Indian Banks' Association
HR & INDUSTRIAL RELATIONS

No.HR&IR/CIR/G2/BRK/4684
March 16, 2018

Chief Executives of Member Banks which
are parties to the Bipartite Settlement

Dear Sir/Madam,

2nd Option of Pension for Compulsorily Retired Officers/Employees

The United Forum of Bank Unions (UFBU) representing workmen and officers in Banks were requesting to allow another option to those who were in the service of the Banks prior to 29th September, 1995 in case of Nationalized Banks / 26th March, 1996 in case of Associate Banks of State Bank of India and continued in service on or after that date and did not opt for pension when offered as per the scheme.

2. After holding various rounds of discussions in the matter, consensus was arrived at between the parties and a Bipartite Settlement/Joint Note was signed on 27.4.2010 to extend another option of pension to those Workmen / Officers who : -

(a) were in the service of the Bank prior to 29th September, 1995 in case of the Nationalised Banks/26th March, 1996 in case of Associate Banks of State Bank of India and continue in service of the Bank on the date of signing above mentioned Bipartite Settlement/Joint Note;

(b) exercise an option in writing within 60 days from the date of offer, to become a member of the Pension Fund and

(c) authorise the Trust of the Provident Fund of the Bank to transfer the entire contribution of the Bank along with interest accrued thereon to the credit of the Pension Fund. In addition, the individual employee/officer has to pay @ 2.8 times of the revised pay for the month of November 2007.

(d) were in service of the Bank prior to 29th September 1995 in case of Nationalised Banks/26th March 1996 in case of Associate Banks of State Bank of India and retired after that date and prior to the date of above mentioned Bipartite Settlement/Joint Note i.e. 27.04.2010;

(e) exercise an option in writing within 60 days from the date of offer to become a member of the pension fund and,

(f) refund within 30days after expiry of the said period of 60days, the entire amount of the Bank's contribution to the Provident Fund and interest accrued thereon received by the employee/officer on retirement together with the payment over and above the said amount at 56% of the amount.

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3. Families of above mentioned employees / officers were also made eligible for said option subject to refund of Bank's contribution to the Provident Fund received by them as mentioned in point (f) above.

4. 2nd option of Pension was, however, not made available to the employees/officers who were compulsorily retired by the Bank. As such, some of these aggrieved employees/officers approached different Hon'ble High Courts seeking relief in the matter. Various Hon'ble High Courts viz Andhra, Madras, Madhya Pradesh, Punjab & Haryana and Patna have ruled in favour of the employees/officers who were compulsorily retired. However Hon'ble Delhi High Court has taken a contrary view on the technical ground.

5. The matter was placed before the Standing Committee on HR of IBA in its meeting held on 07.12.2017. After deliberations, the committee recommended to place the matter before the Managing Committee of IBA. Accordingly, the matter was put up to the Managing Committee of IBA in its meeting held on 29.12.2017. The committee advised to seek legal opinion on the judgements as to whether 2nd option of pension may be allowed to all ex-officers/ex-employees who were compulsorily retired from Bank's service between 29.09.1995 to 27.04.2010 or only selectively to those who approached the Bank for the same.

6. The legal opinion from Shri S.D. Kelkar, Senior Partner, Kelkar & Associates whose services have been engaged in IBA as retainer, was obtained in the matter. His opinion is as under:

"Having considered the decisions rendered by the Hon'ble High Courts of Andhra Pradesh, Madras, Madhya Pradesh, Punjab & Haryana, Patna which have ruled in favour of the employees/officers who were compulsorily retired by way of punishment on the ground that they are covered by the Joint Note as well as decision of the Hon'ble Delhi High Court which has taken a contrary view on the technical ground and the fact that SLPs preferred against the judgments of the High Courts which had ruled in favour of the employees were dismissed, though such dismissal cannot be considered as law laid down by the SC, we are of the considered view that the banks are bound to give 2nd option to all the employees/ officers who were compulsorily retired and who fall within the ambit of the Joint Note to exercise 2nd option for the following reasons:-

- *The Joint Note does not distinguish between voluntary retirement, superannuation, premature retirement, compulsory retirement.*
- *Even the employees/ officers who are compulsorily retired by way of punishment are eligible for pension under the pension regulations.*
- *Banks being "State" within the ambit of Article 12 of the Constitution of India should act in a fair and reasonable manner and should not restrict it only those who demand it. Such stand, if any, adopted by the banks may invite strictures from the Courts."*

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7. The views of the Legal Retainer of IBA were placed before the Managing Committee of IBA in its meeting held on 25.01.2018. The committee after deliberation concurred with the legal opinion placed before it and advised to inform all PSBs accordingly. The exact modus operandi of the extension of 2nd option to compulsorily retired employees/officers was to be worked out in discussions with GMs (HR) of PSBs to decide on a uniform methodology which will stand scrutiny of court.

8. To work out the methodology in this regard, a meeting of the GMs (HR) was convened on 28.02.2018 at IBA. After detailed discussions, a consensus has been arrived at to extend the option of pension to compulsorily retired employees/officers on same terms & conditions as are mentioned in Bipartite Settlement/Joint Note dated 27.04.2010. As per the agreed terms & conditions of said Bipartite Settlement/Joint Note, Pension/Family Pension shall be payable with effect from 27th November, 2009, provided that employees/officers who are compulsorily retired after that date shall get pension from the respective dates of such retirement. Court cases, if any, in the matter may be withdrawn forthwith.

9. Please do the needful accordingly.

Yours faithfully,

B Raj Kumar
Deputy Chief Executive