



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



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Circular no 88-24

Date: August 14, 2024.

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

Dear Comrade,

Sub: ***REQUEST TO GRANT UPDATION OF PENSION TO BANK PENSIONERS***

We are reproducing here under the text of our letter written on date to Smt. Nirmla
Sitharamanji, Hon'ble Union Finance Minister, 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/FM/Pension Updation/Email/2024

Date: August 14, 2024

Smt. Nirmla Sitharamanji,
Hon'ble Minister for Finance,
Government of India,
North Block,
NEW DELHI

Respected Madam,

REQUEST TO GRANT UPDATION OF PENSION TO BANK PENSIONERS

We are once again taking up the issue of Updation of Pension afresh with Your
Goodself.



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Being aware of the fact that as Hon'ble Union Finance Minister, you were very busy in the very important exercise of the presentation of the Budget of our Nation, the Largest Democracy of the World, we thought of placing our request to you again only after the presentation of the Budget to the Parliament and the conclusion of the Budget session of the Parliament.

Resolution of the issue of Updation of Pension is the core issue of Bank Pensioners which is pending for more than Three decades and the Bank Pensioners are pinning their hopes on you and this Government.

We are thankful to your good-self for being quite considerate and kind in resolving many of our long pending issues. We are confident that your extended tenure as Hon'ble Finance Minister of our great Nation, shall prove to be boon for Bank Pensioners and Retirees and will witness an early resolution of the remaining long pending issues and thus help this vanishing tribe that is the beneficiary of the Old Pension Scheme also known as Defined Benefit Pension Scheme.

Respected Madam,

You are aware, our all-important issue of Updation of Pension coupled with Reckoning of Special Allowance for Computation of Pension and Gratuity had been quite an emotive issue which has been eluding us for decades. What has been intriguing and agitating the minds of the Senior Citizens and Super Senior Citizens of the Banking Industry is the ironical fact that you have been sympathising with our cause and have advised IBA and DFS more than once to examine and consider the issue of Updation of Pension. In this connection, we vividly remember that during one of our meetings

with you at your office on 19th June 2023, you were quite emphatic to assure us that you have no objection to updation of pension provided the Banks do not ask for its funding from the Government in the form of additional capital infusion or otherwise.

In this connection we wish to submit the following for your kind and sympathetic consideration:

UPDATION OF PENSION

1. The Profits of the Public Sectors Banks have been Rs.104,000 crores (March 2023) and have again gone up to Rs.140,000 crores (March as2024). Even for the Q1 of the current financial year the collective Net Profit of the Public Sector Banks had been more than Rs.60,000 crores

2. With the kind of robust systems in place, the banks are quite healthy and to meet a meagre cost of Rs.3281 crores (for the year 2018-19) towards Updation of Pension as done in case of RBI Pensioners, it is not going to be the case where the banks would ask for additional funding support from the Government. The Banks have already saved huge sums by denying the benefit of updation to the Bank Pensioners for three decades. It would take a small portion of such savings if the Updation of Pension is granted to us from 1st March, 2019 as done in the case of RBI Pensioners. It is also pertinent to submit that the Pension Fund of PSBs is more than Rs.400,000 crores earning substantial yields annually. The spike in the interest rates during last two years have also ensured higher yield on the investments of the Pension Fund amounts.

3. As you are aware the Pension was introduced in the Banks in 1993 retrospectively to cover those who had retired on or after 01.01.1986 as was also the case with RBI Pensioners. Our Pension Scheme was drawn on the lines of the RBI Pension Scheme and also the Central Government Pension Scheme.

4. Our Pension Scheme had a provision of Updation of Pension right from its introduction in 1993. Accordingly, Regulation 35(1) of Bank Employees Pension Regulations provided as under:



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"In respect of those employees who retired between 1.1.1986 and 31.10.1987, the Basic Pension and Additional Pension will be updated as per the formula given in Appendix-I"

The Banks were directed by IBA vide its communication in the year 1994 to fix the Basic Pension of those who retired between 01.01.1986 and 31.10.1987 after updating their pension in terms of updation formula (Appendix-I) as it then prevailed in Central Government (4th Central Pay Commission). It is worth mentioning here that during 1993 when pension was implemented in the banks in lieu of Bank's Contribution to Provident Fund, only one wage revision w.e.f. 01.11.1987 had taken place during the intervening period and hence only those who had retired between 01.01.1986 and 31.10.1987 were eligible for updation of pension which was duly granted.

