

CASES PENDING IN SUPREME COURT IN VARIOUS MATTERS OF BANK PENSIONERS

A. IN THE MATTER OF LOWER GRATUITY TO RETIREES OF 1993-94 PERIOD

The employee who retired during 1993-94 falling under the 6th wage settlement were not paid gratuity amount on the revised pay and allowances as required under the provisions of gratuity act. Therefore the concerned retirees had to file WPs No. 1758 – 1785 in High Court of Karnataka at Bangalore for direction to banks (Many Banks) to pay the gratuity on the revised pay and allowances. All cases decided on 25-05-2012, by the court on this issue have gone in favour of retirees and banks have been asked to calculate gratuity on the revised basic and pay the difference amount. But banks have filed appeals in Supreme Court and are pending as under –

Special Leave Petition (Civil) 28332 -28362 of 2012 BY Indian Banks' Association Vs. Y.R.Shenoy & Ors. Connected to **Civil Appeal 1975 Of 2010** (Against the judgment and order dated 08/08/2005 in OP No. 23514/1998 of The High Court Of Kerala At Ernakulam) and Against the judgment and order dated 08/03/2012 in WA No.4093/2011, WA No.4094/2011, WA No.4095/ WA No.5242/2011, WA No.5243/2011, WA No.5244/2011 of The High Court of Karnataka At Bangalore.

Cases are pending in Supreme Court.

B. IN THE MATTER OF LOWER FIXATION OF PENSION AT 1616 CPI INSTEAD OF AT 1684 – REVISED PAY

In this settlement block period of 1997 to 2002, the pay revision was made with merger of DA at 1684 CPI. But for retirees/ pensioners the Basic Pay for the pension purpose was accepted at pre-revised pay scale with merger of DA at 1616 CPI. This was done on the basis of understanding between the IBA and the associations of employees without any representation of the retirees /pensioners and it was decided to make suitable amendments to the Pension Regulations applicable to the pensioners. Thus retirees of Period Block of 1998 to 2002 were fitted at lower Basic Pension calculated at Pre-revised Pay Scales at 1616 CPI. Thus employees retired during the period were given lower Basic Pension at around 41% instead of 50% of Basic Pay.

During the block period from 1-4-1998 to 31-10-2002 of this settlement, almost 100000 retirees were given lower Basic Pension, and Banks have earned a lot during last 14 years and are still earning out of the hard earned pension dues of the pensioners

The different High Courts in WPs filed by pensioners against Banks decided the issue in favour of pensioners. Various Banks have files appeals in Supreme Court against orders of different High Courts and at present such appeals of Canara Bank, Vijay Bank, Syndicate Bank, State Bank of Mysore, Indian Overseas Bank, are now connected to one case - **Civil Appeal No 5525 of 2012** of Bank of Baroda & another Vs G.Palani & Others and matter is pending in Supreme Court. Cases are as under -

1. LP (C) No. 18139/12 By Bank of Baroda
2. SLP (C) Nos. 20661-20668/12 By Canara Bank
3. Special Leave Petition (Civil) 29820 -30047 Of 2012 By Vijaya Bank
4. Special Leave to Petition (Civil) 23184 -23352 Of 2012 By State Bank of Mysore
5. Appeal Civil 3026-3253 OF 2013 By Vijaya Bank

6. Special Leave Petition(Civil) 23848,24851,23773,23777-23797 Of 2012 By Syndicate Bank and
7. Special Leave Petition (Civil) 31470 -31474 Of 2012 By Indian Overseas Bank
All against the judgment and order dated 08/03/2012 of The High Court of Karnataka at Bangalore. Now all the above appeals are connected with Civil Appeal No 5525 of 2012 pending in Supreme Court.

C. MATTER OF 100% DA NEUTRALISATION

The 100% DA neutralization was also given to employees and retirees retired after 1-11-2002, but all existing pensioner prior to that date continued to at tapered DA rates. Some of the pensioners filed Writ petitions in Madras High Court against Canara Bank, Bank of Baroda & Indian Overseas Bank. On 14.12.2012 single judge from Madras High Court passed order that petitioners who are retirees prior to 01.11.2002 are eligible for 100% neutralization in Dearness Relief as the similar benefit is granted to retirees after 01.11.2002. Effected pensioners number is approx.1.50 lacs,

The Canara Bank and Indian Overseas Bank had gone in appeal against above decision before Division. Bench of Madras High Court and on 17.06.13 the decision was awarded in favour of these banks.

