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(An Affiliate of "CBPRO" - COORDINATION OF BAI
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Circular No.59 of 2017-21

Dated 2nd December 2021

PAYMENT OF DEARNESS RELIEF UNDER REGULATION-37 --- Writ Petition

Please refer to our circular No.39 of 2017-20 dated the 15th November 2019 vide which we had advised that the issue of "Filing of Court case for Payment of Dearness Relief under Pension Regulation -37" was discussed in conference held on 10th November 2019. The Chief Guest Shri C.N.Parshad, General Secretary State Bank Retirees Organisation presented his views especially on Pension Issues like D. A.neuterilisation, updation of Pension, welfare activities for retirees. He urged upon the members to give their consent to become petitioners in the legal case for payment of D.A, as per Pension Regulation 37 and arrange to deposit/give debit authority for Rs.5000/- to be paid to SBPROA so that a legal case may be filed in Hon'ble court.

Text of Circular No. 37 dated 15.11.2019

"Detailed circular No. 36 of 2017-20 dated 12th September 2019 was sent to members wherein SBRA informed about and forwarded the orders of Hon'ble Supreme Court in our Contempt Petition. Even though we had not thought about claiming payment of Dearness Relief in terms of Regulation 37, as on the date of retirement, when we filed the Writ Petition, we tried to include this benefit in Contempt Petition. However, Hon'ble Judge had decided not to consider our request and we are successful in including this issue in the orders. Only State Bank of Mysore VRS retirees who were petitioners got arrears with interest at 9%. Therefore, there is incentive for joining the legal struggle.

But, this has given us a lot of advantages. Now, delay and latches are not applicable, even though we are filing Writ Petition now and we can secure higher rate of interest by bring various aspects to the notice of the Court. We can also fight for extending this benefit to entire erstwhile Associate Bank pensioner community.

Now we have received further details which are given as under:

Essence of large number Judgments of Hon'ble Supreme Court including five judge benches is that 'Retrospective amendment of statutory rules adversely affecting pension of employees who have already retired on the date of notification is invalid'. Bank Employees' Pension Regulations, 1995 are statutory in nature and therefore this principle in respect of retrospective amendments cannot take away vested rights. It is also decided by Hon'ble Supreme Court that Joint Note/Settlement cannot be in derogation of statutory Pension Regulations. However, State Bank of Mysore Employees' Pension Regulations, 1995 have not been amended, not even once, from the date of notification of these Pension Regulations on the 23rd March,1996. In fact, Division Bench of Karnataka High Court, in its order dated 08.03.2012 has ordered State Bank of Mysore to pay cost of Rs.10,000/- to each of the petitioner/pensioners, for continuing litigation, without merit despite not amending pension regulations.

But, the Bank maintains that those who have retired under VRS – 2001 have not retired under Pension Regulations, but in terms of a Contractual Scheme. But, this Contractual Scheme, VRS – 2001 has listed benefits which are available to these retirees include payment of pension in terms of Pension Regulations, as on the date of their retirement. The Bank has also stated before Hon'ble Supreme Court, in Contempt Petition that the Dearness Relief for Pensioners is being paid in terms of Bipartite Settlement. Our Commune, through State Bank Retirees' Association, with the aid and assistance of several decisions of Hon'ble Supreme, is confident of securing this benefit of increased Dearness Relief in terms of Pension Regulations to its members. Table with details of benefit to our members under various Bipartite Settlement period demonstrate the magnitude of the benefits.

Bipartite Period	Date of retirement	Basic Pension	Expected Arrear	Exp.increase per month
7 th	31.3.2001	Rs.7880/-	Rs.7,78,682/-	Rs.5,156/-
8 th	31.3.2005	Rs.10,680/-	Rs.9,11,862/-	Rs.5,067/-
9 th	31.3.2010	Rs.17,755/-	Rs.11,18,283/-	Rs.9,265/-
10 th	31.3.2015	Rs.22,375/-	Rs.14,94,128/-	Rs.29,097/-

Arrears of Pension provided above are without interest and pensioners are entitled to interest also. The quantum of interest on the arrears may even be more than the arrears amount, which depends on applicable rate of interest based on orders of the Courts. State Bank Retirees' Association has made sufficient amount of studies. State Bank Retirees' Association is also equipped with persons with adequate knowledge & experience. Members of our Affiliate, SBM Pensioners' Commune have won the case after a very long struggle of over 17 years.

With their support, State Bank Retirees' Association would strive for payment of arrears and including substantial increase in pension and payment of consequential arrears. Team – Commune has the where-withal to deliver these benefits. Over 650 of its members are beneficiaries in the legal journey undertaken regarding 1616-1684 and/or 5 years notional service issues.

Experience shows that the State Bank of India pays benefits ordered by even Hon'ble Supreme Court only to Petitioners. Non-payment of interest to non-petitioners in five years issue of VRS – 2001 and non-payment of this benefit to similarly placed retirees of other Banks are the examples of such practice. **Those who thought that the benefits ordered by Courts would automatically extended to all have understood hard way. Even Hon'ble Supreme Court has ordered benefit of payment of Gratuity calculated on last pay drawn in respect of Officers who retired during 1993 – 1994 only to the Petitioners. Many similarly placed retirees have been deprived of the benefit, because they are not the petitioners. Therefore, members should participate in all struggles. To participate in such struggles, members should have full information as to the benefits. To provide full information and to clear apprehensions and doubts, please attend meetings organised in this regard.**

SBRA HAS DECIDED AS UNDER

- To file Writ Petition in respect of 6th, 7th, 8th, 9th and 10th BPS retirees regarding payment of Dearness Relief as per Regulations ;
- To collect Rs.5,000/- now and Debit Authorization for a sum equivalent to two months' arrears in respect of 10th Bipartite retirees ;
- To collect Rs.5,000/- now and Debit authorization for a sum equivalent to 5% of arrears receivable as on date in respect of 6th, 7th, 8th and 9th Bipartite Settlement ;
- Provide the list of beneficiaries to the Court.

