

Editorial
Stay Healthy, Stay Safe

INCENTIVES

The Government has granted a number of benefits to the Central Government employees to enable them to have money in their hands to be spent during the festival season. There were several options in regard to utilization of leave fare concessions etc., The industries enjoying the credit facilities from the financial institutions were also given certain relief in the form of rephasing of their loans as well as exemption from payment of compound interest rates on their loans which included the loans granted to the Public under housing loans etc., These were considered by the Government as necessary concessions arising out of the impact of Covid - 19. The Government came forward to reimburse all the financial institutions which have given the relief of crediting back of the compound interest to their respective borrowers. The loans and advances granted to the workforce in the banking industry have been considered as standard loans as the installments are recovered from their salaries and hence there is no question of providing any relief under the scheme. The Public who are entitled to avail the Housing Loans are entitled to get the benefit of moratorium including the rescheduling of the repayment programme.

The Reserve Bank of India as well as the Government of India have together ensured that the scheme of extending the benefit of exemption

from payment of compound interest as well as the rescheduling of the repayment of the loans so that the growth in NPA's could be curbed. The financial institutions were asked to submit their claims by the middle of December to State Bank of India who would settle these claims and get the reimbursement from the Government of India. The Employees and Officers working in the banking industry as well as other financial institutions will be accountable and responsible for the implementation of the scheme in total even if required by burning the mid night oil. The 11th Bipartite has provided for the incentive scheme which is operational only when the banks are able to achieve the operating profit. The Employees and Officers working in the Banks which are declaring both operating as well as net profit will get a better deal. It is a part of the Bipartite Settlement and which will become working condition for both the employees and officers under the bipartite period.

While the workforce in the banking industry are accountable for the implementation of all the schemes and packages announced during the covid pandemic for the entire population of the country and expected to adhere to the timeline provided by the Reserve Bank of India and report the compliance of the same at a periodical intervals, they were not given any benefit under any of the scheme announced by the Government

and Reserve Bank of India. The Governor of RBI has consistently appreciated the efforts of the workforce in the banking industry with particular reference to the employees and officers working in the RBI for their dedicated service during the Covid crisis (it is to continue) but did not come out with any incentives to them as a gesture, goodwill and encouragement to this section of the employees and officers in the banking industry.

The question mute question that is lingering in the minds of the workforce in the banking industry is therefore, what is the relief that the employees and officers who are working in the banking industry and all the financial institutions during the covid attack as usual while all the other establishments were provided all relief from attending the work and not to attend the work during the lock down period, is getting ? The Employees and Officers who had worked during all the times including the lockdown have been acclaimed as Corona Warriors equal to the Medical professionals and other employees and officers working in the essential services. Lot

of appreciations were showered on the Employees and Officers working in the financial institutions in particular the Public Sector Banks by the Hon'ble Finance Minister herself for the yeomen service rendered by this group of workforce in the banking industry during her recent press meet. While, she announced several incentives for all others, there was no package as far as these warriors who kept the clock of economic activity clicking all the time including the Covid-19 crisis. In fact, the Employees and Officers working in the banking industry is expected to bear further load of all the schemes that are going to be announced until the normalcy in our economic activity in particular in scaling the level of GDP that was expected of the country by the Government. The workforce in the financial institutions are therefore looking towards the employers, the RBI, the Government and all other agencies which are responsible for the control and direction of the financial activities to come forward with appropriate schemes/incentives to the Employees and Officers working in this sector. ■

Article

APPOINTMENT OF OFFICER DIRECTORS

One of the adverse moves of the Government was the virtual abolition of the Participative Management system in the Banks. With the expiry of the term of the Officer Directors on the Boards of all the Public Sector Banks, the Government did not bother to consider the nominations forwarded by the affiliates of the Confederation for the fresh appointment of the Officers Directors on the Boards of the Banks. Thus, an important forum which was available to the representatives of the Officers to be present on the respective Boards of the Banks and contribute their mite for the successful running of the banks was derailed by the Government. The role of the Officer Directors on the Boards of all the Public Sector Banks have been highly appreciated by the other Directors on the Board for their qualitative participation in the proceedings of all the Boards' meetings and also in bringing home the points which are helpful in running the management of

the bank in a profitable manner. The Government must have felt that the representatives on the Boards from the Officers community may come in the way of their design for merger of the banks and other initiatives which are inimical to the interest of the common man. The Officers working in these banks are major partners and have their own independent say in the management of the functioning of the bank. They are also treated as important stake holders along with the share holders of the Bank. The Government while taking all steps to protect the interest of all other stake holders in the bank have virtually ignored the officers who are very important stake holders and are responsible for the effective functioning of the bank by not appointing their representatives on the Boards.

