

OFFICERS' CAUSE APRIL -2021



Editorial

SUPREME COURT VERDICT UPHOLDS INDEPENDENCE OF POLICY MAKERS

The plea by few before Hon Supreme Court that Banks should not charge interest on moratorium and certain other reliefs in the background of COVID pandemic was one of the much debated issue in the recent times.

The Supreme Court heard, made certain interim observations were made directing the banks to keep those observations in mind while dealing with the borrowers accounts.

The litigants had sought the intervention of the Supreme Court on the plea that the decisions taken by the banks were arbitrary and violates the Article 14 of the Constitution of the India. The petitioners had demanded that the moratorium should be extended for a further period of 6 months. Banks should not collect the interest for the loans during this period and that Court should direct the banks not to declare NPAs during this period until the economy is set right. They also questioned the validity of restricting the benefit of moratorium as well as interest concession only to the borrowals upto Rs.2 Cores and also selectively choosing the category of advances for the purpose of extending the benefit of moratorium.

The interim order in respect of the categorization of NPAs and the direction to the banks not to declare any NPAs until the final

disposal of the case had put a pressure on the banking system. However, banks had prepared NPA statements on the quarterly basis without declaring the same and also provided for them to be in readiness for any eventuality.

While disposing the petition, Hon Supreme Court held that the Banks/FIs should re-fund the interest collected during moratorium period in the form of Compound/Penal (interest on interest). However, Court did not concur with the plea of the petitioners for a total waiver of the interest during the moratorium period. The Court observed that the total waiver would hit the banks and also the depositors. The depositors are entitled for interest and the bank has to pay them. The liability to pay the interest on the deposits continued even during the moratorium period, continuing to pay interest to depositors is not only one of the most essential banking activities but it shall be a huge responsibility owed by the banks to crores and crores of small depositors, pensioners etc., who survive on the interest from their deposits, the court observed.

The ruling of the Supreme Court has put an end to the uncertainty in regard to several matters, in particular, the independence of the policy makers as regards the financial institutions are concerned. The judgment has upheld the

independence of the policy makers and thus the RBI has once again come out unscathed despite a lot of efforts on the part of the big borrowers to seek unreasonable relief to them. The Court also ruled " by and large everybody has suffered due to the lock down due to Covid 19 pandemic. The revenue of the Centre was choked, merely the decisions of RBI may not suit the desire of the borrowers, the relief/policy decisions related to Covid 19 cannot be said to be arbitrary or violative of Article of 14 of the Constitution' the court ruled.

Thus, the uncertainty on several of the actions initiated by the RBI is put at rest by this historical decision of the Supreme Court.

The depositors are the real backbone of the

Indian Banking system. The millions and millions of depositors have kept their hard earned savings in the Banks that the Public Sector Banks with the sole objective of ensuring that their deposits are safe. It is the depositors who have continuously supported the banking system and ensured overall economic development of the country. The present verdict of the Supreme Court comes as a great relief and comfort to the depositors all over the country.

The Federation and the Confederation is very particular that the interest of the depositors should be protected and their confidence in the banking system should not be shaken in view of the glorious role played by them in the evolution of the banking system in the country.■

REVISED SCHEME FOR COMPASSIONATE APPOINTMENT A LONG PENDING DEMAND IS ACHIEVED

As you are aware, we were persistently following up for revision and implementation of a fair compassionate appointment to provide dignified life to the family members of the deceased. This was one of the principal agendas of many CNC meetings.

2. We are delighted to inform that the Bank has revised the Compassionate Appointment Scheme vide e-Circular No.P &HRD Sl.No.:1467/2020-21 [No.: CDO/P&HRD-PM/90/2020 – 21] dated 16.03.2021. We place on record our sincere appreciation to our respected Chairman, MDs, DMD (HR) & CDO, CGM (HR) and the entire Team HR, Corporate Centre.

3. "The "Revised Scheme for Compassionate Appointment" will be effective from the date of this Circular. However, the scheme will also cover the death due to COVID-19 with retrospective effect from 24.03.2020 (i.e. the date of announcement of first nationwide lockdown) and the benefit of retrospective implementation will be extended only to the dependents of employees who expired due to COVID-19"

4. Affiliates are advised to take note the development and reach out to the members of the family of our deceased colleagues forthwith and extend all possible support to avail the benefit of the revised scheme.■

COVID19 - EXTENSION OF TIME UPTO 30.09.2021 TO AVAIL LAPSING PRIVILEGE LEAVE

Text of our Letter No.6466/06/21, Dated 26.03.2021, Addressed to The Deputy Managing Director (HR) & CDO, State Bank of India, Corporate Centre, Mumbai – 400 021.

