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
23A, NETAJI SUBHAS ROAD, KOLKATA – 700 001
Mobile : 9674188524, E-mail : aibparc@gmail.com

Circular No. 51/19 Date 22.07.2019

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

Dear Comrade,

Sub : **Improvement in Family Pension and Updation of Pension in Banks- A fervent appeal**

We reproduce hereunder the text of letter dt. 19.07.2019 written to Hon'ble Finance Minister, Govt. of India, on the above noted subject by Joint Convenors of CBPRO and GS, AIBRF for information of members.

With best wishes,

(SUPRITA SARKAR)
GENERAL SECRETARY

QUOTE :

Dated: 19.07.2019

Ms Nirmala Sitharaman
Hon'ble Finance Minister,
Ministry of Finance,
Govt of India,
North Block,
New Delhi.

Respected Madam,

Improvement in Family Pension and Updation of Pension in Banks- A fervent appeal

We are the sole coordinating body of Bank Pensioners and Retirees representing almost 100% of Bank Pensioners. We have been espousing the cause of Bank Pensioners and Retirees seeking the redressal of their grievances.

It gives us a sense of pride to see a full time woman Finance Minister in the history of our Great Nation. It is further heartening to note that your good self has presented a highly progressive and futuristic budget in the parliament on the 5th July, 2019. We whole heartedly congratulate you on this momentous occasion. It is a significant coincidence that Indian Banking Industry has also reached a stage where more than 50% of its workforce is represented by the women who are rendering yeomen service to all sections of the society and carrying out various developmental schemes of the government in nook and corner of the country.

We therefore with immense hope present our legitimate case for improvement in Family Pension at par with Government and RBI and also our request for Updation of Pension in Banks before your good self for an early and favourable resolution.

Improvement in Family Pension:

Family Pension in Banks is payable @ 30%, 20% and 15% of last drawn pay where lower percentage is being assigned to higher Basic Pay with a specified ceiling on the amount of Basic Family Pension which effectively results in the Family pension working out to 7 to 10 % of the last drawn pay thereby restricting Basic Family Pension to a meagre sum of Rs 4000/- to Rs14000/-. This is as against 30% uniform rate of Pension without any ceiling in case of Government and RBI family pensioners. This discriminatory treatment to the family pensioners of Public Sector Banks largely being the widows of the deceased Bank Employees has caused severe financial hardships to them and many of them have been forced to opt out of IBA's medical insurance scheme for Retirees due to their inability to bear the Insurance Premium out of their meagre Pension.
We request you to remove this discriminatory anomaly and provide much needed relief to the Bank Family Pensioners.

Pension Updation:

Background:

State Bank of India has been having a Pension Scheme since very long time. The other Bank Employees and Officers have also been demanding introduction of Pension Scheme for them. So In the year 1993 industry level settlement / joint note providing for

introduction of Pension Scheme in other Banks was signed between the Unions/Associations and IBA. As per the scheme the Employees and Officers were asked to surrender Banks contribution to Provident Fund to help create a Pension Fund. The Pension therefore was extended to us in lieu of Contributory Provident Fund (CPF).

Pursuant to the signed settlement/joint note, the BANK EMPLOYEES' PENSION REGULATION 1995 were framed in exercise of powers conferred by Clause(f) of Sub-section (2) of Section 19 of the Banking Companies (Acquisition and Transfer of Undertaking) Act 1970(5 of 1970). The said pension regulations were adopted by the board of respective banks after consultation with Reserve Bank of India and with the previous sanction of the

Central Govt. These regulations were also notified in the Gazette of India and so are the subsequent amendments. This makes these regulations a Subordinate Legislation having statutory force. The Public Sector Banks are the State within the meaning of Article 12 of the Constitution of India and are liable to implement the provisions contained in the said Pension Regulations 1995 as amended up to date.

Pension Regulation 35(1)

This Regulation originally provided for updation of Basic & Additional Pension as under.

Quote. In respect of employees who retired between the 1st day of January 1986 but before the 31st day of October 1987, basic and additional pension will be updated as per the formula given in appendix 1. **Unquote.**

The formula for Updation of Basic and Additional pension given in Appendix 1 was an adaptation of the Updation formula used for updating the pension of Government employees obtaining at that stage.

The retired employees who retired between 1.1.1986 & 31.10.1987 were given the benefit of Updation of their basic and additional pension at the time of implementation of pension scheme in 1995-96.

With a view to extend the benefit of Updation of basic and additional pension to all those who retired are were to retire subsequent to 31.10.1987, the Govt of India amended Regulation 35(1) as under.

