



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



Office of GS at:
C/O BOIOA,
(EASTERN INDIA BRANCHES)
BOI, KOL. MAIN BRANCH,
23 A, NETAJI SUBHAS ROAD, KOLKATA – 700 001
Mobile: 9674188524,
E-mail: aibparc2@gmail.com

Regd. Office:
57 A, POCKET 3,
MAYUR VIHAR, PHASE - 1
DELHI 110091

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GENERAL SECRETARY SHRI S. SARKAR MOB – 9674188524
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4. SHRI A.N. KRISHNAMURTHY, MOB NO. 9845697198
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10. SHRI S. NAGARAJ MOB – 9986644118
11. SHRI PRAKASH KAROTYA MOB- 9818821395
12. SHRI DAU DAYAL MAHESHWARI MOB: 9958739618
TREASURER: =====
SHRI TARUNESH CHATTERJEE, MOB -9051601591

Circular no 50-24

Date: June 10, 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 consider Pension Updation, Relief in Medical Insurance Scheme, Reckoning of Special Allowance for Superannuation Benefits and issue of Gratuity.

We are reproducing here under the text of our letter written on 09.06.2024 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: June 09, 2024

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

Respected Sir,

Sub: Request to consider Pension Updation, Relief in Medical Insurance Scheme, Reckoning of Special Allowance for Superannuation Benefits and issue of Gratuity.



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We wish to invite a kind reference to our letters written to IBA and Hon'ble Finance Minister on the above pending issues of Bank Pensioners and Retirees. We understand that the Ministry of Finance has 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 realise their long pending legitimate demands:

i) Updation of Pension in terms of Regulation 35(1) of Bank Employees Pension Regulation 1995 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 case of M C Singla case that there is no provision of updation in the Bank Employees Pension Regulations 1995 has 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 Scheme be borne by the Banks in terms of the communication of DFS dated 24.02.2012 which advised IBA 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 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. 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. Writ Petition No: 75 of 2023(1)

Shri Babu Ram Kashyap (Petitioner) VS. Canara Bank (Erstwhile Syndicate Bank) – Respondent & several other Petitions.

Judgement dated 29.04.2024 by Hon'ble HC of Uttarakhand on Special Allowance

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

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

4. Rajasthan Marudhara Gramin Bank Hon'ble SC upheld order of Hon'ble HC of Rajasthan on Special Allowance - benevolent connotation ought to be accepted

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 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. We are enclosing the full text of the judgement delivered by the Hon'ble High Court of Uttara Khand Division Bench headed by Ms Ritu Bahri, Chief Justice for your ready reference. These judgements have collectively allowed the following prayers:



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(a) The Special Allowance and the component of Dearness Allowance thereon to be included for the purpose of calculation of gratuity under the scheme of the Bank.

(b) As regards additional amount of Gratuity for every completed year of service exceeding 30 years, the Statute requires to make a payment of one-half month's pay i.e. total 45 days of pay for every year beyond 30 years.

(c) Special Allowance introduced w.e.f. 01.11.2012 to be reckoned for computation of Pension and calculation of Gratuity.

A careful reading of the above-mentioned judgements of various High Courts and the Hon'ble Supreme Court of India would reveal the above issues (a), (b) and (c) have been extensively and elaborately examined and settled in favour of the employees/officers as follows:

1. SC in the case of Regional Provident Fund Commissioner (II) W.B (Civil Appeal No.6221 of 2011) **has held that the basic principle is that where a component of wages is Universally, Necessarily and Ordinarily (UNO) paid to all employees across the board, such emoluments are basic wages.**

In the case of Bank Employees and Officers, the Special Allowance introduced w.e.f. 01.11.2012 is paid to all the employees/officers across the board including during the leave period and its payment is not assigned to the performance of any specific function. It is also reckoned for Encashment of Leave.

It was held 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 Gratuity. The crucial test for inclusion of Special Allowance and DA for the calculation of Gratuity is its Universality. Both the components viz, Special Allowance and DA pass the test of Universality to be included in the Basic Wages for calculating Gratuity.

2. Supreme Court upheld the judgement of Rajasthan HC in the case of Rajasthan Marudhara Gramin Bank that -

(a) to include Basic Pay, Professional Qualification Pay, Fixed Permanent Pay, Stagnation Increment, Dearness Allowance, Special Allowance, Officiating Allowance drawn during last 12 months preceding retirement etc

(b) Calculate gratuity at the rate of one-month wages for every completed year of service upto 30 years with a maximum of 15 month and also pay one half month (45 days) wages for every completed year of service beyond 30 years. The Apex Court also ruled that Payment of Gratuity Act 1972 being a welfare statute, the most benevolent connotation ought to be accepted without expanding the ambit of benefit.

3. HC of Uttara Khand, Nainital in the case of Babu Ram Kashyap upheld the order of the Controlling Authority (Central), Dehradun and thus allowed inclusion of Dearness Allowance and Special Allowance for calculation of Gratuity and one-half month (45 days) for every completed year of service beyond 30 years of service. It was also held that the Controlling or Appellate Authority cannot reduce the rate of interest from what has been provided in the Statute/RBI. (Y K Singla vs Punjab National Bank - S C & Uttari Haryana Bijli Vitran Nigam Ltd - SC).

The Petitioners were held entitled to inclusion of Special Allowance as part of pay for calculation of Gratuity by including Dearness Allowance as well.

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**



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petitioners were held entitled to Pension in terms of Bank Employees Pension Regulations by taking into account the Special Allowance.

5. S C in 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 2(s). On the same grounds, you will appreciate that Basic Wages cannot be different for the purposes of Encashment of Leave, Payment of Gratuity and Computation 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 Dearness Allowance and Special Allowance and also to give additional amount of 45 days pay for every additional year of service beyond 30 years. The interest as per applicable rules and specified rates should also be paid on the amount of differential gratuity upto the date of payment.

II) to reckon Special Allowance to compute Pension in case of those who retired on or after 1.11.2012 and denied the benefit.

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. Let this dictum be allowed to be borne in our minds.**

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 – owned resources and sometimes even 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. Convener, CBPRO

Suprita Sarkar
General Secretary