



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. 45-22

Date: August 01, 2022.

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

Dear Comrade,

Sub: 100 per cent DA neutralization for pre-November 2002 Retirees.

We reproduce hereunder the text of our letter written on date to The Chairman, IBA with copies endorsed to The Secretary, DFS, MOF, GOI and various functionaries of IBA.

This is for information of members.

With best wishes and regards,

Comradely Yours,

Suprita Sarkar
General Secretary.

Encl: :As stated.

AIBPARC/IBA/DA NEUTRALISATION/EMAIL/2022 Date: August 01,2022.

The Chairman,
Indian Banks Association,
Mumbai

Respected Sir,

Sub: 100% DA neutralisation to pre-November, 2002 Retirees.

We have been given to understand that IBA is expected to take up the issue once again with MOF, GOI with fresh set of logical argumentations. Further to endless correspondence made by us on the above subject, we make another effort to establish the justifiability of the issue before all concerned:



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1) Where from the discrimination started?

When Pension settlement was signed with workmen unions, it was agreed that DA would be paid as per DA formula obtaining in RBI from time to time; when it was signed with the officers' organisations, it was agreed that DA would be paid as per DA formula applicable to serving officers from time to time. When all the employees in RBI and officers in Banks are getting 100% DA neutralization, all Pensioners should have got it. But Bank excluded those who retired on or before 31.10.2002. Hence, 8th BPS/ corresponding Joint Note provided for uniform 100% DA neutralization with effect from 01.05. 2005. When the formal agreement was signed, IBA should not have re-opened the chapter during the tenure of the said agreement. Still IBA did it and inserted an amendment to the settlement to deny 100% DA neutralization to pre-November, 2002 Retirees. A class within the class was created. The act of discrimination violated the right to Equality under Article 14 of the Constitution.

2) Hon'ble Supreme Court held. "Pre-November 2002 retirees not entitled to Uniform 100% DA neutralization – our humble views:

* Hon'ble Supreme Court hearing the appeal filed by United Bank of India and reviewing connected appeals by pensioners of IOB & others, advanced a strange reason which was not even made by the IBA or UBI. In nutshell, the reason by the Supreme court is a thorough misunderstanding of the DA conversion factor that has in effect led to the arithmetical absurdity that **2/4 is greater than 1/2**. **Hon'ble Supreme court discussing the principle laid down in DS Nakara case**, went on to hold fallaciously that pre-Nov 2002 retirees can have no grievance as after all both pre-Nov 2002 retirees and those who retired after them are almost getting similar quantum of DA because pre-November, 2002 retirees have a tapering DA but the tapering commences from a higher DA conversion factor of 0.24% and from a lower threshold of 1684 index points while the subsequent retirees are getting uniform DA but at a lower DA conversion factor of 0.18%, that too only from a higher threshold of 2288 index points. Hon'ble Supreme Court's decision erred to notice that these conversion factors are not absolute numbers but are relative to the index points merged in each wage revision. Any comparison of two values cannot be made based on absolute numerals alone without regard to the unit of measure, which herein is the index points that were merged in wage revision. Pensioners suffer because of this error, because of this mistake of fact, and not because they are legally disentitled. The error in mistake of fact made the Supreme Court's ratio looks like holding "2/4 > 1/2" by considering the numerator alone. It is said, "Supreme court is final not because it is right and Supreme Court is right because it is final." It is unfortunate that IBA takes shelter behind this witty principle to deny uniform 100% DA neutralization to pre-November, 2002 retirees.

* It is always assumed that in any dispute or litigation before a court, the opposing parties will present their view points and facts but will never misrepresent facts or rely on wrong understanding of facts before the Court. Rule of law cannot prevail if fair play is a casualty. It is rather painful that at the hearing of the Curative petition, IBA kept silent without trying to bring to the notice of the Supreme Court the error in the understanding of the DA conversion factor and the threshold for computing DA payment and also that DA cost was never the part of the load factor in any wage revision. As a result, we have a judgement of the Hon'ble Supreme Court which is akin to the arithmetic absurdity of 2/4 > 1/2? IBA by its silence at the judicial hearing has done disservice not merely to the retirees but to the cause of Justice and as well to that majestic institution, the Supreme Court of India. This is a question before the conscience of IBA. **Does not the conversion factor 0.24% is in relation to DA merger**



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points of 1684 and hence the threshold for DA payment is 1684 index points in the 7th Bipartite Settlement while 0.18% is in relation to merger index points of 2288 which is also the threshold for DA payment in 8th bipartite settlement? Do both conversion factors, when multiplied by respective merger index points yield only 4 points per slab on 1960 base CPI? – Is it not, correct? So also, DA is given only for index rise above the threshold of 1684 index points in 7th Bipartite settlement because the index points merged with basic pay were 1684 points. DA is given for index rise above the threshold of 2288 index points in 8th Bipartite settlement because the index points merged with basic pay were 2288 points. **For both sets of retirees, DA compensation is therefore, payable only for index increase beyond the respective index points merged and neither set of retirees has any advantageous threshold. Is it not, correct?**

3) Hon'ble Supreme Court held, "the retirees prior to 01.11.2002 would be entitled to dearness relief on a tapering formula where the initial slab upto Rs.3550/- is to be governed by quotient of 0.24%. The tapering formula then ends with 0.06% of basic pension in excess of Rs.6010/-. It could possibly be said that for those who are with basic pension in the region of Rs.6000/-, on the basis of a tapering formula may well, in the ultimate analysis, **average to the same level of 0.18%**". **Does IBA accept as true and correct** that in the 7th Bipartite settlement, a retiree with tapering DA starting from 0.24% and ending with 0.06%, DA conversion factors will get the same quantum of DA as 8th Bipartite retiree with uniform DA conversion factor of 0.18%?