At the outset, we wish to place on record our sincere appreciation for the slew of employee welfare measures initiated by Corporate Centre,

which include Compassionate Appointment scheme, Ad-hoc Promotion Policy for officers' upto SMGS-V, introduction of Special Covid Leave, Revision of ceiling of Staff Housing Loan and Car Loan entitlement, revision of perquisites and allowance etc. The measures have been widely appreciated and would go a long way in boosting the morale of our workforce, which

SUCCESS AWAITS AT THE DOOR WHERE DILIGENCE IS

would definitely have a catalytic effect in enhancing the brand image of our esteemed institution.

02. As you are well aware, from March 2020 onwards, normal life has been jeopardized across the country and globe on account of the Covid-19 pandemic. There were lock downs, restrictions on movements imposed by Governments – both Central and State. This affected inter-state movement and also affected domestic and international travel. Officers were not able to avail LFC due to the travel restrictions and also due to the fear of the disease. As a result, Privilege leave for many officers are going to lapse at the end of the current fiscal. With the spike in number of Covid cases, it appears that travel restrictions could be imposed in the near future, which may restrict officers to take leave and travel.

03. We wish to draw your kind attention to the extant provision for availing lapsing Privilege Leave within next 3 months and on extreme emergent situation upto 6 months as incorporated in HR Vol 1, which is appended for your kind perusal.

“HR Volume 1 – 16.2.1 – Accumulation of Privilege Leave

While the instructions stated above continue to hold good, the portion of Privilege Leave that is allowed to be carried over should necessarily be availed as early as possible, say within 3 months, of the following year; and in extreme emergent situations such carryover of leave may be extended up to a period of 6 months. CDO/PM/CIR/22 dt.01.08.1998 “

04. In view of the extraordinary and emergent situation that prevailed during the financial year 2020-21 for which many of our officers could not avail PL for the reasons beyond their control, we will be thankful if Corporate Centre can issue necessary instructions to permit all officers to avail PL (that would lapse by 31.03.2021) on or before 30.09.2021. Suitable changes may also be carried out in HRMS to facilitate this. This gesture would be highly appreciated as the officers have risked their lives to ensure that the wheels of the economy are kept moving during the trying times by providing banking services and implementing all the schemes of the government across the country.■

CONGRATULATIONS – CONTINUE THE STRUGGLE

Text of AIBOC Circular No.2021/34 dated 22/03/2021, reproduced the text of UFBU Circular No.2021/09dated 22.03.2021.

Meeting of the UFBU was held at Kolkata today, in the aftermath of our successful strike on 15th and 16th March, 2021 against the decision of the Government to privatise public sector banks and against the retrograde banking reforms.

Congratulations: The meeting conveyed its congratulations and greetings to all the constituent unions and all our members all over the country for making the strike a massive success with unprecedented and enthusiastic participation of the rank and file. The meeting was appreciative of the determination exhibited by the employees and officers manifesting their unequivocal objection to the decision to privatise

public sector banks.

Special kudos to youngsters: The meeting conveyed its special greetings to the younger generation of employees and officers who turned out in large number in the rallies and demonstrations.

Support from Trade Unions :The meeting expressed its thankfulness to all the Central Trade Unions – BMS, INTUC, AITUC, HMS, CITU, AIUTUC, TUCC, AICCTU, SEWA, LPF, UTUC and BKS – for extending their support to our struggle. Similarly, the meeting was thankful to Samyukt Kisan Morcha representing 42 farmers' organisations for their support to the strike of UFBU. Many sectoral trade unions of employees and officers extended their support to our strike and the meeting conveyed its thanks to all of them.

ARISE, AWAKE, STOP NOT TILL THE GOAL IS REACHED

In the insurance sector, in addition to supporting our strike, the employees and officers of GIC and LIC also observed strike on 17th and 18th March against privatisation of insurance sector respectively.

Support from political parties : The meeting was thankful to the various political parties – Congress, DMK, AITC, Shiv Sena, NCP, YSRC, TRS, TDP, AAP,SP, RJD, NCP, CPI, CPI-M, CPI-ML-L, VCK, and others for their support to our struggle. Many of their MPs also took up the issue in the Parliament on 15th and 16th and also addressing letters to the Government to reconsider the decision to privatise the Banks.