Aggrieved by above decision of division bench – Petitioner Shri A. B. Kasturirangan & others have filed special leave petition which stand admitted on 16.9.2013 in Supreme Court. It indicates that there exists constitutional or legal issue that was not properly interpreted in above two judgments of Madras High Court. Thus there were following Civil Appeals in Supreme Court in the matter-

- a. Civil Appeal No.8420 of 2013 filed by A.B. Kasturian & Oths Vs Canara Bank
- b. Civil Appeal No.8424 of 2013 filed by C.R. Chandshekharan Vs Indian Overseas Bank
- c. Civil Appeal No.8422 of 2013 filed by T.Valwan & oths. Vs Canara Bank
- d. Civil Appeals Nos. 3762, 3763 & 3764 of 2014 filed by R.Balakrishna Bhat & oths Vs Bank Of Baroda & Ors

IOB Retirees Association had also become intervener in the case.

On 01-02-2017; Hon'ble Supreme Court by a very brief order dismissed the appeals of Bank Pensioners. The appeals filed by the pensioners were heard by Hon'ble Supreme Court and chronology of the hearing dates is given in category of DA Neutralization case Background & Status.

In the meantime High Court of Calcutta had on 26-09-2016 in case of United Bank of India & Ors Vs United Bank of India Retirees Welfare Association & Ors decided the Writ Petition in favour of pensioners in the same matter of 100% DA neutralization.

After above judgment United Bank of India has filed appeal in Supreme Court. The appeal is numbered as SLP(Civil)7368-7371 of 2017. Now in these appeals, onus is on the bank to establish that the classification of pensioners in two groups - one getting tapered DA and other getting 100% DA neutralization is not unreasonable, arbitrary and discriminatory. The bank can not establish it and the appeal is certainly going to be in favour of pensioners who are party in case. Thus there are bright chances of decision by Supreme Court in favour of pensioners.

D. THE MATTER OF SECOND PENSION OPTION TO RETIRED BANK EMPLOYEES

Indian Banks' Association on behalf of the Managements of various Banks and various associations of the employees of the banks, negotiated for second option for pension to employees/officers who had not opted for pension scheme when it was introduced in 1995. After prolonged negotiations, it was, ultimately, accepted by the bank under the Joint Note dated 27.04.2010.

As per para (3) (a) the employees /officers were in service of the bank prior to 29th September 1995 in case of Nationalized Banks/26th March 1996 in case of Associate Banks of State Bank of India and **retired** after that date and prior to the date of this Joint Note dated 27-4-2010, were also covered for the second option for pension.

IBA while issuing the Circular changed the word from "**Retired**" to "**Retired on Superannuation**".

With this change the employees/officers retired after taking VRS under Pension Regulation 29 and those who were Compulsorily retired by the Bank, were excluded while implementation the Joint Note dated 27-4-2010 and were denied of justified option for pension.

I. SECOND PENSION OPTION TO VOLUNTARILY RETIRED EMPLOYEES

Voluntarily retired employees were not given chance of second pension option. Many a cases were filed in different Courts reaching up to Supreme Court of India, finally as decided by the honorable judiciary, IBA and Banks had to include VRS retired employees also for Pension Option, under the said Joint Note.

II. SECOND PENSION OPTION TO COMPULSORILY RETIRED EMPLOYEES

Despite the SLP No. 8506 of 2016 of Punjab & Sind Bank rejected by Supreme Court on 13.04.2016 and judgments by High Courts against Andhra Bank, Central Bank of India Punjab National Bank, UCO Bank and Union Bank of India, the IBA/Banks have not yet given chance of Second Option to Compulsorily Retired Officers/Employees.

- a. Judgment of Punjab and Haryana High Court passed in Civil W.P.No.2553/12 (O & M) **V.K.Vohra Vs. Central Bank of India and others.**
- b. Judgment of Andhra Pradesh High Court passed in W.P.No. 9069/11 **Sreeram Ramamurthy Vs. Andhra Bank, rep. By its Chairman and Managing Director** The said judgment of writ court got stamp of approval from the Division Bench in W.A.No.905/12. The SLP (Civil) No. 35449 of 2013 filed by the Bank is dismissed by the Supreme Court on 05.09.2014.