5. The Pension Regulation 35(1) providing for updation, was amended by the Banks during March 2003 after previous sanction of the Government and in consultation with RBI when late Shri Atal Behari Vajpayee ji was the Hon'ble Prime Minister of India. The amended provision reads as under:

"Basic Pension and Additional Pension, wherever applicable, *shall* be updated as per the *formulae* given in Appendix-1".

It would be pertinent to submit here that the formulae (Formulas) for updation of Pension in the Central Government as contained in Appendix-I, have undergone the modifications with successive Central Pay Commissions Recommendations as follows:

a) 5th CPC (Pension Updation Formula) w.e.f. 01.01.1996

Basic Pension + Dearness Allowance + 40% = Revised/Updated Pension

b) 6th CPC (Pension Updation Formula) w.e.f. 01.01.2006

Basic Pension + Dearness Allowance + 20% = Revised/Updated Pension

c) 7th CPC (Pension Updation Formula) w.e.f. 01.01.2016

Basic Pension + Dearness Allowance + 10% = Revised/Updated Pension

4. When the Government allowed updation of Pension in Reserve Bank of India w.e.f. March 2019, the same formula (Basic Pension+ Dearness Allowance + 10%), prevailing in Central Government as recommended by 7th Central Pay Commission was used.

5. It would appear that the updation of pension in banks has been denied right from 1992. But after the grant of updation of pension in RBI by the Government, we have also moderated our demand in tune with RBI's updation and have been requesting to grant us updation of pension w.e.f. 01.03.2019. We have also been requesting for updation of our pension using the same formulae as prevalent in Central Government (7th CPC 2016) and also granted to Reserve Bank of India for various Wage Revision periods. The DFS is required to advise the Updation formulae to the Banks as done for Reserve Bank of India Pensioners.

6. What has been hurting the Bank Pensioners most is the fact that despite the amendment to Bank Pension Regulation 35(1) having been carried out by the Banks Boards in terms of the powers conferred under Section 19 of the Banking Companies (Acquisition and Transfer of Undertakings) Act 1970/80, notified in the Gazette of Union of India and copies placed on the floors of both the Houses of Parliament, fulfilling all the requirements of the law to make it a valid Subordinate Legislation enforceable as law, the Banks have not implemented it for several years thereby defeating its very purpose. It is our common knowledge and belief ***that it is mandatory for the State and its Entities to implement the Subordinate Legislation. But**



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unfortunately, the Public Sector Banks despite being a State under Article 12 of the Indian Constitution, have failed to implement the amended provision of Pension Regulation 35(1) with impunity. *

We are not able to comprehend that a Subordinate Legislation amended after exercising the due powers derived from Section 19 of the Banking Companies (Acquisition & Transfer of Undertakings) Act following the due process of law is not being implemented in an arbitrary manner and the whole world is told by IBA that there is no provision for updation of pension in Bank Employees Pension Regulations. It exhibits IBA's complete and deliberate oblivion to the amended Pension Regulation 35(1) which has been shown and submitted to them on a number of occasions.

7. Further, when the Pension in Central Government, RBI and NABARD is updated with every Salary Revision in terms of Central Pay Commission Recommendation/RBI's periodical Salary Revision, the Public Sector Banks including SBI Pensioners are being arbitrarily denied and discriminated, of late on the pretext of the issue being Sub-judice before Hon'ble Supreme Court (M C Singla & Ors case). Out of Court Settlements are acceptable to Court in such matters and can be done in this case too.

8. Further, we would like to make a humble submission that the Pension Scheme in the Banks was introduced in lieu of CPF as an Open-Ended Scheme with a provision to create a Pension Fund as a continuing Corpus to help meet the pension liability including updation cost out of the annual yields and make provision to meet the shortfall if any after getting an annual actuarial estimate. ***But with introduction of New Pension Scheme in the Banks w.e.f. 01.04.2010, our Pension Scheme has become close ended thereby rendering the Bank Pensioners as a vanishing tribe. The entire Pension Fund thus will ultimately get transformed as Reserves for the Banks and no longer available to the employees/pensioners on the demise of the last employee as eligible Pensioner. We therefore feel that the liability towards payment of pension including the periodical updation on every wage revision like RBI/NABARD/Central Government, is not a dent on the Balance Sheets of the Banks which is normally the case in respect of NPA Provisions. In our case the entire corpus will, one day, get back to banks as a Reserve. It is thus only an income yielding investment during the intervening period***

In view of the foregoing facts, we have been requesting that the Government should notify the Updation Formulae in respect of all the periodical revisions of salary as has already been done in respect of Pensioners of RBI and NABARD w.e.f. the same date i.e. 01.03.2019, though we are eligible from 01.01.1992.