Successful Mass Petition and Twitter Campaign: The meeting noted that our online Mass Petition campaign was endorsed by more than one lakh people and our twitter campaign was supported by more than 2,20,000 people including tweets by many political leaders and eminent public personalities. It was notable that our Hashtag “BANK BACHAO DESH BACHAO” was trending at No.1 and made a mark on that day.

Government's attitude: The meeting noted that despite our very successful strike, the Government's attitude was disappointing. On the other hand, during the press briefing, Finance Minister reiterated the Government's stand to privatise the Banks. The Finance Minister also clarified in a reply to a question in the Parliament that after necessary recommendations are received from NITI Aayog, the matter would be considered by the Alternative Mechanism and after that the Government would take a final decision.

Hence, the meeting came to the conclusion that our campaign and struggle has to be further carried forward and intensified. However, the meeting noted that so far the Government has not come out with any specific Bill in the current Budget Session of the Parliament to amend the existing Banking Laws to facilitate privatisation of Banks.

Get ready for more campaigns and struggles: In view of this, after discussions, it was felt that we must intensify our campaign amongst the people, particularly the beneficiaries and other sections of the people. To enable and to solicit the support

of the people, it was decided to undertake a mass campaign of collection of supportive signatures in the petition to Prime Minister.

It was also decided to undertake further preparatory programmes to involve the employees and officers to go for intermittent strikes, prolonged strikes and also indefinite strike.

Keeping these in view, the following programmes have been decided upon:

1. Collection of 5 crore signatures from the people in the Petition to Prime Minister with a copy to the Hon'ble Speaker during April, May, June, 2021.
2. Organisational meetings at all levels during April, 2021 to ensure total membership contact.
3. Mass Rallies, Dharnas, Seminars, Workshops, etc. in all the States in April, May and June, 2021 (to be decided in respective States according to local convenience)
4. Nationwide Strikes, intermittent strikes, prolonged strikes as may be warranted looking to developments (Dates to be announced later).
5. Strike call at short notice, if Government announces any decision on privatisation of banks.

Details of campaign programmes to be undertaken in the next two months will be given in the next circular.

Comrades, as every one of us will understand and appreciate, we are facing the challenge on account of the Government's announcement to privatise public sector Banks. We are opposed to privatisation of Banks and are convinced that privatisation is not the solution to the problems faced by the Banks. It is imperative that we should prepare ourselves for a prolonged and sustained struggle and also elicit support from the people. We call upon all our unions and members to prepare accordingly to make our struggle a successful one. ■

WORK IS WORSHIP , DO YOUR DUTY

WAGE REVISION FOR EMPLOYEES AND OFFICERS OF REGIONAL RURAL BANKS REF: DFS COMMUNICATION DATED 01.04.2021

Text of AIBOC Circular No.2021/38 dated 03/04/2021, reproduced the text of UFBU Letter No.2021/02 dated 03.04.2021 addressed to the Secretary, DFS on the captioned subject for your information. Copy of the letter has been sent to the Chairman, IBA, Chairman NABARD, Chairman of all RRBs and MDs of all Sponsor Banks.

With the conclusion of wage revision settlement for the employees and officers of commercial banks vide Settlement/Joint Note dated 11th November, 2020, the need arose for extending the same for the employees and officers of Regional Rural Banks.

In terms of the Award of the National Industrial Tribunal and the judgement of the Supreme Court dated 31-01-2001 and also having regard to Section 17 of the Regional Rural Banks Act, 1976, the salary and service conditions of the employees and officers of Regional Rural Banks are to be revised.

We are thankful to the Government for releasing the DFS communication No. F-8/1/2021 dated 1st April, 2021 addressed to all the Regional Rural Banks, IBA, NABARD and all the Sponsor Banks extending wage revision in Regional Rural Banks based on the 11th BP Settlement/Officers Joint Note dated 11-11-2020 thus paving the way for wage revision for the employees and officers of the Regional Rural Banks.

However, we observe from the communication the

following:

- a) Arrears from 1-11-2017 would be payable in two installments, one in Jan-March, 2022 and another six months later to that.
- b) The new allowances and benefits provided in the Settlement/Joint Note would be considered later after further restructuring of the RRBs.
- c) Part II of the Allowances would be considered by the Sponsor Banks.

