



**OFFICERS' CAUSE**  
**JUNE - 2017**

## **NPA – WHITE WASHING**

**E**ver since the country got independence the Banking Industry in India has been taking active part in the lending activity keeping the policies and programmes of the Government from time to time. The accounting system in the banks before the advent of reforms era in the financial sector was being managed within and the Boards have enormous power in dealing with the bad debts. The provisioning norms were liberal and there was no question of any bank coming into red despite the huge loan portfolio that was being handled by the banking industry. The introduction of international standards for the purpose drawing up the balance sheet with the prescription of prudential norms and capital adequacy as decided by Basel Commission from time to time and during the year 1990's forced the banks to come out with the true picture of the bad debts, popularly known as non-performing assets. The capital adequacy norms are that the bankers are expected to have their own stakes in the form of capital in the range of 8% that improved upto 12% over a period of time. A large number of banks could not meet this standard. The banking industry for the purpose of the analysis of balance sheet was classified into three groups, i.e. the Banks' that are making operating profits, the banks making net profits and the banks incurring losses.

During the middle of 1990's the Government of India took several stringent steps in the name of cleaning up of Balance Sheet that enabled the banks to wipe out nearly ₹ 1,50,000 crores of bad debts and came out with clean balance sheet to enable them to compete globally. The accountability of the banks however continues to haunt them due to the rigid procedures under the vigilance which did not undergo any change with the changing international environment for the banking industry. In the process a large number of corporate accounts have escaped from the responsibility of paying back their dues to the banking system. Due to the continuous pressure on the part of the unions/associations and also top executives of the bank for empowering the banks for forfeiture of assets charged to the banks by the borrowers, the Government came out with a legislative measure known as SARFAESI & DRT Acts which enabled the banks to take possessions of the properties charged to them and auction them to realize the dues. This helped a few of the banks to recover their debts due from the large industrial houses. Still, some of the defaulters were capable of escaping from the responsibility of repaying the debts to the banking system due to the indirect support from the Government agencies. The unions continued with their efforts

to highlight the real problems of the recovery of NPA and how the large industrial houses have been escaping from the responsibility in clearing their debts to the banking system. In the course of ensuring adequate capital to the banks, the Central Government attempted to declare some banks as weak with the intention to hand over them to private operators. This sinister design influenced the unions in the banking industry to come together forgetting their ideological differences and thus the United Forum of Bank Unions came into being. Since then this forum is spearheading the issue of recovery of NPA's from the large industrial houses.

The drama is now being repeated once again in the name of recovery of huge NPA's which is estimated to be in the range of over ₹ 5,00,000 crores. The gross NPAs of public sector banks as at 30th June 2016 are furnished separately. The central Government is insisting that the banks should come out with their plan for infusing of capital, cleaning up of the balance sheet by recovery of NPA's etc. The matter received the attention of the Ministry of Finance in its regular meetings. The executives of the Banks have been instructed to come out with their proposals for the speedy recovery of NPA's. The Bureau of Banks Boards also stepped in as the elder brother of the banking industry and overseeing authority of the banking system in the country insisting for a stringent measures for the recovery of dues from the large borrowers

etc., The Reserve Bank of India has been entrusted under Bankruptcy Code through an ordinance with the special responsibility of coming out with proper proposal for the recovery of huge NPA;s in the banking system. The Government has also advised the banks to come out with top defaulters list that has to be placed before the Parliament and Public with necessary corrective/recovery measures. These are known game plans of the Government. We have the past experience, where the Government compelled the banks to write

off huge debts which are due from the Corporate borrowers in the name of keeping the balance sheet healthy. The Government is also indicating restructuring of the banks with the experience that they have gained from the recent merger of the Associate Banks with the State Bank of India. With the general elections round the corner in the next two years, banks are required to come out with their plan of action for recovery of NPA's. Once, the time tested measures of restructuring of debts, converting the outstanding's into equity, one time settlement

etc., commences, the Government will go with full preparation to take advantage of the huge dues from the industrial houses by the time the election process starts in the country. It is going to be yet another whitewash of the huge debts that have been locked in the accounts

