



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



**C/O BANK OF INDIA OFFICERS' ASSOCIATION
(EASTERN INDIA BRANCHES)
BANK OF INDIA, KOLKATA MAIN BRANCH
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Circular No. 30-20

Date : 20.03.2020.

**(For circulation among members of the governing council of AIBPARC,
State Secretaries, Special Invitees and Advisors.)**

Dear Comrade,

- Sub : 1. Payment of arrears on account of removal of anomaly in computation of basic Pension.
2. Payment of consequential commutation arrears.**

We have submitted a detailed representation to the Chief Executive Officer, Indian Banks Association, Mumbai on the aforesaid subjects. The letter is self explanatory. We are reproducing hereunder a copy of the same for information of members.

With best wishes,

(Suprita Sarkar)
General Secretary

Quote :

AIBPARC/IBA/SC JUDGEMENT/EMAIL/2020

18.03.2020.

**The Chief Executive officer,
Indian Banks Association,
Mumbai.**

Dear Sir,

- Sub : 1. Payment of arrears on account of removal of anomaly in computation of basic Pension.
2. Payment of consequential commutation arrears.**

We invite your attention to your letter **No. HR&IR/2018-19/G2/4786** dated 3/4/2018 to member banks conveying the **Managing Committee's** decision to implement the **Supreme Court's judgment in favour of the pensioners** in Pension Civil Appeal No. 5525 of 2012, filed by Bank of Baroda & Ors with other Civil Appeals. The directive to the banks is to implement the judgement and NOT merely its order.

The Supreme court held in this **judgement**, “*Thus, we have no hesitation to strike down Explanation (c) to Regulation 2(s) being arbitrary and repugnant to other provisions/Regulations namely 2(d), 38(1)(2) and 35. The Explanation (c) to Regulation 2(s) is hereby struck down, as it could not have been enacted retrospectively to take away accrued rights.* Inasmuch as Explanation (c) to Regulation 2(s) stands struck down, this explanation does not exist at all. Therefore, nothing survives in Pension Regulations to compute pension by merging DA with Pay at 1616 points instead of 1684 points. What is not in the Pension Regulations cannot continue to be applied to any section of pensioners. Still, a good number of banks are dragging their feet in implementing the Supreme Court judgement in respect of those who retired between 1/11/2002 and 30/04/2005. The refusal to revise the pension of these pensioners from the date of their retirement and pay consequential arrears as have been paid to those who retired earlier between 1/04/1998 and 31/10/2002 is frustrating. This refusal to implement the Supreme Court judgement is violative of Pension Regulations and disregard of your directive, not to speak of contempt of court.

Further, it is settled law and also the directive of National Litigation Policy that similarly affected public or employees shall not be compelled to get individually the identical legal relief resting on the identical principle which has already been decided by the court. On this ground too, all banks have to fall in line and implement the judgement in respect of all the affected pensioners. Otherwise too, asking the pensioners who retired before May, 2005 and who are now more than 75 years old to get legal remedy in spite of your categorical instruction and national litigation policy is painful and unfortunate. **We, therefore, urge upon you to issue uniform guidelines to all banks to implement the judgement of the apex court to all retirees who retired between 01.04.1998 to 30.04.2005**

2. Payment of differential commutation arrears

A total chaos in the form of dis-uniformity and disparity is prevailing in this particular front. We are informing hereunder the major causes of our concern :

- Several banks till today have not opened the chapter of payment of differential commutation arrears for reasons best known to them.
- Some of the banks have paid the differential commutation arrears. The mode of calculation followed by such Banks are widely differing with each other. The principal reason behind this diversity of approach is arising from an advice of IBA that banks may take legal opinion. It leaves enough scope that there might be differences in opinion resulting in differential approach.
- Most of the Banks (which have paid commutation arrears) have paid to those pensioners only who after recovery are eligible to get certain financial benefit in as much as commutation is by choice and the pensioners who are eligible to get arrears without recovery of interest has been paid arrears of commutation. This approach appears to be reasonable.
- Some Banks have paid to those who are eligible for arrears after net recovery but did not realize from those whose net recovery is in the negative.
- This is really surprising that a few Banks while paying commutation arrears have realized excess amount with 9% interest upto date and as a result a huge recovery has been attempted to be made in installments. The first recovery being 1/3rd of gross pension has already been done and other months are to follow.
- We consider that such a step is unlawful because it is neither backed by judgement of the court nor IBA guidelines. Certain irregular things have been done on the basis of assumptions and presumptions which are got to be rectified. It may please be noted that recovery at the rate of 1/3rd of commuted amount for 15 years includes an interest component. So Bank cannot charge interest twice even after 15 years when commuted amount is restored. It transpires from Regulation 41 that deduction of commuted amount can be effective only from the date of commuted value but not from the date of retirement. Bank is supposed to pay full pension till the date commuted value.

3. Our Demands :

- i) Several Banks have made payment of arrears on account of removal of anomaly to the group of retirees who retired between 01.04.1998 to 31.10. 2002 but such Banks are still dragging their feet

in implementing Supreme Court judgement in respect of those who retired between 01.11.2002 and 30.04.2005. IBA should advise again to all Banks to pay the benefit to the eligible left outs. This is urgent.

ii) Some of the Banks till today have not applied their mind over payment of arrears on account of commutation of revised portion of pension to the eligible pensioners. IBA should issue uniform guidelines to all Banks for payment of arrears of commutation to those who are eligible to get without any net recovery by arrears without charging interest. This is urgent.

iii) In one Bank (as far our information goes), recovery has been done with 9% interest and as a result more than 1200 pensioners have been subjected to recovery without notice. The first installment being 1/3rd of the gross pension has been recovered in the month of February and subsequent recoveries are proposed to be done in the following months. IBA should issue uniform guidelines to all Banks that no recovery is to be made with interest and if any recovery has been done without giving any financial benefit should be immediately refunded.

Our appeal is that IBA cannot remain a mute spectator to all the diversified actions practised by different Banks. Let the law prevail.

With kind regards,



(Suprita Sarkar)

General