Quote:

Basic pension and additional pension, wherever applicable, shall be updated as per the formulae given in Appendix 1(Govt Gazette Notification No. 9 dt 01.03.2003

Unquote:

The reasons, objects and rationale behind this amendment to Regulation 35(1) were to honestly extend the benefit of Updation of basic pension and additional pension to all retirees irrespective of the date of their retirement. However, for inexplicable reasons, the said amendment has remained unimplemented and not even a single retiree has been extended the benefit in spite of the lapse of more than 15 years.

It is again reiterated that the pension regulations being subordinate legislation, are statutory in nature and the Banks being a state within the meaning of the Article 12 of the Constitution are under a statutory obligation to implement the same.

Updation of Pension in RBI:

Pension was introduced in RBI w.e.f. 01.01.1986 as in the case of other Public Sector Banks. The need for updation of pension arises as a sequel to wage revision which takes place in RBI and other Public Sector Banks every five years commencing 1st November. It is reiterated that Public Sector Banks Regulations have an express provision for updation of pension vide Regulation 35 (1) as mentioned hereinbefore whereas the Pension Regulations in RBI needed an amendment to provide for updation of pension. It is therefore clear that the pensioners of Public Sector Banks stood on a better footing vis-a-vis the pensioners of RBI with regard to extension of the benefit of updation of pension.

It is pertinent to note that DFS, Ministry of Finance vide its letter dated 26.02.2018 addressed to Governor RBI has declined to approve the proposal of the Central Board of RBI for extension of the benefit of updation of pension for the reason that it will have contagion effect and any change in the manner of calculating pension/updation of pension was likely to result in similar demands in Public Sector Banks and Financial Institutions most of which are currently experiencing financial difficulties. However, the Honourable High Court at Mumbai has rejected such a plea of the Government and allowed updation of pension in RBI. Consequently, Ministry of Finance vide its letter dated 5th March 2019 approved the said proposal regarding revision/updation of pension as per the multiplication factor fixed for pensioners according to the date of their retirement. Accordingly, the pensioners of RBI have been given the benefit of updation of pension notionally with effect from 1st March 2019.This has lent further credence and legitimacy to our demand for Updation of Pension in other Banks.

Nature of Pension Liability in Banks:

As brought out here in before, the extension of the benefit of the Updation of Pension as provided in Bank Pension Regulation 35(1) is a statutory liability. As far as the Banks are concerned, the liability towards payment of Pension and Updation of Pension are in the nature of Revenue Expenditure constituting the charge on Profit & Loss account which means that the Profit if any, can be declared only after making honest and adequate provisions towards pension liability in terms of Pension Regulations. There appears to be a notion that Pension Liability is required to be allocated from the profits of the bank. An analysis of the published Balance Sheets of the banks would reveal that the provisions towards Pension Liability do not find a place in the Profit & Loss Appropriation Account. It remains only revenue expenditure. It is also made clear that implementing an existing provision of pension regulations does not qualify to be an improvement in the scheme and hence the notion about additional cost consideration is violative of the said pension regulations. The annual provisions on account of pension liability are required to be made keeping in view all the regulations after obtaining the Actuarial estimates for the same. It is believed that the Banks have made adequate provision towards pension liability and if after implementation of updation, the apprehended shortfall if any shall have to be made good as the employees have already surrendered the Banks' contribution towards their provident fund at the time of opting for pension. The liability being statutory in nature, implementation of the provision of Regulation 35(1) cannot be withheld for cost considerations or by drawing an uncalled for parallel with the budgeting/funding of Government Pension scheme in as much as the Pension Regulation 35(1) in case of Bank Pensioners is unambiguous and clear. A reference under Regulation 56 of the pension regulations is required in case of a doubt in the matter of application of these regulations. It is clarified that the context of our Pension Regulation 56, need to be examined to ascertain whether the facility of Updation of Pension is available in case of Central Government Pensioners. A positive response to this question would set to rest any apprehension about the implementation of the provision contained in Pension Regulation 35(1). A

plain reading of the provisions contained in Regulation 35(1) would reveal that basic pension and additional pension shall be updated wherever applicable. This provision makes the Scheme of Pension updation an **Open Ended** one.