Sir, you will appreciate that all the RRBs are doing well and earning Operating Profits. Further the National Industrial Tribunal and the Supreme Court ordered for parity in wages and services in the RRBs only on the ground the job and role of the employees in commercial banks and Regional Rural Banks are same and similar. Hence not extending all the allowances and benefits to the RRBs would be injustice and discrimination besides being highly demotivating. Similarly, all the Banks have also provided for the arrears payable in their respective Balance Sheets and delaying the payment of arrears also would frustrate the workforce in the RRBs.

In view of the above, we urge upon the Government to reconsider the issue and advice the Banks to implement the wage revision for employees and officers in the RRBs without these restrictions and pay the arrears immediately. ■

BANKS SEEK TIME ON STANDING INSTRUCTIONS

RBI to defer March 31 deadline for rollout new standing instruction alerts citing surge & customer inconvenience

Amid fears of customer inconvenience, service disruption, and a surge in the load on the banking system, many large lenders and payment biggies like SBI, ICICI, Citi, HDFC, Axis, HSBC, Visa and Mastercard have asked the Reserve Bank of India (RBI) to push back the deadline for putting in place

a new system to alert customers on 'standing instruction' transactions like renewing subscription to OTT platforms, newspapers and magazines, and utility bill payments.

This was communicated a week ago in a joint letter to the regulator which is striving to address security concerns while enabling more digital transactions. Banks were told to set up the system by March 31, 2021.

LET CUSTOMER SERVICE BE OUR MOTTO

Banks have also requested RBI to exclude transactions against pre-existing standing instructions and those with international merchants from new conditions for e-mandates on cards for recurring transactions.

Under the proposed system, as a risk mitigation and customer facilitation measure, the card-issuing bank will have to send a pre-transaction notification to the cardholder, at least 24 hours before the actual charge or debit to the card; and, while registering e-mandate on the card, the cardholder shall be given the facility to choose a mode among available options (SMS, email, etc.) for receiving the pre-transaction notification from the issuer in simple language and unambiguous manner.

Also, on receipt of the pre-transaction notification, the cardholder shall have the facility to opt-out of the particular transaction or the e-mandate.

"Many banks are not ready. They need more time to build the infrastructure-at least three to six months. Three would be an initial investment and running cost. But what is the choice? If a card issuing bank does not create the infrastructure, customers would move out. No bank would like to lose customers who are used to multiple recurring transactions," said an industry source. "The new system would put the onus on the banks-probably also because the regulator would let the use of debit cards for recurring transaction," said another person.

Customers, as per the new directive (first initiated in mid-2019), would also receive a post-transaction alert from the bank-mentioning, in the communication, the merchant's name, transaction amount, date and time of debit, reference number of transaction etc. Importantly, a card-holder should be able to withdraw any e-mandate at any point of time following which no further recurring transactions shall be allowed for the withdrawn e-mandate.

"RBI would prefer banks, which are entities it regulates and supervises, to initiate, payments as well as store card information," said a banker. In the course of the year, the regulator is expected to bar merchants as well as payment aggregators (Which are payment service providers registering the merchants) from storing card information.

The proposal, which would mark a big shift in the world of electronic payments, has not done well among payment intermediaries, merchants, and the e-commerce industry. "While RBI is responding to instances of data breaches, the truth is a customer is well-protected. For all domestic card transactions, there is an extra authentication in the form of a one-time password. If a card is misused to carry out international transactions, a customer would receive a refund as long as she can prove that she was travelling abroad," said a banker. ■

Sources: Economic Time Dated 08.03.2021

RBI ASKS BANKS TO EXTEND CHEQUE TRUNCATION SYSTEM ACROSS ALL BRANCHES

The Reserve Bank of India (RBI) has asked banks to extend Cheque Truncation System (CTS) across all their branches in the country.

This is aimed at leveraging the availability of CTS and providing uniform customer experience, irrespective of location of her/his bank branch. Cheque truncation involves the stoppage of the physical movement of the cheque and the replacement of physical instrument by the image/s of the instrument and the corresponding data contained in MICR (Magnetic Ink Character

Recognition) line.

The RBI directed banks to inform it about their roadmap to achieve pan-India coverage of CTS and submit a status report before April 30, 2021.

"To facilitate this (CTS), banks shall have to ensure that all their branches participate in image-based CTS under respective grids by September 30, 2021.