The workers participation was given utmost priority in the administration of the Public Sector

SUCCESS AWAITS AT THE DOOR WHERE DILIGENCE IS

Units. They wanted to democratize the functioning of each group of stake holders in the institution. Thus, the representative character of the Officers' was recognized and introduced as a statutory provision for their appointment on the Boards of the Banks. The Confederation which was a majority organization in most of the Public Sector Banks have shown through their effective participation that they were helping the Board to take right decisions on all the matters. The representatives were held in high esteem by all other directors since they had the experience of banking in their back of their mind whenever they were participating in a debate on the subjects placed before the Board for the consideration.

With the completion of the major portion of the

mergers and the merged entities have almost settled in their functioning in all the banks, the number of our Officers owing allegiance to the Confederation has also gone up very substantially. It is now the time for the Government to consider the issue of the appointment of the representatives of the Officer Directors on each of these banks as done in the case of appointment of other directors as per the provision of the Banking Regulation Act. The Confederation has been demanding immediate corrective action on the part of the Government to restore the right of representation that was available to the Officer Directors under a scheme specifically prepared by the Government for participation in the Boards of all the Banks.■

CHANGE IN THE WORKING HOURS

The unregulated working hours in several industries was regulated through sustained struggles by the trade unions in the country. The working hours was brought to the ILO standards that is 48 hours a week. The working hours for a day was also fixed at 10 and half hours. Any extra work insisted by the employer was subject to the consent of the employee in an establishment. Thus, the working hours for a day was fixed at 10 and half hours. These parameters were also part of the Shops and establishments acts of the State Governments who had the powers to supervise the implementation of the working hours rules properly by each and every establishment in their states. The working conditions in the banks in the pre-independence era was such there was no fixed working hours. They were required to work for more than 12 to 14 hours. However, with the trade unions flourishing in the banking industry they were able to ensure a working hours of 8 hours a day through the successive awards. The Awards also provided for the payment of overtime in the event of increase in the working hours. These benefits were not available for the Officers. The view of the Management was that the supervisory staff are part of the Management and hence they are required to work for any number of hours. Over a period of time, through sustained struggles and sacrifices, the officers were able to bring home

some semblance of working hours for the officers as well. The Federation was also able to get some financial relief to those who were required to stay in the office beyond the prescribed time. In the recent past the Central Government has taken up the issue of the consolidation of all the labour laws into 4 major labour code thereby retaining the right of make several changes unilaterally. As a part of the consolidation move of the existing labour laws, the Ministry of Labour at Centre has now proposed to raise the spread over time for a worker to 12 hours a day from the current limit of 10 and half hours. The proposal will give a lot of leverage to the contractors using contract labourers. It will also result in the extra work for the workers who may be asked to work in 12 hours a shift. At present in exceptional cases such working arrangements were being permitted by the authorities concerned. However, with the proposed drafts amendments to labour laws under the occupational Safety, Health and Working Conditions Code, the existing maximum work of 10 and half hour continuous working gets changed by 12 hours. According to the draft no worker will work for more than five hours without an interval for rest of at least half-an hour subject to the condition that the work in a day should not exceed 12 hours including the rest as prescribed. This not only affect the health of the workers but

ARISE, AWAKE, STOP NOT TILL THE GOAL IS REACHED

will reduce the employment opportunities very substantially. Though the weekly working hours has been kept at 48 hours as per the ILO convention, the freedom given to the employers of contract workers will definitely result in the exploitation of the workers in their establishments. This will also adversely affect the working conditions of the women employees. In the earlier occasion, the Government has already given a free hand to the industries to utilize the services of the women employees in the night shift with certain safety measures. The Government has recently at the request of the industrialists has allowed them to draft the services of the women employees for night shift as well. The present move is to help the contractors who engage labourers on contract basis to draw their

services for 12 hours a day.

At present the working hours of the workers are being supervised by the State Government as well under the Shops and Establishment Act. The Centre now proposes to grant single license for 5 years to the contractors with the permission to operate at National level as well as States without any difficulty. This is bound to result in exploitation of the workers by the Contractors especially when the outsourcing of the jobs by several establishments has become a common feature. It is now left to the Central Trade Unions and all the Federations to look into these changes proposed by the Centre and demand for a detailed discussions on the subject for protecting the interest of the workers in the country. ■

CENTRAL REPRESENTATIVE FORUM

One of the subject that was engaging the attention of the leaders of the Central Trade Unions including the unions in the Banking Industry has been the need for creating a Central Representative Forum at the Central Government level so that it will be able to present its views on all the matters connected with the working class as well as the policy matters concerning the overall economic development of the country. The Confederation has been demanding that such forum should include the representatives of the organization to present the views of the Officers fraternity working in the banking industry from time to time. The issue has not been taken seriously by the Government quarters. They have limited their interaction if any, with the representatives of the Central Trade Unions only whenever they invite them for the purpose of holding consultations/discussions on all the matters related to the workers in the country.

