



# FEDERAL BANK RETIRED OFFICERS' FORUM (FBROF)

Registered under the Travancore Cochin Literary, Scientific and Charitable Societies Registration Act 1955 (1)  
No.ER.702/2009



(An Organizational Wing of Federal Bank Officers' Association)

(Affiliated to All India Bank Pensioners and Retirees Confederation - AIBPARC)

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FBROF/E Circular No.27/ 2018-20

31 December 2020

## Pre 2002 Retirees' Issue : Sub Committee Initiates New Approach

Repeated sittings of the Sub-Committee elaborated upon the strategies to be adopted as the Bank is still passive on releasing the interest due on the arrears paid. Explaining well the legal implications, social justice and the Federal obligation involved in the issue, the committee suggested to submit afresh one more letter to prompt the Bank to have a new look on a realistic, legal and logical stand on this matter. The letter addressed to the MD & CEO in this background is appended below.

Meanwhile the Sub Committee is exploring various options to get the grievance redressed in a fair manner. We hope the Bank will have a new outlook on this issue as new positive decisions usually accompany wise people every New Year.

### Quote:

FBROF/Management/ Pre 2002/ / 2018 - 20

26 December 2020

To

Shri. Shyam Srinivasan,  
Managing Director & CEO  
The Federal Bank Ltd,  
Head Office, Aluva - 683 101

Respected Sir,

### Sub: Payment of interest on arrears of pension to Pre-2002 retirees - reg:

Your kind attention is drawn to our letter dated 21.05.2018 requesting release of the interest component of the pension arrears to the Pre-2002 retirees of our Bank. We have also sent several reminder letters on the subject, resting with our letter dtd.13.01.2020.

We very much regret to say that so far, no positive response came from the bank's side on this very touching issue of retirees concerned. Nevertheless, we are thankful to you in having disbursed the pension arrears being differential amount of pension in respect of officers who retired during the period from April,1998 to April,2005.

To recapitulate briefly,

1. The merger of Dearness Allowance (for short, DA) for the purpose of fixing basic pension was fixed at 1616 points for retirees whereas for serving officers DA was fixed at 1684 points. This anomaly happened because, Explanation ( c ) to Regulation 2(s) was grafted to the Pension Regulations so as to curtail DA benefit to retirees. The said Explanation (relevant portion) reads as follows:

" 2(s). 'Pay' includes, -

(a) .....

(b) .....

(c) in relation to an employee who retired or died while in service on or after the 1st day of April,1998 -

i) the basic pay including stagnation increments, if any: and

ii)..... iii) .....

iv) dearness allowance thereon on the above calculated up to **Index Number 1616 points** in the All-India Average Consumer Price Index for Industrial Workers in the series 1960 = 100  
“(emphasis supplied) “

2. The Hon'ble Supreme Court by its Order/Judgement dated 13.02.2018 in Civil Appeal No 5525 of 2012 ((Bank of Baroda & Anr. Vs. G. Palani and others) struck down the above-mentioned Explanation (c) to Regulation 2(s) from the Pension Regulations itself “as it could not have been enacted retrospectively to take away accrued rights. Even otherwise also it is held to be arbitrary and irrational.” (para 33 of the Order/Judgement).

3. Para 34 of the said Order/Judgement read as follows: “34. Thus, we set aside..... Resultantly, let the amount which was due and payable be paid with 9% interest, be calculated and paid within four months from today.”

4. Yes, our Bank was not a party to the above Court proceedings. But that fact is of no consequence at all, as the Bank has implemented provisions of the Joint Note/7<sup>th</sup> Bipartite Settlement. The DA was pegged at 1616 points for retirees because of the existence of Explanation ( c ) supra. As the apex Court has struck down the very provision itself, which enabled discrimination, a party to Joint Note - as our Bank is - cannot be heard to say that the Order/Judgement striking down the provision will not bind the Bank. The struck down provision never existed in law as it was a nullity from inception itself. Hence Bank has released the arrears of pension reckoning DA at 1684 points, rightly so, as a deemed compliance of the apex Court Order. But the direction of the Court to pay interest for the arrears of pension is not complied with so far.

5. The validity of Explanation (c) which was added to Pension Regulations was challenged by way of Civil Appeal before the Hon'ble Supreme Court. The Court considered the Joint Note dated 14.12.1999 in para (8) of the Order/Judgement. The Federal Bank Ltd. is a party to the said Joint Note. If the signatories to the Joint Note (including our Bank) adhered to the definition of 'Pay' as it existed in the Pension Regulations prior to addition of Explanation ( c ), the discrimination to retirees could not be done. Only because of Explanation ( c ), the discrimination was meted out. When the Hon'ble Supreme Court struck down Explanation ( c ), all signatories to the Joint Note are bound to act, as if there existed no Explanation ( c ). In the circumstances, there is absolutely, no point in evading the Supreme Court order on the untenable contention that Bank was not a party to the Court proceedings and hence not bound by its Order. As the Bank is a party to the Joint Note, Bank is bound to implement the order. One of the directions in the Order is to pay interest @ 9% (to those retirees who were affected by the added Explanation ( c ) which was struck down by the Court.)