"They are free to adopt a model of their choice,

BE TRUTHFUL, BE FEARLESS

like deploying suitable infrastructure in every branch, or following a hub and spoke model, and concerned banks shall coordinate with the respective Regional Offices of RBI to operationalise this," said the RBI in a circular.

The central bank observed that CTS has been in use since 2010 and presently covers around 1.50 lakh branches. All the erstwhile 1219 non-CTS clearing houses (ECCS centres) have been

migrated to CTS effective September 2020.

"It is, however, seen that there are branches of banks that are outside any formal clearing arrangement and their customers face hardships due to longer time taken and cost involved in collection of cheques presented by them," the circular said.■

Source: Business Line, date:16/03/2021

**[2020 (166) FLR 522]
(MADRAS HIGH COURT)
S.VAIDYANATHAN,J.
C.M.A.No.2758 of 2019
December 10/2019**

**Between
KARUR YSYA BANK RETIREES' ASSOCIATION
And
DEPUTY COMMISSIONER OF LABOUR**

Registration of Association-Request of the petitioner-Association-Rejected by Deputy Commissioner of Labour on the ground that members were not in service-Hence, the present appeal-Held, preventing one set of persons, namely, retired employees to form a Trade Union to espouse their cause to the government could not be permitted at any cost-Authority concerned could not narrow the definition to simply reject the application, as it would definitely be against the very object of Trade Union Act and also violative of article 19(1) (c) of Constitution of India-Order impugned set aside-Appeal allowed.
[Paras 14 to 18]

JUDGMENT

S.VAIDYANATHAN,J.- This Appeal has been filed to set aside the order dated 26.10.2016 passed in O.M. No.A3/5794/16 by the Respondent, namely, Deputy Commissioner of Labour I, Chennai, who is the Authority under the Trade Unions Act, by which, the request of the Appellant Association (hereinafter referred to as 'the Association') to register its Association was negated by the Authority on the ground that the members of the Association are not in service.

2. It is not in dispute that none of the members of the Association are in employment of the Bank, though they were ex-employees of the Bank. It is the case of the Association that the members of the Association had decided to form an Association to espouse their grievances, relating to pension and other benefits, as the existing Trade Union is not widely bringing out their grievances. It is the further case of the Association that the issue

regarding the eligibility period for the purpose pension can be raised in the form an Industrial Dispute and it cannot be done by an individual or he cannot approach the Civil Court for the relief. It is submitted that the individual is also barred from approaching this Court by way of Writ Petition, as the Court may shut the doors on the ground that the disputed question of fact cannot be gone into before this High Court.

3. According to the learned counsel for the Appellant, a reading of Section 2(g) of the Trade Unions Act, 1926 (in short 'the Act, 1926') shows that it authorizes any person, who was in employment to form an Association, which should be registered under the Act, 1926. Though the employer, Workmen and industrial dispute have not been defined under the Act, 1926, the Industrial Disputes Act alone can be invoked for the purpose of raising a dispute with regard to the issue falling under Section 2(k) of the Industrial Disputes Act, 1947, It is stated by the

OUR LIFE IS WHAT OUR THOUGHTS MAKE IT

learned Counsel for the appellant that the mandatory requirement is that a group of seven persons can only form an Association and in that event, it is obligatory on the part of the Authority to register the Trade Union, unless or otherwise there are any obstacles like reflection of very same name or any other issue concerned or that are prohibited under the 1926 Act. It is further stated by the learned Counsel for the Appellant that when the minimum requirement is seven even after amendment in 2002, substituted by Act 31 of 2001, which came into force from 9.1.2002, it is not right on the part of the Authority to reject the registration of the Association.

4. Mr. M. Sricharan Rangarajan, learned Special Government Pleader (CS) appearing for the respondent has vehemently contended that the persons, who are on roll can only make such application for registration of the Association under the Act, 1926 and even after amendment in the year 2002, there was no deletion of any mandatory requirement. He has further contended that a reading of the words used in Section 2 (e), (g) and 22 (1) & (2) makes it very clear that there shall be persons actually engaged or employed in an industry with which the Trade Union is connected and in the absence of such stipulation, the Authority is empowered to reject the application. On the date of application, there should be a group of seven persons and in case the number is reduced, still the Authority is empowered to register the Trade Union, but making an application with seven persons, who retired from service and are not connected with the employment on the date of application is not permissible in law and it will set a bad precedent for other similarly placed persons to knock at the doors of Registrar of Trade Unions to register their Association.