The members who desire to join as petitioner, may make payment of Rs.5000/- by way of cheque or by way of transfer to SBPROA account No. 55124497548 maintained at SBI, Mall Road branch, Patiala well before 15.12.2019 with following details :

1. Name of the Pensioner _____ . 2. Father/Husband's name _____
3. PPO No. _____ 4. HRMS No. _____
5. Present address _____ 6. Mobile No. _____
7. Date of Retirement _____ 8. Date of Pension Option _____
9. Date and mode of payment of Rs.5000/- _____

We may add that the amount deposited by members in above account will be kept by Association with details of such members separately and will be remitted to SBRA on filing the Court case by them. “

Though the Petition has been filed in the Hon'ble Court but desired progress is not there due to restrictions on account of Corona since April 2020. The services of Advocate for the purpose have been hired by SBRA and amount as settled by SBRA has to be paid to the Advocate from time to time. The position was shared with members through “Ab Tak” issue 04 (December 2020) issued by SBRA, the text is given below :

“State Bank Retirees Association has undertaken an initiative to secure benefit of payment of Dearness Relief in terms of Pension Regulations. It is pleasure to note that a large number of members of affiliates are participating in this struggle. Functionaries of State Bank Retirees’ Association immensely thank members for their trust and faith. All possible actions such as filing of cases and/or required actions for covering this issue of payment of Dearness Relief in terms of Regulation 37 in respect of all those who retired on or after 01.04.1998, have been initiated/launched. All the Bipartite Period retirees are covered. Legal recourse is being pursued in Hon’ble Supreme Court and also in several High Courts including Ahmedabad High Court, Rajasthan High Court (Jodhpur Bench), Karnataka High Court, Chennai High Court and Telangana High Court. For abundant clarification, it is reiterated that necessary legal actions have already been initiated to cover all Bipartite Settlement periods starting from 7th Bipartite Settlement, but also include those who retired/retire during current Bipartite Settlement period. Unfortunately, including Contempt Petitions and cases in Hon’ble Supreme Court and various High Courts have not been listed for hearing on account of situation created by COVID – 19. Members are requested to tell doubting Thomasus that State Bank Retirees’ Association has undertaken all required legal action.

It is reiterated that information relating to Writ Petition/Writ Appeal/Civil Appeals/Special Leave Petitions such as numbers of these Petitions/Appeals, Court/s, copies of the Petition, grounds, names of the parties, etc., would be disclosed once the cases reach a position, wherein no one could damage. This is because of past experience. The example of 100% DA case is staring at us. This is also on account of several unscrupulous individuals/Organisations who may seek to share the glory of delivery of benefits or waiting to undermine the efforts. Members of State Bank Retirees’ Association cannot suffer the damage by these unscrupulous individuals/Organisations. Delivery of benefits to its members is more important than sharing information with regard to the legal struggle.

Struggle is huge and enormous. This struggle is against the largest Bank in the Country and its track record in such legal struggles is well known. The Bank takes every such case to the highest Court in the Country, Hon’ble Supreme Court. Best legal brains are engaged. Resources are huge and the Bank does not hesitate to expend resources in pursuing court cases with an intention to avoid payment of even legitimate benefits, ordered by Courts, including Hon’ble Supreme Court. Securing benefits through legal battle is akin to a War. Several strategies need to be adopted in any battle or war. In a War, all strategies are not disclosed to the soldiers. In such a situation, sharing of any information is not in the interest of those who trust and believe the organization. **In any case delivery of benefits to these members is more important than convincing doubting Thomasus.**

Members are requested to have faith and patience. They are also requested not to lend eyes and ears to motivated campaigns, if any, through social media.

It is promise, assurance and commitment of State Bank Retirees’ Association to secure all these benefits at an early date.

Members are requested to trust. If they trust their organization, their organization would deliver benefits. Whatever that is being done now is only in the interest of its members.”

Now it has come to our notice that some of our members who are not petitioners in this case and have not paid any amount to us are instigating the petitioners to withdraw from the said case. They have stated that a large number of members have written to the General Secretary for refund of money deposited by them to become a petitioner. But the fact is that only ten members have written for refund of the money.

We have stated all the facts of case above for information. To know the progress of listing of case in the Hon'ble Court , Shri A.S.Juneja, Organising Secretary at Delhi is in touch with the General Secretary of apex body State Bank Retirees Association who have filed the case(s). Shri Juneja accompanies Shri C.N.Prasad. General Secretary SBRA whenever he visits Hon'ble Supreme Court for status of case and same is advised to members from time to time.

To end this confusion, it has been decided to start the process of refund of money to a member who does not want to continue as petitioner in the said case. Such members may send request in writing for withdrawal as petitioner in the case to the General Secretary by 31st December 2021 . No such request shall be entertained thereafter. We shall send such requests received from members to the General Secretary SBRA for deleting their name as Petitioner in the court case. On receiving confirmation from him, the amount shall be refunded after taking approval our Executive Committee. Needless to add, we shall not be in a position to re-admit such members as petitioner at a later date.

We may further add that 789 members joined as Petitioner in the said case and the amount remitted by them is lying with the Association.

Yours sincerely,

(K.S.Sandhu)
General; Secretary