It would be pertinent to understand the pension liability under Govt Pension Scheme on account of the Government Employees for a better and proper appreciation of the issue. The Pensionary Liability of the govt in respect of Government Employee is treated as a revenue expenditure as in the case of Bank pensioners. In the Govt., the budgetary allocation is made on a Year-On-Year basis as the Banks make pensionary provisions after obtaining Actuaries Estimates every year. The only difference being that the Govt has not constituted any fund to be used for payment of pension perpetually whereas the Banks have constituted Pension Fund to meet the liabilities of pension perpetually so as to make the Pension scheme sustainable. It is further pertinent that denial of the benefit of updation to Bank Pensioners has resulted in a huge Corpus of more than Rs 300000 Crores including SBI as on 31st March, 2018. The annual Contributions as per Actuaries Estimates and Yield on the existing fund far exceed the Pension Liability every year. This is only because the Bank pensioners are underpaid to the extent of the quantum of pension updation.

It is revealing that the size of pension funds being so strong has in the past led to Window dressing of Banks 'Balance sheets by charging the pension fund for the purposes other than the Pensionary benefits a la PNB case a couple of years ago wherein more than Rs 1600 Crores were transferred from Pension fund to inflate the bank's profits. There could be many more such cases in the industry. It may be appreciated that pension fund is held in trust for the pensioners and any unauthorised debit would amount to misappropriation of Trust Funds resulting in serious violations of the provisions of the Trust.

The perception that budgetary allocations are used for meeting the annual pension liability of the Government pensioner leads us to a logical conclusion that such allocation is statutory/mandatory irrespective of the surplus or deficit in Union budget. An empirical study reveals that the Union Government have been presenting Fiscal deficit perpetually in their annual budgets. The fiscal deficit is nothing but the gap between the revenue and expenditure. The gap between revenue and expenditure in the banks is called Loss. When government meets the liability of pension updation despite perpetual fiscal deficit (loss), how can the banks refuse to meet the pension updation liability quoting intermittent loss by a few Banks. It is also recalled that when the industry level settlement for introduction of pension were signed in the year 1993, many banks were showing loss in the wake of implementation of prudential accounting norms since 1992. If Cost or the profitability/affordability was envisaged as a constraint for making payment of Pensionary benefits, it would not have been feasible to introduce the benefit of pension in those banks who were making loss during 1993. This clearly emphasises the point that profit, loss, cost, affordability etc are illogical and arbitrary reasons being cited to deny the benefit of Updation of Pension to Banks' Pensioners. It is an illegal denial.

Cost of updation:

It is learnt that the cost of Updation of Pension in RBI for 34400 pensioners worked out to Rs. 857.52 crores which was hardly 7.146% of their pension corpus of Rs. 12000 crores (approximately). The provisioning norms for Pension Fund in RBI and in Public Sector Banks are similar and so is the pension payout. Pension scheme came into existence in the year 1986 as in the case of Public Sector Banks and other Private Sector Banks which are members of IBA. So far as SBI Retirees are concerned the Pension scheme was already in existence. This being so If the same principle and analogy is extended to roughly assess the cost of pension updation for about 450000 pensioners of all other member Banks of IBA, the cost of pension updation as a %age will remain the same of the pension corpus of the Banks. This is without adjusting the extra cost needed in case of RBI Pensioners whose Basic Pay and resultant Basic Pension are higher than that of the other Public Sector Banks. In this backdrop the astronomical figure of the cost of pension updation assumed by IBA lacks logic and accuracy and appears to be on some wrong and unrealistic premises by the actuary. The difference between the updation cost of 34400 pensioners of RBI and about 450000 pensioners of SBI and other member Banks of IBA should not normally exceed the ratio of Updation of RBI Pension scheme. Such cost calculations need to be studied with regard to availability of existing pension corpus available in Banks, the payment payout, annual yield, annual contribution/provision to the pension funds. It is in this manner the need for additional provision, if any, should be examined.

It is once again reiterated that Banks as instrumentalities of Government are State within the meaning of Article 12 of the Constitution of India. Hence the pensioners of the Banks cannot be denied their statutory dues of payment of pension including its periodical revision/ updation.

Conclusion:

A careful reading of the foregoing merited submissions would make out a strong and legitimate case for redressal of the long pending grievance of Bank Pensioners and Retirees who have been immensely contributing for Nation Building.

We request Your Good self to look into our legitimate grievance and ensure implementation of a pre-existing provision under Pension Regulation 35(1) for Updation of Basic Pension and Additional Pension. Bank Pensioners and Retirees shall ever remain grateful to you for your kind consideration in this regard.

With Respectful Regards,

Yours faithfully,

(A.RameshBabu) (K.V. Acharya) (S.C. Jain)

JOINT CONVENORS GS, AIBRF