5. The learned Special Government Pleader (CS) has submitted that there are two judgments with regard to registration of Trade Union, viz., a judgment of Karnataka High Court in the case of Government Tool Room and Training Centre's Supervisory and Officers' Association, Bangalore and another v. Assistant Labour Commissioner and Deputy Registrar of Trade Unions, Bangalore Division-I, Bangalore and others, and another

judgment of the Bombay High Court in Bajaj Auto Ltd., v. State of Maharashtra. Out of these two judgments, though the finding of the Karnataka High Court does not support the case of the Respondent herein, the other judgment of the Bombay High Court is otherwise.

6. In Government Tool Room and Training Centre's Supervisory and Officers' Association, Bangalore and another v. Assistant Labour Commissioner and Deputy Registrar of Trade Unions, Bangalore Division-I, Bangalore and others (supra), it has been held as follows:

"4. After hearing the learned Counsel, I have carefully perused the impugned endorsement. The registration was refused on the ground that the supervisory officers and managers are not 'workmen' within the meaning of Section 2(s) of the I.D. Act. The question that requires consideration by this Court is as to whether the non-workmen under the I.D. Act have a right to form a Trade Union in terms of the Indian Trade Unions Act of 1926.

5. The Trade Unions Act of 1926 is a pre-Constitution Law. The object of the Trade Unions Act is to provide for the registration of a Trade Union and in certain respects to define the law relating to Trade Union. Section 2 defines various terms including 'Trade Dispute' and 'Trade Union'. Chapter II provides for registration of Trade Union. Section 5 provides for an application being made for registration to the Registrar, Section 6 provides for provisions to be contained in the rules of a Trade Union. Section 7 provides for power to call for further particulars in the matter. Registration is provided under Section 8 of the Act. To understand the dispute between the parties, it is relevant to note the two definitions in Section 2(g) and 2(h). The said definitions read as under:

"(g) "Trade Dispute" means any dispute between employers and workmen or between workmen and workmen, or between employers and employers which is connected with the employment or non-employment, or the terms of employment

or the conditions of labour, of any person and 'workmen' means all persons employed in trade or industry whether or not in the employment of the employer with whom the trade dispute arises; and

(h) "**Trade Union**" means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between the workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions".

6. In the light of these two definitions, it is clear to me that the word 'workmen' under the Trade Unions Act includes all persons employed in a Trade or Industry. It is not a restricted definition as in any other enactment of Labour Laws. When the Act itself provides for a wider definition and for a wider meaning of that definition, the Courts cannot narrow it by its decision. That would be against the very object of the Trade Unions Act itself. It is a well-settled principle of law that two conditions are necessary for interpreting an earlier enactment in the light of the provisions of a later Act. They are:

- (1) The two Acts of the Legislature must be in *pari materia*, that is to say that they form a system or code of Legislature; and
- (2) The provisions in the earlier Act is ambiguous.

7. In the case on hand, there is no ambiguity in the light of the definitions of the Trade Unions Act. It is relevant to note the judgment of the Supreme Court in the case of *Tirumala Tirupati Devasthanam v. Commissioner of Labour (supra)*. The Supreme Court was considering in the said case with regard to registration of a Trade Union. The Supreme Court in para 4 rules as under:

8. The Supreme Court, in the said judgment has made it clear that any group of employees may

be registered as a Trade Union under the Act for the purpose of regulating the relations between them and their employer or between themselves. It is pertinent to refer to a leading case of this Court in Registrar of Trade Unions in Mysore v. M. Mariswamy (supra) . That was a case in which the employees of the Provident Fund Organisation got themselves registered under the Trade Unions Act. The said registration was subsequently withdrawn by the Department. The said withdrawal was the subject-matter of a litigation. The said litigation ultimately reached this Court. This Court in para 7 rules as under:

"It would be apparent from this definition that any group of employees which comes together primarily for the purpose of regulating the relations between them and their employer or between them and other workmen may be registered as a Trade Union under the Act. It cannot be disputed that the relationship between the appellant and the workmen in question is that of employer and employee. The registration of the association of the said workmen as a Trade Union under the Act has nothing to do with whether the said wings of the appellant are an 'industry' or not. We are, therefore, of the view that the High Court went into the said issue, although the same had not arisen before it. Since the findings recorded by the High Court on the said issue, are not germane to the question that falls for consideration before us, we express no opinion on the same and leave the question open".