E. IN THE MATTER OF BENEFIT OF REG. 26 TO DIRECTLY RECRUTED SPECIALIST RETIRED OFFICERS NOW PENSIONERS OF THE BANKS

As per Regulation 26 of Pension Regulations 1995, notional addition in qualifying service for fitment of pension is to be done in cases of the retired officers, who were directly appointed by the Bank on the posts, for which post-graduate research, or specialist qualification or experience in scientific, technological, or professional fields, was essential. But Banks have not been giving the benefit.

The High Court of Jaipur on 10.01.2014 has decided the case in favour of pensioners against Bank of India. The High Court of Allahabad Bench at Lucknow on 21-09-2016 also passed orders against Allahabad Bank; but the Allahabad Bank has filed appeal in

Supreme Court. The SLP is numbered as 38764 of 2016. Single Judge of High Court of Madras passed order on 14-01-2014 in favour of pensioners but Div. Bench reversed the order on 17-10-2014. The pensioners have filed appeals in Supreme Court that are Special Leave Petition (Civil) 5378-5381 of 2015 of V.Vijayan Etc. Vs. Chairman and Managing Director Bank of Baroda. SLP of Allahabad Bank is now connected with these SLPs.

Thus matter is pending in Supreme Court.

F. In The Matter Of Pension Updating - Clause - 12 of MOS Dated 29.10.1993 and Regulation - 56 of Pension Regulations 1995.(Regarding Pension Updation)

As is perceived by Bank Pensioners that above Clause -12 & Reg.56 provides for pension updating, some pensioners filed Writ Petitions and result of that is the Division Bench of Punjab & Haryana High Court has already passed an order on above two points and the plea of the Bank Pensioners have been dismissed on 9-9-2015 in the cases including the Writ Petition of M.C. Singla ---Appellant Versus Union of India and others - Respondents. The pensioners have filed appeals in Supreme Court and now

Following Appeals by Pensioners are pending in Supreme Court

- a. Special Leave Petition (Civil) 5561 of 2016 by M.C.Singla and Ors. Petitioner(S) Versus Union of India and Ors. Respondent(S).
- b. Special Leave Petition (Civil) 8455 of 2016 by Punjab and Sind Bank Retired Employees Welfare Association Petitioner (S) Versus Union of India and Ors Respondent (S) - Against the denial order on Clause - 12 of MOS dated 29-10-1993 and on Reg.56 of Pension Regulations 1995 to Pensioners.

G. PENSION TO DISMISSED /TERMINATED WORKMEN EMPLOYEES

The workmen employees who were covered under Pension Regulations 1995, if terminated/dismissed from service with superannuation benefits were denied leave encashment and pension also on the plea that their service is forfeited as per Pension Regulation 22. But the fact of the matter is that the Bipartite Settlement provides for removal from service with pensionary benefit also as would be due otherwise under the Rules or Regulations prevailing at the relevant time.

Hon'ble Supreme Court by Judgment in Special Leave Petition No.17054/2009 Dated 11.12.2013 in Bank of Baroda vs. S K Kool & Anrs, decided the issue in favor of workmen employees based on provision in Bipartite Settlement.

In effect, the award staff employees in Nationalised Banks and Associate Bank of SBI, who are 'removed' and 'discharged' from the service, in terms of Clause 6 (b) and (d) respectively, of the Settlements dated 10.4.2002/27.5.2002 on "Disciplinary Action & Procedure will apparently be eligible for pension, If they have rendered requisite number of years of pensionable service, as per the above Judgment.

The IBA & Bank had to include this type of workmen employees also for Pension Payments. IBA advised the Bank by CIR/HR & IR/KU/M1/1004 Dated the 30th June -2015, addressed to CEOs of the Banks to initiate suitable amendments in Regulation 22 of the Bank Employees' Pension Regulations, 1995 as far as workmen employees are concerned. But even after almost 3 years after the judgment by Apex Court the above type of workmen employees has not been given leave encashment and pension by the Banks.