Gross NPAs of Public Sector Banks  
as on June 30, 2016

S No.	Bank	Gross NPA (Rs. in crore)	NPA Ratio (%)
1	Allahabad Bank	18769	12.92
2	Andhra Bank	14137	10.3
3	Bank of Baroda	35604	13.23
4	Bank of India	43935	16.01
5	Canara Bank	30480	9.78
6	Central Bank of India	25107	13.52
7	Corporation Bank	15726	11.01
8	Dena Bank	9636	11.88
9	Indian Bank	8690	7.11
10	Indian Overseas Bank	30239	20.26
11	Oriental Bank of Commerce	17209	11.45
12	Punjab & Sind Bank	4566	7.23
13	Punjab National Bank	55003	15.41
14	Syndicate Bank	13475	8.03
15	UCO Bank	21495	18.66
16	Union Bank of India	25560	10.52
17	United Bank of India	10104	14.28
18	Vijaya Bank	6589	7.31
19	State Bank of India	93137	7.8
20 *	State Bank of Bikaner & Jaipur	4593	6.2
21 *	State Bank of Hyderabad	9436	8.39
22 *	State Bank of Mysore	4323	7.83
23 *	State Bank of Patiala	11365	13.33
24 *	State Bank of Travancore	6401	9.38
25 *	Bharatiya Mahila Bank Ltd.	3	0.4
	<b>TOTAL</b>	<b>515579</b>	

\* Since merged with State Bank of India

**SUCCESS AWAITS AT THE DOOR WHERE DILIGENCE IS**



of the industrial houses. It is the people's money which should have been safeguarded by the representatives of the people in the Parliament. The debts of the farmers, the small business enterprises, the small scale industries is trumpeted in the market and the series of

farmers committing suicide for paltry percentage of NPA's, whereas the large scale NPA's which is the contribution of the few Industrial Houses goes under the carpet thus defeating the very purpose of the recovery Thus history repeats itself.■

## CELEBRATION OF MAY DAY

*Text of AIBOC Circular No.2017/28 dated 9th May, 2017.*

### QUOTE:

International Workers' Day which is often referred to as May Day is a celebration of labourers and the working classes and it is promoted by the international labour movement. May Day is an occasion that pays tribute and respect to workers and their contribution towards making our lives easier. A cause close to the heart of men, May Day celebrates and honours workers. It is a public holiday of much importance to labour rights' activists.

The historic May Day has been celebrated all across our country under the banner of AIBOC in a grand fashion and in its true grandeur. Thousands of our comrades came forward to commemorate the martyrs of 19th century who made history by sacrificing their lives and red painted the flag of May Day with their blood to give shape to a labour dominated society, the fruits of which we are still enjoying. We dedicated the special day to lakhs of our distressed farmers, urged public conscience about the importance of Public Sector in Indian economy and re-christened the day as "Save Public Sector, Save Farmers and Save India Day"

We give below some of the glimpses of May Day celebrations.

In Kolkata it started with sky rocketing slogans chanted by a huge gathering assembled at the Local Head Office of State Bank of India at Kolkata under the stewardship of AIBOC, West Bengal State unit. The meeting began with paying homage to the martyrs of Haymarket Square in the form of a chorus song sung by comrades from different affiliates. The Commemoration Flag was hoisted by the leaders of the State committee amidst shouting of slogans and salutes renting the air. The speakers highlighted the

relevance of May Day in the present day context and described the plight being faced by the people engaged in farming sector and the impending threat that Public Sector in the country is slated to face. Bardhaman, Midnapur, Krishnanagar, Siliguri are the other prominent cities in west Bengal where members sang, walked on the roads, shouted slogans, assembled at prominent places and delivered speeches to mark the special day in its true spirit. Different affiliates of AIBOC also made their mark through various activities like blood donation camps and meetings. The day marked an end with a press conference by AIBOC west Bengal State leadership.

The historic event marked splendid commemoration at Guwahati where the May Day was celebrated in presence of all the other constituents of AIBOC. The President of Assam State Unit kick started the morning event by hoisting the May Day flag amidst a huge gathering shouting slogans all along to mark a revolutionary start of the event. The secretary of the Assam State Unit while briefing the media, elaborated the theme of this year's commemoration and its relevance in present day context and informed the press about our decision to observe every Monday of the week as protest day when "Dharnas" will be arranged across the seven states of North Eastern Circle on various demands under the Banner of AIBOC. The flag hoisting ceremony was followed by a general meeting arranged by the State Committee to have a thread bare discussion on the Govt. Policies vis a vis the stand taken by AIBOC and to chalk out future course of action taking a queue to the spirit that MAY DAY instilled amongst each of the participants. Tripura, Shillong, Manipur, Mizoram are other prominent states and centers where the day marked a glorious celebration.

The Tamilnadu State Unit of AIBOC marked a hilarious celebration of historical May Day with day packed programmes ranging from hoisting of May

**ARISE, AWAKE, STOP NOT TILL THE GOAL IS REACHED**

Day flag to mass gathering, meetings, press conferences and also demonstration in front of RBI Office, Chennai condemning the statement made by its Governor and Deputy Governor as regards to Public Sector Banks. They also provided letters to 21 children of farmers who died this year undertaking to take care of their entire education expanses up to college level.