It is in the above backdrop that we have been repeatedly taking up this issue with your good self to resolve the issue avoiding further delay.

You would agree that the Bank had been using this fund till it's payment to the beneficiaries and the Bank is hence bound to pay interest for such delayed payment. There exists catena of decisions on entitlement of interest for delayed period. Under common law also the beneficiaries are entitled for interest for delayed payment. But in the instant case, the aid of common law is not necessitated, because of the clear direction of the apex Court to pay interest @ 9% for the arrears of pension.

Another point which we would like to draw your attention is the Judgement of the Hon'ble High Court of Kerala reported in 2015(3),KHC 154 dated 31.03.2015 ( Amrut Distilleries Ltd. vs. State of Kerala) in which the Hon'ble High Court held that "it may be appropriate to observe that when a court of record decides a matter, it not only resolves the issue inter parties, but also lays down the judicial dictum that has to govern the conduct of all persons concerned, be it the government or a private suitor. As such, despite the fact that particular judgement is not in rem, the principle thus decided in any lis squarely applies to similarly placed persons under all situations."

In this connection we may also bring to your attention to IBA's letter dated 03.04.2018 to the member Banks who are parties to the 7<sup>th</sup> Bipartite Settlement. It appears, the views reflected in IBA's letter on the question of payment of interest, is rather based upon their anticipation of a favourable judgement for the retirees, if they are compelled to move the Court for redressal. Our fervent appeal to your good self is to address this genuine issue in right earnest and accord sanction to pay interest component also, which demand is fully supported by the legal principles involved.

The affected members are super seniors/senior citizens who had put in decades of service in the bank, some of them, even up to 45 years of service. Almost all of them are in the age group of 77 to 82 years. Their total number is very less considering the present size and stature of our Bank. Some of them are in utter financial difficulties and chronic health problems. It was their untiring efforts, sense of commitment and hard work - that too with the meagre remuneration in those days - which did lay the strong foundation for the Bank to grow to its present stature. Our request hence is to kindly review the matter which is pending before the Bank for the last 30 months and pass favourable orders. We shall be highly obliged if the decision can be conveyed to us without prolonging it indefinitely as the affected members are mostly at a very advanced age with their health diminishing day by day; their pension is also very meagre as known to you also very well.

The Bank has been blessed with improved profit quarter by quarter, year by year, thanks to the wise Federals from top to bottom and hence it is only a natural reasoning and mere justice to pay these ill-fated aged former colleagues the meagre amount of interest due to them which occurred due to a fitment wrongly made by the Bank

Sir, let's give no room for them to say, Bank has forgotten all the past!

Your kind attention is drawn to the letter from General Secretary, FBOA also on the subject, under ref. FBOA/F-20/55/2019-21 dated 11.12.2020.

We are submitting this representation as the sole representative body of entire retired officers of the Bank. We hope the doubts regarding the legal obligation for the bank to pay interest are answered and much of the cloud raised in this regard is dispelled.

We hope that better counsel will prevail upon the decision makers to redress the grievance of veteran Super Seniors as an unforgettable New Year Gift.

Yours sincerely

Sd/-

Thomachan K T  
General Secretary

**Unquote:**

Continued....

## **E - Directory of Members**

Members may be aware that we had released two Volumes of Directory of our Members Viz. Vol I as on 23.06.2018 and Vol II with position as 31.07.2019. Subsequent to the release of these directories about 150+ new members have joined the Forum. Considering the impracticability of releasing additional volumes of the Directory in the present pandemic situation, we have planned to come out with a Digital Directory. Accordingly, we have designed and released a soft copy of Vol. III of the directory with details of new members joined till 31 December 2020. This can be viewed online in our Website [www.fbrof.com](http://www.fbrof.com) in Members Area. For this members need to log in using their PF No. as user ID and mobile number as password. The earlier volumes of Directory could also be viewed here in PDF format. The advantage of Digital Directory is that at Central Office level we can update/correct details of members and continue to add new members. Also, we do plan to release a PDF copy of the E Directory (Vol III) for the reference of our members through our Area WhatsApp Groups. Members may please go through it and bring to our notice discrepancies, if any, in the contents.

Comradely Yours,

Sd/-

Thomachan K T  
General Secretary

***We wish all our members A  
Happy, Healthy and Safe  
New Year 2021***