In the present situation, such a Central Representative Forum is all the more necessary for the Officers organizations and unions in the banking industry. In view of the implementation of the various proposals in particular the mergers and take over of banks in the name of consolidation of the banking industry, there are several issues affecting the workforce in the banking industry. The Government

has systematically destroyed the concept of participative management which was in vogue in the banking industry by not appointing the representatives of the Officers and employees on the Boards of various banks. The Officer Directors whose terms have been expired, the positions have remained vacant despite the repeated representation by the respective Officers organizations as well as the Confederation at all forums. The RBI has recently declared moratorium in respect of Lakshmi Vilas Bank and ultimately it was handed over to a foreign bank despite the loud protest by the share holders of the LVB as well as the employees and officers working in LVB. In a similar situation, the RBI and the Government went out of the way to bail out YES Bank a new generation private bank, compelling State Bank to provide oxygen to the ailing YES Bank. In the ultimate analysis, the share holders of YES Bank were protected whereas the Share Holders of Lakshmi Vilas Bank which is virtually nearing 100 years have lost their investment in this old traditional bank which has served millions and millions of customers over the last 9 and odd decades. The Confederation has been raising its voice on all these issues and have been urging the authorities concerned to hold discussions with them on all such matters so that the views of the employees and officers can be projected before the

WORK IS WORSHIP , DO YOUR DUTY

authorities concerned before they take such actions in the Banking industry.

The Confederation to-day enjoys the status of sole bargaining agency for the Officers' working in the banking industry in terms of the total membership it has achieved so far. The other organizations have far lesser number than the Confederation. During the last couple of years, the Government has gone ahead with the reduction of the Public Sector Banks very substantially through the merger of banks owned by them. In the process, the membership number of the Confederation has gone up very substantially wherever the other officers organizations had their membership before the merger in several banks. The mergers amongst the Nationalized Banks have been done by the Government despite the protests and agitations launched by the Confederation opposing such mergers which serves no purpose other than reducing the manpower and also the number of bank branches. The number of branches which have been reduced by these banks on account of mergers is very substantial. There is no monitoring agency about the retention of all the licenses and using the same for the opening up of the alternative branches in different places. Added to this agony, the Banks have also decided to offer yet another Voluntary Retirement Scheme proposed to be launched during the end of this year, which will be accepted by a good number of employees and officers in particular those who are seniors in the banks due to the fear of transfer and change in the work culture from bank to bank. The Government has taken all precautions to ensure that the customer service is not affected. The depositors are assured of their deposits. The borrowers are also not affected by these process. The Banks are well equipped for the integration of the technology and migration of data, though it takes time for the normalcy to return in handling the technology matters. However, there is no such attempt as regards the issues concerning the HR related matters. The salary structure and working service conditions of the officers and the workmen are as per the bipartite settlements. However, there are bank specific issues in regard to the various allowances, the personnel policies which covers the promotion, the recruitment, the transfer etc., These issues are not at all discussed are debated in the

respective banks with their associations and unions. In fact, the Bigger banks which have taken over the smaller banks have been assuring that the employees and officers of the banks which have merged with them, that their future is safe in their hands without holding any discussions with the representatives of the Officers' organizations on all the HR related matters. On the contrary, it is witnessed that the first attack is coming in the form of the scheme of Voluntary Retirement Scheme introduced by the bank.

The Managements of these banks have not come out with any blueprint in regard to the recruitment of fresh candidates from the market to take care of the shortage of staff in the banks. The Branches are virtually dried of the staff and the remaining staff are under tremendous pressure and mental trauma in handling the increasing workload and also system related issues in particular the banks which have been merged. There is no Central Agency which is accountable for holding discussions with the Officers' organizations as well as unions on all these major issues.

In the absence of any nodal agency for holding discussions on the issues related to the Officers arising out of the mergers of banks, the Government, the IBA and all other agencies connected with these subjects have abdicated their responsibility thereby creating a lot of hardship to our members working in all these banks. It is in this background, there is a need to create a representative forum at the Government level to hold discussions on all the matters and subjects arising out of the mergers of the Banks to avoid hardship to our members all over the country. It becomes all the more necessary when there is no representation on the Boards of all these Banks from the Officers' Cadre who could have raised these issues in the respective Board so that the matters can be taken up with the top managements of the Banks.

