



# 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](mailto:aibparc2@gmail.com)

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

Senior Office Bearers
<b>PRESIDENT</b> SHRI K.V. ACHARYA, MOB - 9868220338
<b>GENERAL SECRETARY</b> SHRI S. SARKAR MOB – 9674188524
<b>WORKING PRESIDENTS:</b> =====
1. SHRI C. GANGADHAR Yadav MOB – 9440528806
2. SHRI P.S. PATKI MOB – 8805607239
3. SHRI S.B.C. KARUNAKARAN, MOB – 9444772016
4. SHRI A.N. KRISHNAMURTHY, MOB NO. 9845697198
5. SHRI S. KUPPUSWAMI MOB- 9444315928
6. Shri S.C. AHUJA MOB: 9650068773
<b>SR. VICE PRESIDENTS:</b> =====
1. SHRI M.R. GOPINATH RAO. MOB – 9886309244
2. SHRI R.S. TRIVEDI MOB – 9825049640
3. SHRI R.M. JOSHI, MOB NO. 9820127193
4. SHRI R. K. SHARMA MOB – 8171461116
5. SHRI RAM PAL MOB – 9784405801
6. SHRI K.S. RENGARAJAN MOB- 9941304028
7. SHRI PAUL MUNDADAN MOB – 9895378557
8. SHRI PREM KUMAR MALHOTRA MOB- 9425156535
9. SHRI N.K. PAREEK MOB – 9829015773
10. SHRI S. NAGARAJ MOB – 9986644118
11. SHRI PRAKASH KAROTYA MOB- 9818821395
12. SHRI DAU DAYAL MAHESHWARI MOB: 9958739618
<b>TREASURER:</b> =====
SHRI TARUNESH CHATTERJEE, MOB -9051601591

Circular No. 39 -24

Date: April 26, 2024

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

Dear Comrade,

**Sub: Updation of Pension – the case pending before the Supreme Court – M.C. Singla and others.**

1) Some of our members in a mood of anxiety and anguish have drawn our attention to a circular issued by a Retiree organization on the above subject as on a recent date. The aims and purposes of the said communication, though apparently innocent and academic in nature, is really distressing to the core because its real intention is to supply arguments to the management (IBA in the present case) or persons opposing the case by relying upon certain arguments which are ill – conceived and unfounded. We like to go para-wise to convey to our members the real position:

**2) IBA has taken the decision to allow ex-gratia to pensioners because of pendency of various court cases: As against this, our views are:**

Nothing bars settlement of updation even though it is sub-judice. IBA settled in the 8<sup>th</sup> Bipartite Settlement the anomaly of 1616 – 1684 DA merger for basic pension but prospectively although the issue was sub-judice. Later on, the pensioners won the legal battle and got the arrears with retrospective effect. So, we reiterate that the stand of IBA not to resolve the issue of Updation as the matter is Sub-Judice is a lame excuse. In the past also when the negotiation processes were on, same were challenged in the courts but settlements were concluded despite being Sub-judice. Anybody buying the idea of Matter Sub-Judice as a hindering factor for the resolution of Pension Updation are questionably siding with the IBA causing dis-service to the rightful entitlement of updation as per Regulation 35.1 of Bank Employees Pension Regulations.

**3) There had been signals and feelers from certain quarters that 100% DA neutralization would be considered if the retirees agreed to withdraw the court case: As against this, our views are:**

This is well known to all the members and the affected persons that the issue as stated above was rudely opposed by a powerful coterie by telling openly that there was no merit in the demand and one of the probable reason behind such an unreasonable utterance is that out of the constituency represented by the said organization, almost 90% had been getting 100% DA as their entire Basic Pay fell within the 1<sup>st</sup> slab of 100% DA and the balance 10% had only a minuscule portion of Basic Pay fell in the 2<sup>nd</sup> slab getting slightly less than 100% DA.



# ALL INDIA BANK PENSIONERS' & RETIREES' CONFEDERATION



(A.I.B.P.A.R.C.)

It was a sad experience for us when we met as a delegation of AIBPARC along with our Tamil Nadu State Functionaries, the top leader of UFBU in his office requesting for extension of 100 percent DA to Pre-November 2002 Retirees, our request was rejected outright. When we pointed out that the 8th Bipartite Settlement only stated that the DA is switched to Uniform rate from 1st February 2005 and never stated that it would not be available to Pre-November 2002 Retirees, came the revelation that it was subsequently much later after the settlement was signed suo moto IBA communicated to the Banks to exclude the Pre-November 2002 Retirees from the 100 percent DA neutralization. It is still a mystery who gave the nod to this wrong interpretation by IBA. It is still a great mystery why the denial of Uniform DA was not resolved amicably instead of citing the same excuse that the matter was sub-judice. Below we reproduce the verbatim extracts of the relevant clause in respect of Dearness Allowance (From tapering DA to Uniform DA) in the 8th Bipartite Settlement. (May 2005)

**a. For the period from 01.11.2002, Dearness Allowance shall be payable for every rise or fall of 4 points over 2288 points in the quarterly average of the All India Average Working Class Consumer Price Index (General) Base 1960 =100 at the following rates :**

- (1) 0.18% of Pay upto Rs.9,650/--plus
- (2) 0.15% of Pay above Rs 9,650/ --and upto Rs.15,350/--plus
- (3) 0.09% of Pay above Rs.15, 350/--and upto Rs.16,350/plus
- (4) 0.04 of Pay above Rs.16,350/--

**b. On and from 01.2.2005, Dearness Allowance shall be payable for every rise or fall of points over 2288 points in the quarterly average of the All India Average Working Class Consumer Price Index (General) Base 1960=100, at 0.18% of Pay.**

It is really perplexing as to why the Negotiating Unions did not insist on the implementation of DA Clause properly for all including Pre-November 2002 Retirees. Instead, the Negotiating Unions preferred to question the wisdom of the individual Retiree Petitioners for approaching the Hon'ble Courts. In the same way, unfortunately the Negotiating Unions are also not insisting on the implementation of Regulation 35.1 regarding Updation which was duly amended in 2003 and available in the Bank Employees Pension Regulations in black and white.

