution to PF in lieu of Pension as available to Government Pensioners and RBI Pensioners. As such BEPR (1995) is a Defined Benefit Scheme and is not a Funded Scheme. And any shortfall to ensure the Defined Benefit has to be made good by the banks by carrying out annual actuarial valuation. It has also to be noted that it was introduced in lieu of Banks' Contribution to PF solely for the reason that it is modelled on the Central Government Pension Scheme and RBI Pension Scheme. When Government switched over to NPS for future recruits, Banks were also compelled to switch over to NPS to future recruits making this clear that bank employees shall be eligible and entitled to only what the Government employees got under the relevant pension rules. Only because BEPR (1995) was based on Government Pension Scheme, it was stipulated in Regulation 56 of BEPR (1995) to refer to Central Government Pension Rules in case of any doubt. It is therefore clear that BEPR (1995) is not a funded



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scheme where the benefit is constrained by the size of the fund but rather the size of the fund has to be suitably altered annually according to the benefits to be paid after actuarial valuation by respective banks. The banks have statutory obligation to adequately provide just as Government Pension is sustained by the Central Government Budgetary Provisions despite the fact that Central Government has been always presenting Deficit Budgets. Banks are mostly making enormous profits at the same time faithfully implementing all Government Programs for the welfare of every section of the Society. Banks have been forced to make huge Write offs (more than Ten Lakh Crores) in the name of Cleaning the Balance Sheets to directly benefit the Corporate and other borrowers. The Government has been re-capitalising the banks to meet the write offs. But our Pension Funds are having about RS. 4.00 lakh crores to afford the updation cost without asking the Government to fund it. Hence it is reiterated that it is not a funded scheme.

Bank Employees Pension Regulations are a subordinate legislations and therefore rank higher than regulatory norms of RBI. The requirement to maintain adequate fund as per annual actuarial valuation and making good the short fall if any is a statutory requirement and is therefore **a charge on the Operating Profit and is NOT an appropriation out of Net Profit. The moot question is whether pension updation is already provided in the BEPR to become part of the Defined Benefit. The answer to it is 'yes.'**

* There is a gross error in the observation that there is no provision of Pension Updation in the Bank Employees Pension Regulations. But the truth is that Regulation 35(1) 1995 and its amendment in 2003 provides as under:

“in respect of employees who retired between the first day of January 1986 but before 31st day of October, 1987, basic and additional pension will be updated as per formula given in appendix 1 (1995).”

* It may be noted that this particular batch (01.01.1986 to 31.12.1987) alone was eligible for pension updation at the time of implementation of the Pension Scheme in Banks in 1993-94. However, during the NDA government, headed by the most revered Atal Behari Vajpayee Ji, with a view to offering a mandatory universal coverage of the benefit of the pension updation in the years to come, at the instruction of the central government and in consultation with RBI, the Banks amended Pension Regulation 35(1) in the year 2003 and that was duly gazetted to reads as under:

“Basic Pension and additional pension, wherever applicable, shall be updated as per formulae given in Appendix 1 (2003).”

* The formulae for updation of government pension for 5th Pay Commission was notified effective from the year 1996, for 6th Pay Commission from 2006 and for 7th Pay Commission, from 2016 but Bank Pensioners' Updation though mandatory as per amended BEPR (1995) is not yet implemented due to the intransigence of the IBA/DFS who are withholding incorporation of the updation formulae for all the past periodical wage revisions effected through Bipartite Settlements/Joint Notes. The question of comparing BEPR with Government pension scheme has been amply explained in the preceding paragraphs.

* The Bank Employees Pension Regulations are Subordinate Legislations and the Banks are a “state” within the meaning of Article 12 of the Constitution of India and compliance of Pension Regulations, including Regulation 35(1) which provides for Updation of Pension is a legal obligation on the part of the Banks. Moreover, the corpus of Banks' Pension Funds is robust and it is adequate to take care of the Updation of Pension without any need of additional provisioning or Government Funding.

* Although we have lot many inputs to place to offer a strong case for pension updation in Banks, we have abstained from putting everything on record since our effort is only to show that the officials presumably of the government department and the IBA have prepared the replies which suppresses the relevant information and facts, as contained in the amended Pension Regulation 35(1). As a result, a distorted version of the issue of Pension Updation has been read out in the Parliament. It is a matter of great surprise to us that we have



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submitted time and again our papers containing the legal provisions as well as cost analysis to IBA and government departments to show the legal

justifiability of the issue as well as the most reasonable cost-burden which has nothing to do with the astronomically high cost reportedly projected by IBA.

It is also very surprising to note in the reply given stating that the matter is sub judice where as if Updation is given as per statutory Regulation 35(1), the matter of Updation pending in the Court automatically becomes infructuous saving the Elder Population of the Banking Industry from the agonizing long drawn costly litigation. It is also surprising to learn that the IBA had submitted its Committee's report to the Hon'ble Supreme Court where as such report is not available either in the Public domain or provided to the Parties concerned in the case pending before the Hon'ble Supreme Court. Hence this part of the reply is also viewed with suspicion.

* It will not be out of place to mention here that the leadership of AIBPARC had a meeting with Smt. Nirmala Sitharaman ji, Hon'ble Union Finance Minister on 4th October, 2022 in course of which she kindly gave us a very patient and sympathetic hearing for about 30 minutes and finally observed that she would be advising the IBA to look into the matters on an emergent basis. Within 7 days from the date of meeting, we had been called by IBA to participate in a meeting with them on 11th October, 2022. It was a long duration meeting where we submitted all documents in support of our various demands which inter alia included, pension updation and 100% DA neutralization to pre-November, 2002 retirees. We have very clearly told that in case, IBA detects any error or lacunae in the arguments advocated by us or in the papers submitted by us, we are available and answerable to any questions. We had the opportunity to meet the Hon'ble Union Finance Minister again on 19th June 2023.

*We once again make it categorically clear that granting of DR from time to time on a half yearly basis has nothing to do with pension updation as provided in Regulation 35(1) whereas DR is separately provided in Pension Regulation 37.

* The most unfortunate part of the story is that the Regulation 35(1) is written in the statute and the meaning and implication of the Regulation is free from any ambiguity and still IBA has reluctance to notify the updation formulae in respect of each wage settlement.

We have an earnest request to the Government and also to IBA not to create any further tension and anxiety in the minds of the affected persons who are senior and super-senior citizens and notify the formulae as given to RBI Pensioners for each Wage Revision resolving the Three Decades Old Pension Updation issue and request you to render Justice to Bank Pensioners.

With Kind Regards

K V Acharya
President, AIBPARC
& Joint Convener, CBPRO

Suprita Sarkar
General Secretary