



# 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)

Regd Office: FBOA Centre, FBOA Road, Aluva – 683101 Website: [www.fbrof.com](http://www.fbrof.com) Email: [fbrofmail@gmail.com](mailto:fbrofmail@gmail.com)

President : 94476 61680 General Secretary : 9447359232 Office Tel: 0484-2628046

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14 October 2021

## PF Case - SLP Lists in Supreme Court Posted for Hearing on 20th October 2021

To All Members

As all are aware, PF accounts of all employees of the Bank were earlier maintained with Regional Provident Fund Commissioner, Cochin. Consequent to the amendment in PF Act and also due to spreading of its branch network outside home state, Bank decided to delink and formed a separate Trust-“Federal Bank Employees Provident Fund Trust” for PF contributions. But Bank experiencing undue and unnecessary delay in getting the amount transferred to our Bank from the PF Commissioner, Bank has raised dispute with the PF Commissioner objecting to the unwarranted delay in the matter. Consequently after a long duration and protracted correspondence the amount was got transferred to the Bank, 85% initially by cash and then 15% by way of Securites. But the Bank found that in between the eligible interests for the funds retained with PF was not passed on to the Bank. Aggrieved against this Bank has filed a case in 1993 (OP No 8586 of 1993) against Regional Provident Fund Commissioner for release of the entire dues with eligible interest. But unfortunately the case had been prolonging indefinitely for one reason or other.

Being employees and former employees including officers are the affected persons and aggrieved against the half-hearted and the lukewarm attitude of the authorities and the ever- postponing nature of the PF Case, FBROF decided to intervene and impleaded in the case during the year 2009. In the meantime the Bank too decided to follow up the Case very seriously appreciating the sentiments of the officers/employees. Accordingly, the case was begun to be followed up meticulously from the side of the Bank, FBROF and later by FBOA and FBEU. As a result we were able to persuade the Hon. High Court to appoint a Chartered Accountant Commission by the mutual consent of the parties in this case for a detailed study to assess the dues to the Bank from the PF Commissioner and to submit the report. The statement filed accordingly by the Chartered Accountant Commission fixed the balance due to the Bank as on 09.03.2011 at Rs.46,47,58,357.

Finally in the year 2011, after a prolonged legal battle for about 18 years the case was decreed in Bank's favour by the single Bench of the Hon. High Court of Kerala. The learned single Judge accepted the contentions of the Bank and the organisations of employees and retired employees for payment of interest as stipulated under Para 60 of the PF Scheme on the basis of the statement filed by the Chartered Accountant Commission, fixing the balance as on 09.03.2011 at Rs.46,47,58,357 and directed payment of the said amount to the Bank within two months.

Aggrieved by this Single Bench judgement, the PF Organisation filed a Writ Appeal (1059 of 2012) at the Division Bench of the Kerala High Court. This case continued for another 4 years. The Division Bench vide judgement dated 21.12.2016 affirmed the findings of the learned Single Bench regarding calculation of interest by applying Para 60 of the scheme (as prescribed by the Central Government for similar payments) from the due date, till realization.

Bank recalculated the total amount due as on 10.02.2017 as Rs. 53,51,70,347 after allowing all the deductions allowed to PF Organisation by the Division Bench and addressed a letter to the Regional Provident Fund Commissioner, with statement showing detailed calculations to arrive at the above figure. But In response to the above letter, Regional Provident Fund Commissioner sent a cheque for

Rs.1,51,28,935 along with a letter dtd 17.02.2017, stating that this is the final amount due from them. Bank to its dismay found out that the interest applied was only 6% simple per annum for the period after 30.09.1992, which is stated to be the rate of interest applicable to refund of advance Tax or TDS by Income Tax Dept., on the premise that it is the rate as prescribed by the Central Government for similar payments, as stated in the judgement of the Division Bench. The cheque was received under protest and the Bank issued a letter refuting the amount calculated by Regional PF Commissioner. (The said amount is kept with Bank as FD).

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Soon Bank filed a Contempt of Court Petition against the PF Commissioner (CC No. 606/2017 dated 05.04.2017). The Bank contented that the rate of interest to be applied is not 6% simple interest, but compounded with interest as applicable periodically as per the PF Act. On 14.08.2017, Hon'ble Division Bench passed the impugned order finding prima facie contempt on the part of the PF Commissioner. Aggrieved by this order, on 09.09.2017, the PF Commissioner, filed a SLP (No.24146/2017) in Hon'ble Supreme Court of India. After seeking clarifications from the same Division Bench of the Kerala High Court, which passed the impugned order, Hon'ble Supreme Court dismissed the SLP 24146/2017 filed by the PF Commissioner against the Contempt Case.

On 10.04.2018, the Contempt Case was again taken up before the Hon'ble Kerala High Court and Court directed personal appearance of the PF Commissioner.

The present case, pending in the Supreme Court is the SLP then filed by PF Organisation challenging the judgement dated 21.12.2016 of the Division Bench of the Kerala High Court in Writ Appeal No. 1059/2012, which is filed long after expiry of the period of limitation for filing appeal. An application for condonation of this undue delay (279 days) is also filed along with the SLP. Notice has been issued then to all the respondents including FBROF by the Hon'ble Supreme Court. Bank as well as FBOA has already filed Counter affidavit pleading against admitting the SLP. As the Counter filed by FBOA is exhaustive and covered all aspects and being filed by the same advocate our FORUM filed an affidavit agreeing with the Counter filed by FBOA. Though the case was last listed in March 2020, due to the outbreak of the Covid - 19 pandemic functioning of the Supreme Court was disrupted and skeleton services were only available and as a result of this only a few urgent cases of national importance were heard in virtual platform. Now that as the pandemic situation has receded normal functioning of Hon'ble Supreme Court on virtual platform has resumed from 1st of October 2021.

We are very glad that our case being an old one , has got priority in listing and the case is posted to 20/10/2021 in the Bench of Hon'ble Justice Sanjiv Khanna and Hon'ble Ms. Justice Bela M Trivedi. On behalf of FBOA and FBROF senior counsel Adv. Giri, who was a Judge in Kerala High Court and now practicing in Supreme Court, will be appearing. Bank has also engaged a very senior counsel to defend the case. Our prayer is to quash the SLP outright as the amount involved represents a portion of the PF contributions and eligible interest there on, payable to 5317 employees, mostly retired and aged, who were in the rolls of the Bank when the PF balance was transferred from Regional Provident Commissioner to our Bank in the year 1992.

Friends, we have been fighting for justice all along these 28 years testing the patience of thousands of retirees together with FBOA who have extended wholehearted cooperation and huge financial support. We are also grateful to the Bank for carrying on this fight in the right direction.

The crux of our contention is that we are eligible for yearly compounded interest at the rate made applicable periodically under the PF Act for the delayed payment as per para 60 of the PF Scheme. But the argument of PF Commissioner is that we are eligible only for simple interest @ 6% as we have severed relations with PF Office. Though we have secured several verdicts in our favour, PF authorities are deliberately delaying by dragging us into long drawn legal battle. Several of our members eligible for this amount have left us for their heavenly abode, many are in the last lap of our journey and finding difficult to pull on the livelihood with meagre un-updated pensions. Any further delay for justice will tantamount to utter cruelty towards them.

Let us hope and pray that divine wisdom will prevail upon the Hon'ble Supreme Court and a favourable decision will be taken to quash the SLP on the next date of posting on 20<sup>th</sup> October 2021.

Comradely Yours,

Sd/-

Thomachan K T  
General Secretary