In tune with the same, all other State Units of AIBOC also celebrated this remarkable day of workers by convening meetings, hoisting flags, shouting slogans and organizing demonstrations at the respective cities. The celebration of May Day 2017 by all the affiliates under the banner of AIBOC has been a great success. ■

*Labour Issues*

## **BOTTLENECKS IN THE COMMENCEMENT OF SALARY REVISION NEGOTIATIONS IN BANKING INDUSTRY**

**C**onfederation had on 20th May 2017 sent a communication to Hon'ble Finance Minister of India for his intervention in the matter Salary

revision negotiation and to resolve the issue without any further escalation which may affect the smooth conduct of the negotiation. ■

### **BIPARTITE NEGOTIATIONS PRESSURE EXERTED FOR UNCONDITIONAL MANDATE MEETING WITH MANAGEMENT FOR OTHER PENDING ISSUES ON 22ND MAY, 2017 CO-ORDINATION MEETING WITH STAFF UNION ON 22ND MAY, 2017**

**T**he Indian Banks' Association has indicated that it is ready for the next round of discussions on the 11th bipartite negotiations. However, the unions have been insisting with the Managements of all the Banks for giving unconditional mandate to IBA since the industry level negotiations always cover the salary scales in respect of all the employees and officers working in the bank, from Substaff to the General Managers, covering 4 grades and 7 scales in the officers category and two scales in the Award Category. Historically, since the Pillai Committee recommendations there was no discrimination in regard to the bipartite discussions covering all these scales, although some banks made attempts to divide the officers into two categories, that is, from Scale I to Scale III and Scale IV and above at the time of handing over their mandate to the Indian Banks' Association. Such attempts were thwarted and the IBA as well as the Managements of some of the banks failed in their attempts on the earlier occasions.

2. It is understood that some of the banks are still hesitating to give unconditional mandate for the purpose of negotiations under the 11th bipartite. The Confederation has already taken up the matter with the Government as well as respective Managements for creating a cordial atmosphere so that the negotiations could be smooth and hassle free since the Government has been repeatedly stating that it

would like to conclude the negotiations on the 11th bipartite settlement in good time.

3. The Federation has already sent a letter to the State Bank management for the submission a revised mandate authorizing the IBA to negotiate on the salary scales of the officers of all categories. The issue is being followed up with the Management. There was a brief follow-up meeting with the Management in this context and we have raised this issue on a serious note and conveyed our serious resentment over these developments and also our firm resolves urging them not to go for a partial negotiation with the Indian Banks' Associations.

4. The officers of Scale IV and V are the members of the Federation and have been with the Federation in their long journey of struggles, sacrifices and achievements. Many Scale IV and V Officers also hold positions at the Circle Associations and in the Federation. The achievements in salary and perks clinched over a period of time can't be negated in one stroke. Therefore there is a need to be united and the Federation, the AIBOC and the UFBU is determined to thwart any attempt to divide the officer's fraternity.

5. Federation also had a co-ordination meeting with their Staff Federation on the 22nd May, to review

**WORK IS WORSHIP, DO YOUR DUTY**

the industrial relations situation in the Bank. The Federations have conveyed their sentiments over these developments and wanted immediate resumption of tripartite meeting on all the common issues with the Management.

6. A meeting with the Management of the Bank was held on the 22nd May 2017 wherein many issues pertaining to the officer's community were also raised, apart from the issue of mandate. ■

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**ATTEMPT TO DE-UNIONIZE SENIOR OFFICERS  
FEDERATION IS FULLY PREPARED TO FACE THE ATTACK  
CURRENT NEGOTIATIONS ON SALARY REVISION  
WILL CONTINUE TO BE FOR ALL SCALES AND GRADES  
MEETING OF OFFICERS OF SCALE IV AND V AT CIRCLE/MODULE LEVEL**

The XIth Bipartite wage negotiations have begun, with the first meeting being held on 2nd May, 2017 at the IBA. The Charter of demands would be submitted in the next meeting by both, the four officer's organization and the five workman's unions. As usual the Chairman and MD's of various Banks have expressed concerns over the growing NPA's and the lack of paying capacity in certain Banks. This has been the same old story of IBA in all the ten bipartites held this far. Not in one bipartite since 1984 for officers and since 1967 for workmen has a wage revision been given on time and with dignity. But the most shocking part is that this time there is clear design to divide officers of Scale IV and V from the officers of Scale I to III which is a sinister attempt to de-unionise the senior officers, entice them with higher wages and ultimately trap them into the concept of performance linked variable pay and on cost to company (CTC) basis.