It is our expectation that at least now the Government takes into account all these aspects and create a Central Representative Forum for Bank unions to enable all of us to present our views on all matters including the issues affecting the economy of the country.■

**COM RAVINDER GUPTA
CHAIRMAN, AISBOF DEMITS OFFICE**

Comrade Ravinder Gupta, Sr. Vice President, AIBOC, and Chairman, All India State Bank Officers' Federation as well as the General Secretary of SBIOA Delhi Circle laid down his office on 30.11.2020 on superannuation from Bank's service. With this, his illustrious journey in trade union activity in AISBOF and SBI Officers' Association, Delhi Circle came to an end. He has also played a significant role in providing valuable inputs during the wage revision process. Com Ravinder Gupta, also the Senior Vice President of AIBOC was one of the signatories on behalf of AIBOC in the 8th Joint Note signed on 11th November 2020.



2. Com. Ravinder Gupta was born on 2nd November 1960 at Haryana. His father Late Shri G.C.Gupta was working with Ministry of Defence, Govt of India. Com. Ravinder Gupta completed his Graduation from Delhi University and is also a Certified Associate of Institute of Bankers. Comrade Gupta, has been an ace Cricketer and had been a regular member of Delhi State and University Team and also played for Delhi Circle for many years. He started his illustrious career in banking on 4th March 1980 in Delhi and got promoted as Trainee Officer in the year 1988 and reached to the position of Officer SMGS-4 w.e.f. 01/11/2001 getting all promotions in due time. He has a vast experience in all the segments of banking and specially in Foreign Exchange (15 years). Since the very beginning of his career in the Bank, he became actively involved in association activities and raised his voice against injustice and discrimination. He sacrificed alluring career prospects in the bank and chose to dedicate himself totally to organisation work. The credit goes to Com. Ravinder Gupta for major and historic improvement in the disciplinary and vigilance procedure and making it a requisite provision that "Appointing Authority must give a personal hearing to the delinquent officer before imposing any major penalty under Rule 68(3)" since the year 2010. Identifying his maturity and

enthusiasm in trade union movement at the early part of his career, Com. Gupta was proximately picked up by the then veteran leadership, none other than the legendary Com. T. N. Goel, the former General Secretary, Delhi Circle, and former President, AISBOF as a vibrant activist and promising leader in the movement of SBI Officers' Association in the state. Starting his trade union career as Vice President of MCG unit, he was subsequently elected to the Circle Committee, Delhi and was the unanimous choice for the Dy. General Secretary of the Circle Committee. In the year 2006, he was elected as a member to the Circle Executive Committee of SBIOA, Delhi Circle and from then onwards there was no looking back. Thereafter, he was elevated to the post of the Jt. General Secretary of SBIOA, Delhi Circle in 2010. By virtue of his popularity, effectiveness and leadership acumen, he became the President w.e.f. 1st July 2012. He succeeded Com. Rakesh Aggarwal/Com. Kanwar Singh and the then leaders of SBIOA, Delhi Circle and became the General Secretary of State Bank of India Officers' Association, Delhi Circle on two occasions-01/03/2013 and 01/11/2014. Com. Ravinder Gupta took over the baton at the most turbulent and blustery period in the history of the Association. He belongs to the elite 'Class of 2012', who were charge-sheeted by the Bank for taking part in a lunch time demonstration in Aug'12. Through his patience, perseverance and dexterous stewardship he was able to smoothly sail the Association through those turbulent waters. His positive and strategic thinking, vibrant leadership, respect for colleagues was a source of inspiration to all. As a mark of admiration and honour to his excellent leadership, he was elected as the Sr. Vice President and again unanimously elected as the Chairman of the mighty All India State Bank of India Officers' Federation (AISBOF) on 1st July 2019. We are incredibly honoured and extremely privileged to have Com. Gupta at the helm of affairs of the Federation. He had always been a man of principle, who never ever

compromised on ethics. His uncompromising stand on matters of principles, against unreasonable and unjust policies of the Management was admired and appreciated by both the management as well as the comrades all over the country. With his innate ability and vision, he always endeavoured to keep SBIOA Delhi Circle and the Federation vibrant and spirited so as to combat any challenge.

