



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



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Circular no 32-24

Date: April 02, 2024.

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

Dear Comrade,

Sub: Ex-gratia paid to Pensioners and Family Pensioners of the Banking Industry.

We are reproducing here under the text of our letter written on date to The Chairman, IBA 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/IBA/ Ex-gratia/ Email/ 2024

Date: April 02, 2024

**The Chairman,
Indian Banks' Association,
Mumbai.**

Respected Sir,

Sub: Ex-gratia paid to Pensioners and Family Pensioners of the Banking Industry.

Ref. MOU signed on 7th December, 2023 and 12th Bipartite Settlement / 9th Joint Note signed on 8th March, 2024.

We have instantly conveyed our note of discontentment on IBA and UFBU agreeing



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to extend the Ex-gratia to the Pensioners who have retired upto 31.10.2022. Now when the Settlement/Joint note has already been implemented in the industry, it is proper time to apply mind over the issue in a more composed manner and understand the implications of what has exactly been meted out to the Retirees of the Banking Industry. We attempt an objective analysis and examination of the issue point wise as follows:

1) Why is AIBPARC in principle and philosophically opposed to the concept of ex-gratia?

(a) The word "ex-gratia" means a payment given as a favour rather than because of any legal requirement and legal entitlement. It is a payment by virtue of grace. This is a voluntary payment which is not a part of an institution's legal liability. IBA and UFBU had already indulged in grant of "ex-gratia" to the lower ranked pensioners while extending the benefit of 100% neutralisation of DA to pre-November 2002 retirees. That ex-gratia was meant for those pensioners who were already enjoying the benefit of 100% neutralisation of DA. It was thus beyond human comprehension as to why the IBA that is stubborn in refusing implementation of pre-existing Regulation 35(1) of BEPR 1995 was so gracious to extend an extra and inconceivable benefit to a section of pensioners and thereby create an anomalous situation arbitrarily. This is well known to the signing parties of the MOU and the Settlement that ex-gratia in the banks is paid to persons who retired prior to 01.01.1986 and who are denied to be eligible to get pension. In the given circumstances, ex-gratia is now paid to (i) pre-1986 retirees, (ii) Pre-November, 2002 retirees and (iii) all the pensioners who have retired upto 31.10.2022. What makes the term "Ex-gratia" highly ridiculous in the context of bank pensioners is that there has been no scientific basis to determine its quantum and applicability to the retirees of different periods. The least expected from IBA was to avoid "Ex-gratia" and consequential illegality and irrationality.

(b) AIBPARC and CBPRO through endless correspondences with IBA have repeatedly insisted that the Regulation 35.1 – Appendix -1 (duly amended in the year 2003 and gazetted by GOI) provides for the updation of Pension. What was required to settle the issue is that IBA should have notified the Updation formulae in respect of each Bipartite Settlement as done in case of RBI & NABARD. But IBA instead of doing the legitimate and fair thing continues to rant blatantly and ironically that there was no provision for pension updation in BEPR (1995). Under such circumstances, we suspect that shyness and obstinacy of the constituents of UFBU, helped IBA to get emboldened to continue to show an oblivion to Regulation 35(1) and reduce the well-articulated provision of pension updation into a mess of "ex-gratia".

A clear cruel game is being played by attempting to substitute the pre-existing Regulation 35(1) - "updation of pension" by mischievously mentioning in the residual issues - to look as a fresh demand - in the distorted form "to make provision for Updation of Pension". It is shocking that IBA & UFBU are trying to indulge in an illegal act at a juncture, when a case for updation of pension on the basis of Regulation 35(1) amongst other grounds is pending before the Hon'ble Supreme Court. Hence any tempering with Regulation 35(1) is impermissible. There is no reason for IBA to exaggerate its oblivion to Regulation 35(1) in a naked complicity with UFBU or its constituents who primarily represent the serving employees and officers and are not mandated to adversely distort the existing beneficial provisions of Bank Employees' Pension Regulations. It will be a complete illegality and we humbly request you to maintain the sanctity of BEPR 1995. Please note that Regulation 35(1) was duly amended and Gazetted in 2003 making it universally applicable for every Bipartite Settlement/ Joint Notes for periodical revision of salary.

2) What have been the response patterns of IBA and constituents of UFBU after signing of the MOU and before signing of the Settlement/ Joint Note?

Although we do not have anything in writing, we had made oral queries to various key persons of both the parties to the MOU. A common impression was made available to us:

- (a) the serving organizations of employees and officers have made a lot of sacrifice for the Retirees
- (b) IBA is working out a formula and
- (c) the amount given as ex-gratia will not at all be bad or insignificant.