"It is clear from the definition of the expression 'Trade Union' that it could be a combination either of workmen or of employees or of both, provided it is formed primarily for one of the purposes mentioned in clause (h) of Section 2 of the Act. It is, therefore, possible to have a Trade Union consisting only of employers. The emphasis in Section 2(h) is on the purpose for which the Union is formed and not so much on the persons who constitute the Union".

9. In the light of the judgment of the Supreme Court and in the light of the

judgment of this Court read with definitions in the Trade Unions Act, it is clear to me that the emphasis is on the purpose for which the Union is formed and not so much on the persons who constitute the Union. In the case on hand, the registration is not granted on the ground that the persons who constitute the Union are not workmen. Therefore, in the light of a clear definition and in the light of the case-laws, the endorsement has no legs to stand in law. The endorsement, in these circumstances, is set aside. A direction is issued to the respondents to register the petitioner as a Trade Union, if the petitioner otherwise fulfils all other legal requirements in terms of the Trade Unions Act. Petition is allowed in the above manner. Parties to bear their respective costs."

7. The learned Special Government Pleader has fairly conceded that though the Bombay High Court in *Bajaj Auto Ltd., v. State of Maharashtra (supra)*, had rendered a finding against registration of a Trade Union, the issue is on a different subject, as the Appellant therein had not fulfilled the required criteria, as stipulated in the relevant provisions of the Act therein. It was argued on the side of the Respondent that the Authority was right in rejecting the request of the Association, as none of the employees, who sought to register the Association are regular employees of the Bank and all the persons, who are concerned with the present case or the members of the Association are retired employees. Hence, it was prayed that the present appeal has got to be dismissed *in limine*.
8. Heard the learned counsel for the Appellant and the learned Special Government Pleader (CS) appearing for the respondent and also perused the material documents available on record.
9. It is seen that the members of the Association, whose names are referred to, were in employment of the Bank and all of them are pensioners,

drawing pension. The question whether the members have any issues with the Bank need not be gone into in the present case. The present issue to be decided is, whether the Authority was right in refusing to register the Association. The main plea that was raised on the side of the respondent is that Section 2(g) of the Act, 1926 is not applicable to the appellant Association, as it pertains to trade dispute, which means any dispute between employers and workmen or between workmen and workmen or employers and employers, connected with the employment.

10. It is pertinent to mention here that the words used in Section 2(g) of the Act, 1926 are that the dispute between employers and employees, which means that even the past employees, i.e. employees ceased to be in employment are also entitled to be a part of Trade Union for the purpose of raising a dispute. That being the case, the Authority was not right in refusing to register the Trade Union and the order of rejection is incorrect.

11. The learned Special Government Pleader (CS) has also referred to the provisions of Sections 4 (1) and 6 (e) of the Act, 1926, which reads as follows:

"4. Mode of registration.— Any seven or more members of a Trade Union may, by subscribing their names to the rules of the Trade Union and by otherwise complying with the provisions of this Act with respect to registration, apply for registration of the Trade Union under this Act:

Provided that no Trade Union of workmen shall be registered unless at least ten per cent. or one hundred of the workmen, whichever is less, engaged or employed in the establishment or industry with which it is connected are the members of such Trade Union on the date of making of application for registration:

Provided further that no Trade Union of workmen shall be registered unless it has on the date of making application not less than seven persons as its members, who are workmen engaged or employed in the

establishment or industry with which it is connected.

6 ***Provisions to be contained in the rules of a Trade Union.*** — A Trade Union shall not be entitled to registration under this Act, unless the executive thereof is constituted in accordance with the provisions of this Act, and the rules thereof provide for the following matters, namely:—

(a) to (d)

(e) the admission of ordinary members who shall be persons actually engaged or employed in an industry with which the Trade Union is connected, and also the admission of the number of honorary or temporary members as office-bearers required under section 22 to form the executive of the Trade Union.”

12. By referring to the above, it was contended that in adherence to the aforesaid provisions, the application was rejected. The said contention cannot be accepted and the same is liable to be rejected for the reason that if such an interpretation is given, the very provision itself would become obsolete, as rightly pointed out by the learned counsel for the Appellant. Section 6 of the Act, 1926 prescribes Rules to be followed at the time of registration and Section 6(f) of the Act, 1926 stipulates as follows:

“(f) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members;”

A close reading of Section 6(f) amply proves the fact that a member can be either a regular employee or a retired employee and therefore, the act of the respondent in mechanically rejecting the application for registration of the Trade Union of the Association cannot be accepted and is unsustainable.