3. Com. Ravinder Gupta is gifted with excellent oratory skills and is an articulate speaker. With his outstanding negotiation skill, command over data/facts and through logical articulation, he was able to turn the table many a times to the advantage of the association bringing benefits and relief to thousands of officers in the banking industry. As a true trade unionist, he showed his professionalism and exemplary leadership in collective bargaining with superb negotiation skills, which helped to unlock difficult situations many a time. He is a thorough gentleman and a great human being. A simple and humble person, endowed with all the rare qualities of an effective and efficient leader, and a caring personality devoted to the cause of officers.

4. Com. Gupta is a well-known face in electronic and print media. He is a regular panelist in TV debates on diverse issues, predominantly featuring Banking, Finance, Trade Union and Economy. He has always expressed his opinion in an articulate manner. He is actively involved in the movement of officers' fraternity in defending the public-sector. He extended invaluable support to the Federation and Confederation by liaising with the government departments, institutions and ministries and also on various legal matters. The timely enhancement of Gratuity limit from ' 3.5 lakh to ' 10 lakh in May 2010 and thereafter from ' 10 lakh to ' 20 lakh in March 2018 were possible due to continued follow up by Com. Gupta with Labour Ministry at Delhi.

5. We take this opportunity to place on record our deepest appreciation for all the contribution made by Com. Gupta for building the edifice of a strong trade union movement of officers in the state of Delhi which is worthy of emulation by one and all. We also place on record his contribution and the values espoused by him while discharging his role as a Trade Union leader. Retirement marks the

start of another chapter in one's life. We convey our best wishes on his retirement. May every moment of his life be fulfilling and full of joy. He will be missed, remembered and revered. Working with him has always been an immense pleasure. His humility and graciousness have won our hearts. The legacy he has left will be remembered in the years to come. His perceptiveness as a trade union leader transcended all boundaries.

6. Com. Gupta was given an emotional and befitting farewell in a CNC meeting function held at LHO, New Delhi on 23rd November 2020. All the officers of the Circle, irrespective of cadre, sent passionate messages on the retirement of Com. Gupta who remained in their hearts for the past so many years and will remain forever. Trade Union leaders from banking fraternity from across the country who could not reach him in person due to covid pandemic have sent their heart touching messages to Com. Gupta. We salute Com. Gupta and extend our heart full tribute to one of the most respected trade union leaders in the Banking Trade Union movement of the country. We also convey our deep sense of gratitude to his wife Smt. Reena Gupta presently serving as Manager, National Insurance Company Ltd. at Agra for the sacrifice she made to enable Com. Gupta to fight for the cause of bank officers' fraternity.

7. We sincerely believe that Comrade Gupta is just retiring from bank's service on superannuation and he is not quitting the battle field for the cause of the society in general and the members in particular. We will feel extremely privileged to have his guidance in the forward march of AISBOF. The undersigned, in their individual capacity and on behalf of all the members of AISBOF, convey their sincere appreciation for his colossal contribution and urge upon him to continue his fight against injustice, for the cause of the common people and the members and extend his valuable guidance to the banking trade union movement.

We wish Comrade Ravinder Gupta, a very happy, healthy, contented, active and serene retired life.■

PROPOSED AMALGAMATION OF LVB WITH DBS

Text of AIBOC Circular No.2020/69 dt. 20/11/2020 reproduced text of the joint letter dt. 20.11.2020 from four officers' organisations- AIBOC,AIBOA,INBOC,INOBO, addressed to the Governor, Reserve Bank of India on the captioned subject.

Shri Shaktikanta Das
Governor, Reserve Bank of India ,
Mumbai-400 001.

'The Lakshmi Vilas Bank Ltd. Amalgamation with DBS Bank India Ltd. Scheme, 2020'

Greetings from AIBOC-AIBOA-INBOC-NOBO, the four Officers' organisations representing the entire banking industry.

We are drawing your kind attention to the sudden announcement made by the Reserve Bank of India regarding the takeover of the Lakshmi Vilas Bank by DBS, which is a subsidiary of DBS Singapore.

It is pertinent to note here that in the past three decades, failed private banks have always been amalgamated with public sector banks, like in the case of Global Trust Bank, IDBI Bank Ltd and Nedungadi Bank Ltd. Recently, during the Yes Bank

crisis too, the SBI had to bail out the beleaguered entity at the behest of RBI.

This is for the first time that an old generation private sector bank is being amalgamated with a foreign bank subsidiary. This has been done without providing any justification. We fail to fathom any logic or rationale on the decision of RBI to identify DBS India the most suitable entity to take over the Lakshmi Vilas Bank. RBI owes this explanation to the people of the entire nation.