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However, when we landed on the ground of reality, we came to understand that it was a well - thought of and uniformly orchestrated audio to hoodwink the Retirees. We are really perplexed to think of the reasons acting behind such a mysterious exercise which was kept deliberately under a veil of secrecy for a period of 3 months. This hide and seek game with the senior citizens of the industry, despite all concerns and sympathetic approach exhibited to us by the Hon'ble Finance Minister is unfortunate to say the least.

Our observation to Point No.(a) above is:

We did not want any sacrifice for ourselves because if Pension Updation was allowed as per spelt out provisions of BEPR (1995), then the entire amount could have been charged to the existing corpus which in our opinion is self-sufficient;

Our observation to point no.(b) above is:

We are curious to know if the process of calculation was done unilaterally by IBA or the constituents of UFBU had any say in it;

Our observation to point no. (c) above is:

IBA was / is surely aware that it has been a rude mockery for the huge number of retirees who have superannuated on or after 01.11.2012 and hit by non-reckoning of Special Allowance for computation of pension.

3) If any issue is sub-judice, can there be no bilateral agreement between IBA & UFBU over the said issue? Is it not a lame excuse?

An apparently decent and self- deceiving plea has been taken by the parties to the Bipartite Settlement/Joint Notes that the issue of Pension Updation is presently under the Judicial scrutiny of different Courts of India and as a result the signing parties cannot take a view about it. This is well principle of jurisprudence and well known to all concerned that the litigating individual/organization can move to the Judiciary with a mutually acceptable resolution proposal on their impending grievances towards its disposal. This is the birth right of any Indian and nobody can thwart the same. If the signing parties had the goodwill to do something to redress the grievances of the senior citizens of the industry, the pendency of any Court case could not have stood in the way as an obstacle. **You could have resolved the issue by implementing Regulation 35.1 in letter and spirit making way for the Petitions in the Hon'ble Courts to become infructuous.**

4) What further issues of discrimination have been created in the process?

a) In the settlement, there is a mention that the New Dearness Relief calculation formula is applicable for those who retired after 01.11.2022. This has given rise to 2(two) sets of DR calculation formulae based on respective dates of retirement and it has been done within a few months after removal of the discrimination that existed between Pre--November 2002 Retirees and the subsequent ones. It needs an immediate examination at your end and rectification measures be taken. **We have already drawn your kind attention to the aforesaid subject by our earlier letter dated 14th March, 2024.**

b) You are well aware of the fact that the total number of Pensioners and Family Pensioners in the Pre-November 2002 segment is substantially high. They have already suffered very adversely during a long period of 18 years (From 2005 to 2023). When GOI/IBA decided to rectify the anomaly, it is an obvious conclusion that both the authorities appreciated and understood that the earlier action was a discriminatory one. If the notional benefit of uniform DA is not extended to the said segment of Retirees, their ex-gratia as calculated in October, 2022 will be substantially low and the financial and emotional injury will continue to persist. We had drawn your kind attention to the issue by our earlier letter dated 14th March, 2024 with a request to send the communication of eradication of this anomaly before payment of ex-gratia on the basic pension and DR available in the month of October, 2022 but the same was not done. It is necessary to end the discrimination again. **Still the door is open to consider the issue with favour.**



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5) Review of ex-gratia is already due:

We find in the Settlement/ Joint note that "the next review of the ex-gratia amount shall be undertaken in April, 2024 and thereafter shall be subject to review annually and as mutually agreed between IBA and the Unions/ Associations." Since we have already landed in April 2024, another task is already due for implementation and we believe that in the process of doing so, all the anomalies pointed out in the preceding paragraph will be taken care of.

6) Updation of Pension - the only panacea:

We have told our views time and again before you on the legal and financial aspect (cost factor) pertaining to the above issue. This is the only way to redress the long pending grievances and nothing in-between can be a substitute to Pension Updation. We are very often hearing with a lot of fun that the retirees will swoon if they hear the cost of updation. We do not know why the signing parties are not disclosing the so-called astronomical cost of updation to the principal stake holders or their representatives by taking a moderate risk of seeing if the leaders are swooning or not. We believe that after implementation of 100% DA neutralization to Pre-November 2002 retirees, the so-called economic burden has come down substantially and now the cost of updation is very much within a manageable extent and the corpus can sustain the Updation cost.

We earnestly request you not to exploit the vulnerability of the vast number of Pensioners and Family Pensioners who are in the last leg of their life innings. You may call Ex-gratia as a gesture from you to Pensioners and Family Pensioners but you know it too well that it is humiliation thrown at the Elders of the Banking Industry denying what is legally and Statutorily due to them for more than Three Decades. We hope and wish you will treat us, the Senior Citizens of the Banking Industry with honor and dignity.

With kind regards,

Yours faithfully,

K.V. Acharya.
President, AIBPARC
& Jt. Conveners, CBPRO

Suprita Sarkar
General Secretary