* Hon'ble Supreme Court held, "Thus the submission was that the dearness relief be computed on 0.24% for the entirety of basic pension and not just for the first slab upto Rs.3550/-. But such calculation completely disregards that rate which is a **flat rate applicable in case of post 01.11.2002 retirees is not 0.24%** for the entire amount of basic pension **but** at a different level of **0.18% and the threshold requirement** of quarterly average of the Index is also different." **Does IBA accept as true and correct** that conversion rate of 0.24% in 7th Bipartite settlement is greater than 0.18% in 8th Bipartite settlement or that the different threshold between these settlements is discriminatory without regard to the merger index points of the respective wage settlement?

* Hon'ble Supreme Court held, "At this stage it is noteworthy that no illustration has been placed on record to submit that even with 0.18% dearness allowance those who retired after November 2002 walk away with substantially greater advantage as against pre-November 2002 retirees." **Does IBA accept as true and correct** that those who retired in or after November, 2002 has better DA compensation because of uniform DA rate than those who retired before November, 2002? If the overall DA compensation of pre-November, 2002 retirees is identical to those who retired thereafter, can there be additional cost on extending uniform DA to pre-November, 2002 retirees?

* Hon'ble Supreme Court held, "If we adopt a flat rate of 0.24% as is being prayed for, the class of retirees who retired before 01.11.2002 will stand conferred better rate than those employees who retired after 01.11.2002. **Does IBA accept as true and correct** that those who retired before 01.11.2002 will stand conferred better rate than those employees who retired after 01.11.2002 if DA conversion factor of 0.24% is applied uniformly for the entire scale of pay? Or will both set of retirees have similar DA compensation when the respective DA conversion factor of 0.24% and 0.18% applied uniformly?

* Hon'ble Supreme Court held, "Any stepping up of benefit for a section of employees is bound to inflate the cost per annum though that by itself is not a ground that weighs with us." In the



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first place, there is no additional cost over the agreed load factor in the respective wage revisions because DA never forms part of the load factor calculation. Be that so, **does IBA not agree** that but for the wrong understanding of the DA conversion rate, the Hon'ble Supreme court would have held in favour of the pensioners, notwithstanding the additional cost.

4) Cost is a myth–

IBA by its silence before the Supreme court about the factual error concerning DA conversion factor has caused arithmetic absurdity of $2/4 > 1/2$ attributable to the Hon'ble Supreme court. IBA chose silence to gain at the cost of the institutional majesty of the Hon'ble Supreme Court. IBA's failure to do its duty as an honest litigant is nothing but utter contempt, not only to the cause of pensioners but to the very cause of justice and to the majesty of the Hon'ble Supreme court. Be that so, the claim of additional cost is not honest. In as much as it appears that uniform 100% DA will be paid only from a recent date and not from 01/05/2005, the arrears of all these years since 01/05/2005 and interest thereon are to be foregone by the pensioners (which they would have incidentally got had not the Supreme court misunderstood the facts). All those who retired before 01/11/2002 barring those who voluntarily retired are now aged 80 and above. With actuarial life expectancy being 82, the additional cost burden that may be for only a few years can be met from a portion of the interest earned on the DA arrears foregone by these pensioners. Further, as the scale of pay of almost all the workmen already comes under the 100% DA neutralization no additional cost will lie. As the scale of

pay of an overwhelming number of officers comes under 100% and 82.5% DA neutralization the additional cost will not be significant. Pensioners having the scale of pay that comprises 100%, 82.5%, 50% and 25% DA neutralization are very small in number and also a good portion of their scale of pay comes under 100% and 82.5% DA neutralization. Therefore, the additional cost on account of these pensioners will be only marginal. Considering all these factors, especially that it may be paid only for a few years considering the ripe of these pensioners and that the additional cost can be met from a portion of the interest earned on the arrears foregone. **So Cost is a myth.**

Conclusion:

We make an appeal that our views would be considered with sympathy and favour and also in the proper perspective it deserves. As the number of beneficiaries is dwindling everyday by natural wastage, there is an urgency to address the issue. Kindly allow 100% DA neutralization to all the Pre-- November 2002 Retirees at an early date.

With kind regards,

K V Acharya,
President, AIBPARC,
& Joint Convener, CBPRO

Suprita Sarkar
General Secretary, AIBPARC

CC: 1. The Secretary, Department of Financial Services
2. The Chief Executive, Indian Banks' Association
3. Senior Advisor (HR& IR) Indian Banks' Association
For Information and necessary action please