In this backdrop, depriving the Bank Pensioners of their long pending legal right of Updation of Pension by attempting to introduce an Ex-gratia, qualifying the same with a clause - "**without pre-judice to our demand for Updation of Pension vide MoU dated 7th December 2023**" is very peculiar.

***It is beyond comprehension that the benefit of Updation which is already provided in Bank Employees Pension Regulations is being held back illegally with the allurements of Ex-gratia to the helpless Pensioners thus exploiting their emotional vulnerability. ***

***Respected Madam, where do we go for justice against such illegal and discriminatory treatment meted out to us by the powers that be, except reaffirming our faith that the Buck Stops at Your Table.**

We earnestly request that IBA/DFS may please be advised to render justice by notifying the Formulae for updation of Pension as done for RBI and NABARD Pensioners.

RECKONING SPECIAL ALLOWANCE AS A COMPONENT OF PAY FOR COMPUTING PENSION & GRATUITY

The Special Allowance as a given percentage of Basic Pay and attracting DA was introduced through 10th Bipartite Settlement/Joint Note for Officers for the employees and officers with effect from 01.11.2012 with an



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illegal rider that it would not reckon for the superannuation benefits (viz, Pension and Gratuity). ***The Pensioners have been raising protests against its illegal and arbitrary exclusion on the grounds that there cannot be two different Pays for Salary and Pension as held by the Hon'ble Supreme Court in the case of Bank of Baroda v/s G Palani (February 2018).** * But those protests were brushed aside by the IBA on the pretext of such a provision in the signed settlement with UFBU. Our contention has been that the issue involved in the case of G Palani also arose from the signed settlement between IBA & UFBU that creates duality of Pay for the purposes of Salary and Pension. The Hon'ble S C held such provision as illegal and struck the same from the settlement. ***The same rule of law is applicable in the case of Special Allowance which is being treated as Pay for the purpose of Salary including leave encashment but not being reckoned as pay for the purpose of computing Pension and calculation of Gratuity. ***

Similarly, the Hon'ble Supreme Court had also held in the case of Regional Provident Fund Commissioner West Bengal-II that if any Allowance is payable to all the employees across the Board, is ***not assigned to the performance of any specific function and paid Universally, Necessarily and Ordinarily (UNO)*** even during the period of leave shall have to be treated as a component of Pay.

Despite such clear and emphatic rulings by the Apex Court, ***the IBA & UFBU have not only persisted with discriminatory treatment of Special Allowance Component of Pay but have been successively raising its quantum from 7.5% (01.12.2012) to 31.5% (01.12.2022) of Basic Pay. It has thus reduced the quantum of Pension to an extent of almost one third. ***

The Banks have recently amended the pension Regulations 1995 and inserted a new clause in the definition of Pay that 'Special Allowance shall be excluded'. ***Such an amendment has first appeared on 28.06.2024 in the Gazette of Union of India in respect of Bank of Baroda making the said amendment effective from 28th June 2024. ***

This notification in the Gazette by Bank of Baroda and followed by many other PSBs is illegal, null and void in view of the rule of law established in the cases of G Palani and Regional Provident Fund Commissioner, West Bengal-II.

Moreover, such exclusion is already pending its judicial scrutiny before several High Courts, including Delhi (K. K. Kalia case) and Hon'ble High Court of Kerala through its Single Judge Bench at Ernakulam has already passed an order in favour of Pensioners and the erstwhile Corporation Bank Management had filed appeal before the Division Bench. Under such circumstances amending the said rule to the prejudice of the pensioners is impermissible in law.

***However, assuming without admitting the validity of Gazette Notification of 28.06.2024, we firmly reiterate our belief and earnestly request you to direct IBA to advise the member banks to recompute the pension and recalculate the gratuity in respect of all those pensioners and retirees who retired between 01.11.2012 and 28.06.2024 as the exclusion of Special Allowance from the definition of Pay comes into effect from 28th June 2024. ***

The Senior and Super Seniors of the Banking industry shall ever remain grateful for such an act of kindness.

With Regards.

Yours faithfully,

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

Suprita Sarkar
General Secretary