2. This is yet another initiative on the part of the Government of India, to de-unionize the senior officers, in particular the Scale IV and above in all the banks including the State Bank of India. Members are aware that the All India State Bank Officers' Federation has the membership of all the Officers in all grades and in several cases even the senior executives. They have all contributed whole heartedly in building a strong edifice for the Federation ever since it was established in the year 1965. The Federation is a live organization and responds to each and every members' aspirations irrespective of the scales grades.

3. Federation had traversed a long way since 1965, the year of the foundation of this great organization and have been fortunate to have the services of the

senior officers all over the country in strengthening the Officers' movement. It will not be out of place that several senior executives have also been part of the leadership of this great organization both at the Federation as well as the Circle level associations. Functioning of the organisation had been totally democratic and transparent and the seniors have total freedom to express their views. They had been benefited by their wisdom and guidance on all occasions and they have remained loyal to the Federation throughout their career. Federation owe their gratitude to all those seniors who helped in maintaining the unity of the Federation throughout their journey.

4. In the past there were continuous attempts by the Indian Banks' Association to divide the senior officers in the banks to ensure that they should not be a part of the trade unions representing the officers' fraternity in the bank. It is to the credit of the entire Officers' community that such attempts were thwarted in very effective manner by our Federation and the Confederation.

5. The 11th Bipartite Negotiations are on. The IBA and some of the major banks have started the same game plan suggesting to the Officers' organizations that they will not be able to negotiate on behalf of all the scales and grades as hitherto since some of the banks' managements have furnished a conditional mandate to them for negotiations, restricting the negotiations only upto scale III and that the remaining scales would be decided by themselves. The Confederation as well as the Federation is very clear on this issue. There is no question of restricting our negotiations only upto scale III and the Confederation is not going to accept such a

**LET CUSTOMER SERVICE BE OUR MOTTO**

condition. More so, it is between the IBA and the individual member banks and the Confederation cannot be a party for such understandings between the IBA and the individual managements.

6. Federation had also communicated to the Management of State Bank of India that the Bank should give an unconditional mandate to the IBA and it should not create any hurdles in the process of negotiations in the best interest of the banking industry. There is no question of any truncated negotiations and there has to be proper and congenial atmosphere in the bank before the commencement of serious bipartite negotiations in the banking industry.

7. It is necessary for everyone to acknowledge the great contributions made by the senior comrades in building a strong Federation and also strengthening the Circle Associations all over the country. The Federation is known for its pragmatic approach and total consolidation of the officers of all ranks and grades in the State Bank of India. It is their strength and courage that has helped the industry as well to

reap rich benefits by way of improvements in the service condition from time to time. It is a historical fact that all the seniors have participated enmasse in all the strikes so far and to cap it the indefinite strike that was conducted in the year 2006 for the improvement in the superannuation benefits. Hence, it is the duty of the Federation to express their gratitude for their continued support despite several attempts from the Management at the instance of the Government and IBA to wean away them from our midst.

8. Federation is confident that the members in senior scales have always supported them and continue to support. It is necessary to get prepared for every sacrifice in case the sinister design of the Management and the Government supported by the IBA continue to undermine the participation of the senior officers in their movement. Let all members be in readiness for any sacrifice for defending the trade union rights of the supervisory staff at all levels so that the Federation continue to remain a stronger, vibrant and committed for all times to come. ■

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## **PROTEST AGAINST RBI'S PROVOCATIONS OF PRIVATISATION OF BANKS**

***Text of UFBU Circular No. UFBU/2017/07 dated 3rd May 2017.***

- ☞ **RISE IN PROTEST AGAINST RBI'S PROVOCATIONS OF RE-PRIVATISATION OF BANKS**
- ☞ **OBSERVE AGITATIONAL PROGRAMMES**
- ☞ **GET READY FOR ALL INDIA STRIKE**

Members are well aware of the multiple challenges faced by the banking sector particularly, the Public Sector Banks. The bad loans are increasing every quarter and it has reached alarming proportion of more than Rs.13 Lac Crores. No effective steps are being taken to confront the defaulters and to recover the loans. Everyone is also aware that bulk of the bad loans is attributable to private corporate and business enterprises. It is disheartening to note that instead of recovering the bad loans from these delinquents, all types of concessions are being given to the defaulters and bad loans are being sold away at cheaper price. Government is also

contemplating various measures to reduce the bad loans in the books of the banks, instead of stringent measures to recover the bad loans.