There is a need to increase the transparency of decision-making and frame appropriate regulatory guidelines regarding amalgamation of failed private sector banks and NBFCs, at a time when the frequency of such failures is up. The country at this juncture needs more public sector banks to cater to the financial needs of the citizens and revive the economy. LVB has been doing a yeoman service in this regard over the last several decades.

We, therefore, demand that LVB must be nationalized in national interest. RBI should scrap the scheme of amalgamation and set in motion the process of nationalisation of the bank. We also demand that the top executives of LVB be held properly accountable for running the bank to ground.■

IMPLEMENTATION OF SALARY REVISION FOR OFFICERS' OF REGIONAL RURAL BANKS

Text of AIBOC Circular No.2020/71 dated 22/11/2020 reproduce text of the joint letter dated 22.11.2020 from four officers' organisations AIBOC,AIBOA,INBOC,NOBO addressed to the Secretary, DFS on the captioned subject. Copy of the letter has also been sent to the Chairman, NABARD and MD&CEOs of all sponsored banks.

Shri Debasish Panda
Secretary, Ministry of Finance
Government of India, New Delhi

Implementation of Salary Revision for Officers of Regional Rural Banks (RRB)

Greetings from AIBOC-AIBOA-INBOC-NOBO, the four officers' organisations representing the entire banking industry.

At the outset, we express our satisfaction for the completion of the 8th Joint Note signing on 11th November '20 thereby culminating a protracted wage revision talks. We place on record our appreciation to your good office for resolving many contentious issues thus paving the way for the successful completion of the process.

Sir, you are aware that the officers of Regional Rural Banks are entitled to receive the same revision on a par with that in the Commercial Banks as per the order of Hon'ble Supreme Court of India. In terms of the 2nd proviso under Section 17(1) of the RRB Act of 1976, it is incumbent on the Central Government to declare and release the enhanced salary and allowances to the staff of the RRBs consequent upon the revision of the wages and pay structure of the employees and officers of the Nationalized and

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scheduled Commercial Banks in accordance with recently concluded 11th Bipartite Settlement / 8th Joint Note respectively with effect from 1.11.2017.

We draw your kind attention to the fact that immediately after the last Salary Revision, your good office had released salary and allowances in two parts, Part-I and Part-II. Incidentally, Part-I comprised of salary and allowances while Part II included other benefits. The RRBs were directed to release salary and allowances under Part-I after formal approval of the concerned Boards of Directors. As regards other benefits included in Part II, the RRBs were directed to seek approval of the Sponsor Banks before finalization and release. However, owing to the dilatory tendencies of the Sponsor Banks, such approval was either unnecessarily delayed or granted after unreasonable curtailments of the benefits. The other benefits were seldom released on a par with the counterparts in Commercial Banks, leading to

widespread resentment and discontent.

It is pertinent to mention that Hon'ble Supreme Court has declared on several occasions that the employees and officers of RRBs are entitled to the benefits of Bipartite Settlement/Joint Note respectively settled for public sector banks and private sector banks, who have given their mandate to IBA for wage revision. This categorically includes the perquisites and other benefits which must also be released at par with other banks. This direction somehow was not interpreted in the true spirit by various Sponsor Banks and there was considerable delay in extending the said benefits as had been observed in the last settlement.

We, therefore, urge upon your good office that in the light of the pronouncements of the Apex Court, to issue suitable directions to circumvent the role of the Sponsor Banks as intermediaries and bestow the responsibility of implementation of the other benefits under Part II directly to the managements of the

Judicial Verdict

**[2020 (166) FLR 386]
(SUPREME COURT)**

**Mrs.R.BANUMATHI and A.S.BOPANNA, JJ.
Civil Appeal No. 2236 of 2020**

April 15, 2020

Between

RAJASTHAN STATE ROAD TRANSPORT CORPN. LTD and others

And

Smt.MOHANI DEVI and another

Payment of Gratuity Act, 1972-Section 4 (1) (b)-Retiral benefits-Claimed by deceased-wife on the ground of voluntary retirement-Deceased was out of job after his resignation was accepted later on-Learned Single Judge allowed the writ petition of appellatant which was affirmed by Division Bench-Hence, the instant appeal-Held. Punishment of withholding of increment was imposed-Non-consideration of application for voluntary retirement would be justified-However, respondent was entitled for gratuity as the deceased had worked for more than five years-Judgment of division Bench set aside-Appeal allowed.

JUDGMENT

A.S. Bopanna,J.-Leave granted.