13. Referring to Section 22 of the Act, 1926, an argument was advanced by the respondent that

at least five persons, who are actually engaged or employed in an industry with which the Trade Union is connected on the date of making application, alone can seek for registration of the Trade Union. At the first instance, it is to be noted that the provision deals with the Office bearers, as the explanation to section 22(2) needs to be kept in mind that is to say, an employee who is retired or who has been terminated shall not be construed as outsider for the purpose of holding office in a Trade Union and therefore, the said provision will not be helpful to the respondent. Hence, it can be said that there is no bar for a Trade Union, which was formed by retired employees, being registered by the Registrar of Trade Union.

14. Even though in the year 2002, an amendment to the Act, 1926 was brought in, it no way curbed retired employees or prohibited them to form an Association and the word employed / engaged has got to be interpreted in such a way that it will include not only persons, who are on the Roll, but also were on the roll. Hence, this Court is of the view that the Authority is bound to register the Association formed by the retired employees, unless there are any prohibited ground for non registering the same. In case the Authority finds that the object of formation of the Association is not for espousing the cause of its employees and deviates the conditions stipulated under the Act, 1926, then it is open to the Authority to refuse such registration, but not on the ground that the retired employees will not be entitled to form an Association, thereby discriminating them from the employees, who are on the roll.

15. India is a democratic country, where there is no restriction for the citizens to express their grievances to Government by means of Ahimsa and as such, preventing one sect of persons, namely, retired employees to form a Trade Union to espouse their cause to the Government cannot be permitted at any cost, by giving a different interpretation to the provisions of law. The word used under the Act, 1926 is “persons actually engaged or employed in an industry with which the Trade Union is connected” and it might be including all persons irrespective of whether they are in service or retired. When the Act itself provides for an extended meaning / definition, the

Authority concerned cannot narrow the definition to simply reject the application, as it would definitely be against the very object of the Trade Unions Act itself and is also violative of Article 19(1)(c) of the Constitution of India.

16. Admittedly, the retired employees will not be permitted to join hands with the Association of the current employees, as the nature of grievances being faced by either of them will be on a different path and both cannot be mingled together for espousing the same to the industry with which they are actually connected, unless or otherwise the retired employees have a separate track / wing to espouse their grievances. Therefore, in the considered opinion of this Court, the order dated 26.10.2016 passed by the Authority has no legs to stand is liable to be set aside.

17. Accordingly, this Civil Miscellaneous Appeal is allowed and the order dated 26.10.2016 is set aside. The matter is remitted to the Authority for fresh consideration with a direction not to reject the request of the Appellant Association, reiterating the very same ground that they are all retired

employees and no single employee is on the roll of the establishment or industry with which it is connected.

18. To put it precisely, even if seven employees were not on the roll, they are entitled to form an Association that has got to be registered under the Act, 1926 and the same cannot be refused to be registered on this score. Though the existing Union with permanent employees can espouse the cause of retired employees or others, who were not in employment, on the ground of community of interest, consequent to the absence of such interest in the present days, there is nothing wrong in permitting the retired employees to have their own Association under the Act, 1926, as Unions, having permanent employees on the Roll, are withering away and shirking from their moral responsibilities to espouse the cause of employees, who ceased to be on the roll. Of course, the Association with retired employees cannot in any event raise a dispute pertaining to the service conditions of employees on the rolls. No costs. ■

Appeal Allowed.

Subscribe to

**OFFICERS' CAUSE DOMESTIC ENQUIRY LABOUR RESEARCH
SUBSCRIPTION SUBSCRIPTION SUBSCRIPTION**

Annual : ₹.40/-

Annual : ₹.40/-

Annual : ₹.30/-

Drafts should be drawn in favour of

All India State Bank Officers' Federation

and mailed to

The General Secretary

ALL INDIA STATE BANK OFFICERS' FEDERATION

State Bank Buildings, St.Mark's Road, Bangaluru-560001

☎ : 080 22211006: Fax : 080 22214959

E-mail: aisbofbangalore@gmail.com

Website: <http://www.aisbof.org>

Registered news paper

To:

If Undelivered please return to:

ALL INDIA STATE BANK OFFICERS' FEDERATION

St.MARK'S ROAD, BANGALURU - 560 001