In the Hon'ble Supreme Court regarding the 100 percent DA neutralization case, there was a suggestion by the Hon'ble Bench to refer the issue to the Larger Bench while hearing the Review Petition. But unfortunately, the suggestion was not taken. Then the Judgement was kept under reserve for nearly 9 months. When the judgement was delivered, surprisingly it stated that the conversion factor of tapered DA at 0.24% to Retirees of 7th Bipartite is not discriminatory as those of 8th Bipartite Settlement who are getting uniform DA with lower factor of 0.18%. It was the wrong understanding of the arithmetic of the issue which resulted in getting an adverse Judgement. This was forcefully explained by AIBPARC only to IBA, Ministry and the Hon'ble Minister which ultimately clinched the 100 percent DA to Pre-November 2002 Retirees but of course prospectively. It is also equally important to know that the Judgement also simultaneously upheld the applicability of Nakara Judgement in 100 percent DA case.

**4) Dismissing M.C. Singla case, the Punjab and Haryana High Court, Hon'ble Justice K. Kannan held that though it was agreed to frame rules for updation in the settlement dated 29.10.93, .....the issue was not taken up and final Regulations were approved without provision of updation. As against this, our views are:**

While reporting the portion of the judgement, the author of the circular conveniently forgets to mention that updation of pension was provided in Regulation 35(1) and procedure for updation has been mentioned in Appendix 1 for the eligible batch (at that point of time) of 01.01.86 to 31.10.87 retirees and that the same formula was adopted by central Government. In 2003, the amendment was made mandating periodical updation but IBA failed to implement the same by withholding publication of updation formulae for subsequent wage revision Settlements. The Singla case Petitioners filed the Petitions much after the amendment to Regulation 35.1 was effected in the year 2003 making the Regulation universally applicable for all Pensioners quote "Basic Pension and additional Pension wherever applicable shall be updated as per the formulae given in Appendix-I. " Unquote. Perhaps the Petitioners as Retirees had no access to the amendment that took place in 2003. But was it not the moral duty of the concerned Bank Managements and IBA to have brought it to the notice of the Hon'ble Court about the existence of the Bank Employees Pension Regulations 1995 and subsequent amendment to 35.1 in 2003? Moreover, Bank Employees



# ALL INDIA BANK PENSIONERS' & RETIREES' CONFEDERATION

(A.I.B.P.A.R.C.)



Pension Regulations are Statutory Regulations and come under Subordinate Legislations with the force of law and as Subordinate Legislations are also in the Public Domain. So, the averment by anybody that no additional points/ grounds can be brought at the Appeal stage is unfounded so far as Bank Employees Pension Regulations are concerned in the case of Appeal pending in the Hon'ble Supreme Court.

**5) At appeal stage, petitioners are not permitted to raise new issues other than clause 12 of the Memorandum of Settlement and provisions of Regulation no.56 – as against this, our views are:**

Even at the cost of repetition, we wish to state that Bank Employees Pension Regulations is a subordinate legislation and hence it is a statute. A statute is in public domain and it is deemed to be in public view. Hence any law omitted to be cited or noticed in the original argument can always be brought at any stage of the appeal proceedings.

**6) No direct mention of the principles of famous Nakara case in the WP/ SLP.: Our views as against this are:**

Hon'ble Justice D.S. Nakara's golden logic is that the very purpose of pension or liberalising it is for the welfare of retired employees and it is to be considered a public purpose and what public purpose is served by denying the liberalized pension to those pensioners merely because they retired before a cutoff date? The basic lesson imparted by the golden rule of D S. Nakara's case is that the pension is not a charity or bounty and the need to improve upon the pension serves a public purpose. Every one shall have to remember that the demand for updation of pension serves a public purpose and nobody can or should work against this public purpose.

We earnestly request all concerned not to toe the illogical stand of IBA. We also request all concerned not to be swayed by the deliberate assertions of IBA that Bank Employees Pension Regulations does not provide for Updation just because that the IBA filed a false Affidavit in the Hon'ble Court. We have seen how continuously IBA lost the cases filed by individual Retirees on many issues ranging from additional 5 years benefit for Computation Pension to Special VRS Comrades to 1616 --1684, different index for Basic Pension and Basic Pay in the 7th Bipartite Settlement which was later on corrected in the 8th Bipartite Settlement prospectively despite the issue being Sub-judice at that time and subsequently the Petitioners won the same in the Hon'ble Supreme Court retrospectively.

AIBPARC right from its inception in 2012, i.e. since more than 12 years, successfully focused the issue of Updation most logically and emphatically quoting the appropriate regulation 35.1. Conceding ex gratia now in the 12th Bipartite Settlement though not in line with our demand for Updation of Pension as per Regulation 35.1, still amounts to the fact that the Battle for Updation of Pension is already Half Won and we shall not rest until full Updation of Pension is achieved. Meanwhile, AIBPARC and our Affiliate ARISE are coordinating with the Petitioners (famously known as M C Singla case) in pursuing the Updation Case in the Hon'ble Supreme Court and also bearing major portion of the legal expenses required to fight the case.

We hope that the confusion created in the minds of the Bank Retirees would be eradicated and they will have a clear perspective of the issues.

With best wishes and regards,

Comradely yours,

K V. Acharya.  
President, AIBPARC.  
& Joint Convenor, CBPRO

Suprita Sarkar  
General Secretary