2. The respondent herein was the Petitioner in S.B Civil Writ Petition No. 2839/2012 filed before the Rajasthan High Court. The brief facts that led to the filing of the Writ Petition is that respondent herein had claimed the retiral benefits of her late husband who was appointed

in the post of conductor on 15.03.1979 at Alwar Depot of the Appellant- Road Transport Corporation. The benefits were claimed on the basis that her husband be deemed to have voluntarily retired from service instead of having resigned.

3. In the course of service, respondent's husband had moved an application seeking voluntary retirement from service on 28.07.2005 indicating

DUTY FIRST, RIGHT NEXT

health reasons. No order was passed on the said application for voluntary retirement and the respondent's husband continued to remain in service.

4. Subsequently, the respondent's husband on 03.05.2006 submitted his resignation as he claimed to be under depression and his health condition had further deteriorated. The resignation was accepted by the authorities on 31.05.2006, he was relieved of his duties and the benefits were paid.

5. Thereafter, the respondent's husband is stated to have immediately submitted an application pointing out that he had erred in mentioning 'resignation' and he desired to retire in view of his earlier application for voluntary retirement. The application also mentioned that no decision had been taken by authorities on his first application dated 28.07.2005 and therefore he should be treated as having voluntarily retired with consequent retiral benefits. The respondent after her husband's death approached the High Court with such prayer.

6. The learned Single Judge held that the respondent's husband had moved an application indicating deteriorating health and forcing such employee to work would be an act of oppression. Additionally, it was held that the voluntary retirement application was not decided within the period prescribed as per the Clause 19 D(2) of the Pension Scheme and reliance was placed on Clause 18D(2) of RSRTC Standing Orders as per which an employee of the Corporation who had rendered pensionable service was entitled to seek voluntary retirement. It held that the respondent's husband would be deemed to have retired even though he had moved another application terming his retirement as resignation in view of the law laid down in Sheel Kumar Jain vs. The New India Assurance Co. Ltd. Thus, the appellants were directed to treat respondent's husband as having voluntarily retired and release the retiral benefits to which he was entitled.

7. Aggrieved, an appeal was filed by the appellants herein in D.B Special Appeal Writ No. 1261/2018. However, no infirmity was found by the Division Bench in the reasoning of the learned Single Judge

and the learned Division Bench dismissed the appeal. The same has been assailed by the appellants herein in this appeal.

8. In the above background we have heard Dr. Ritu Bhardwaj, learned counsel for the appellants, Mr. S. Mahendran, learned counsel for the respondents and perused the appeal papers.

9. The short question that arises for consideration herein is as to whether the husband of the respondent had acquired an indefeasible right to seek for voluntary retirement from service and in that light whether the High Court was justified in arriving at the conclusion that the subsequent resignation dated 03.05.2006 submitted by the husband of the respondent be considered as an application for voluntary retirement and treat the cessation of the jural relationship of employer/employee under the provision for Voluntary Retirement.

10. In order to consider the above aspect, a perusal of the factual matrix in the instant case would indicate that the respondent's husband had joined the service of the appellant-Transport Corporation at Alwar Depot on 15.03.1979. The application seeking voluntary retirement was submitted on 28.07.2005 by which period the respondent's husband no doubt had put in more than 25 years of service. Insofar as the eligibility to apply seeking voluntary retirement in view of the completed length of service, the respondent's husband had acquired such right. The Appellant Transport Corporation however, did not think it appropriate to accept the application and grant the voluntary retirement. In that circumstance the husband of the respondent submitted his resignation on 03.05.2006 which was accepted by the Appellant Transport Corporation and was relieved on 31.05.2006. The respondent contends that immediately thereafter an application was made indicating that the word 'resignation' was inadvertently mentioned and the intention of the respondent's husband was to renew his request for voluntary retirement. However, the consideration of such subsequent application by the Appellant Transport Corporation did not arise and as indicated, the respondent's husband had

been relieved on 31.05.2006 and all the service benefits payable in respect of an employee who had resigned from service was paid, which was accepted by the respondent's husband. The undisputed position is also that the respondent's husband subsequently died on 14.04.2011. It is subsequent to the death of the husband, the respondent had filed the writ petition before the High Court of judicature for Rajasthan, Bench at Jaipur in S.B. Civil Writ Petition No.2839/2012. The learned Single Judge while considering the case of the respondent merely took note of the legal position which had been enunciated by this Court in the facts of those cases which had been referred and with a bare reference to Clause 19D(2) of the Rules arrived at the conclusion that the application for voluntary retirement was deemed to have been accepted and therefore, directed that the appellants to treat the respondent's husband to have retired from service on the date he was relieved and pay the retiral benefits. The Division Bench has reiterated the said position.

11. Having heard the learned counsel for the parties, we find that the factual aspects which were relevant for decision making in the instant case has not been referred by the High Court during the course of its order but has merely assumed that the voluntary retirement application should be deemed to have been accepted when there was no rejection. As noticed from the objection statement filed by the respondent herein herself, the right to seek for voluntary retirement is stipulated in Rule 50 of Rajasthan Civil Services Pension Rules, 1996. As indicated above, since the same provides for 20 years of qualifying service, the respondent's husband had qualified to apply. However, what is relevant to take note is that sub-Rule(2) thereof provides that the notice of voluntary retirement given by the employee shall require acceptance by the appointing authority. In the instant case, the undisputed position is that there was no acceptance and in that circumstance the husband of the respondent had submitted his resignation on 03.05.2006. Though the High Court has indicated deemed acceptance, the same would not be justified in the instant facts since the position

which has not been taken note by the High Court is that as on the date when the husband of the respondent had made the application for voluntary retirement on 28.07.2005 the husband of the respondent had already been issued ChargeSheets bearing No.7352 dated 16.12.2004 and bearing No.4118 dated 11.07.2005 alleging misconduct. Though the respondent, through the objection statement seeks to contend that the charge alleged against her husband was not justified, that aspect of the matter would not be germane to the present consideration since the position of law is well established that pending disciplinary proceedings if an application for voluntary retirement is submitted there would be no absolute right seeking for acceptance since the employer if keen on proceeding with the inquiry would be entitled not to consider the application for voluntary retirement. Hence there would be no obligation to accept. In the instant facts the proceedings relating to the charge sheet was taken forward and completed through the final order dated 03.09.2005. The punishment of withholding of the increment was imposed. In such circumstance the non consideration of the application for voluntary retirement would be justified.

12. Be that as it may, as noted the inquiry had been completed and thereafter when the respondent's husband submitted the resignation on 03.05.2006, the same was processed, accepted, he was relieved on 31.05.2006 and the payment of terminal benefits were made which had been accepted by him. During his lifetime up to 14.04.2011 the husband did not raise any issue with regard to the same. It is only thereafter the respondent has filed the writ petition before the High Court. Primarily it is to be noticed that when the application for voluntary retirement was filed on 28.07.2005 and had not been favourably considered by the employer, instead of submitting the resignation on 03.05.2006, if any legal right was available the appropriate course ought to have been to seek for acceptance of the application by initiating appropriate legal proceedings. Instead the respondent's husband had yielded to the position of non-acceptance of the application for voluntary retirement and has thereafter submitted

his resignation. The acceptance of the resignation was acted upon by receiving the terminal benefits. If that be the position, when the writ petition was filed belatedly in the year 2012 and that too after the death of the employee who had not raised any grievance during his life time, consideration of the prayer made by the respondent was not justified. The High Court has, therefore, committed an error in passing the concurrent orders.

13. The learned counsel for the respondent would submit that even if it is a case of resignation the deceased husband of the respondent was entitled to the payment of gratuity as he had put in the qualifying service. The learned counsel for the appellant would contend that the gratuity amount had been paid. In that regard, the reference made to para 9 of the writ appeal filed before the High Court would however indicate that though reference is made to the payment disbursed to the respondent's husband while accepting the resignation, the same does not disclose that the gratuity amount has been paid. Further, in the appeal filed before this Court the appellants have sought to justify the non-payment of the gratuity as the husband of the respondent had resigned from service. As rightly pointed out by the learned counsel for the respondents, Section 4(1)(b) of the

Payment of Gratuity Act, 1972 provides that the gratuity shall be payable if the termination of employment is after 5 years of continuous service and such termination would include resignation as well. In that view, if the gratuity amount has not been paid to the respondent's husband, the liability to pay the same would subsist and the respondent No.1 will be entitled to receive the same in accordance with the provisions of the Act. In that regard it is directed that the appellants shall accordingly calculate the gratuity and pay the same to the respondent No.1, if already not paid. Such payment shall be made within four weeks from this date.

14. In the result, the appeal is allowed. The judgment dated 19.11.2018 passed in D.B. Special Appeal(W) No.1261/2018 upholding the order dated 01.11.2017 in S.B. Civil Writ Petition No.2839 of 2012 is set aside. The gratuity amount as directed above shall be paid to respondent No.1 in terms of the provisions of the Payment of Gratuity Act, 1972 within four weeks from this date.

15. Pending application, if any, shall stand disposed of. ■

Appeal Allowed.

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