Recently, the Finance Ministry has extended capital to various Banks and turnaround plans including recovery of NPAs are under discussion.

In this background, it is surprising that RBI Governor and Dy. Governor have made public statements suggesting Re-privatisation of PSBs, disinvestment, merger and consolidation, reduction of staff through VRS, etc. as a measure to solve the NPA issues.

RBI is the regulator of banks and instead of suggesting ways and means to recover the loans and strengthen the banks, is advocating privatization. UFBU meeting held at Mumbai on 02.05.2017 took very serious note of these absolutely unwarranted provocative statements and expressed its total condemnation.

**BE TRUTHFUL, BE FEARLESS**

It was unanimously decided to express our protest and demand proper clarification from the government as to whether these statements are as per government policy and decision or are they just personal remarks of these executives. The following agitation programmes were decided:

1. UFBU letter to Finance Minister.
2. UFBU letter to Governor, RBI.
3. Demonstrations all over the country on 09.05.2017 & 16.05.2017 at all District Headquarters.

4. Postering campaign from 10.05.2017.
5. Badge wearing on 23.05.2017.
6. All India Strike if there is no satisfactory response from the Government.

The letter to Finance Minister and Governor, RBI will be circulated subsequent to submission of the same. The specimen of Poster and Badge will be sent to all Constituent Units in due course.

We request all our constituent unions & their State level Units to undertake these programmes successfully. ■

### **EXTRA-ORDINARY CENTRAL COUNCIL MEETING OF ASSOCIATE BANKS' OFFICERS' ASSOCIATION (ABOA) HELD AT HYDERABAD ON 27TH & 28TH MAY 2017**

**A**n Extra-ordinary Central Council meeting of Associate Banks' Officers' Association was held on 27th May 2017. The Management Representatives, past General Secretaries and Presidents of ABOA, Presidents and SBIOA Circles' General Secretaries, delegates and observers from the five erstwhile Associate Banks thronged at the premises.

2. The function started with the symbolic outburst of scintillating dance performance by Rajeswari Srinath Group. All the Guests of Honour, who arrived at the venue include Shri Mani Palvesan, CGM, Amaravathi Circle, SBI, Shri Hardayal Prasad, CGM, Telangana Circle, SBI, Com. Y.Sudarshan, Chairman, AIBOC and General Secretary of AISBOF and Com. D.T.Franco Rajendra Dev, General Secretary, AIBOC and President of AISBOF.

4. Com. Harshavardhan Madabhushi, General Secretary of ABOA, while extending a very warm and affectionate welcome to dignitaries, delegates, special invitees and Management Representatives and expressed that it is a paradox that inauguration

of the Extra-Ordinary Central Council meeting is being conducted to pull down the curtains of ABOA by passing a resolution for the dissolution of ABOA. Thereafter, the ceremonial lamp was lit by all the dignitaries sitting on the dais.

5. Com. Y.Sudarshan, Chairman of AIBOC and the General Secretary of All India State Bank Officers' Federation, who was there to inaugurate the Central Council meeting delivered his marathon speech encompassing all the issues in today's context confronted by Bank Officers' fraternity with an added emphasis to State Bank Group. Shri Mani Palvesan CGM, Amaravathi Circle and Shri Hardayal Prasad, CGM, Telangana Circle welcomed the officers of ABs and assured that Performers will always be taken care of and equal treatment will be extended to all the officers of ABs. They emphasized the growing competition from the Private Banks and newly created Payment Banks.

6. The meeting ended with a vote of thanks proposed by Com. Sunil Dutt Bali, President, ABOA. ■

### **MERGER OF ASSOCIATE BANKS: COMPREHENSIVE APPROACH ON ALL WELFARE SCHEMES**

**O**ne of the important areas that need the attention is the Welfare activities which were in existence in the Associate Banks. Each Associate Bank had its own background in the areas

concerning sports development, welfare facilities such as scholarship schemes, the provision of holiday homes, the medical facilities provided at the major centers etc. The Associate Banks have

**OUR LIFE IS WHAT OUR THOUGHTS MAKE IT**



also made a name in the national sports such as Cricket, Foot Ball, Volley Ball etc., and have contributed to the success of the sports at the national level.

2. The State Bank of India has its own structure with regard to development of sports and other welfare activities. They have a Sports Control Board at the apex level which takes care of the development sports activities. The Bank also allocates funds in a liberal manner to encourage the various games keeping in view the brand equity of the bank. The Bank has also got Central Welfare Committee at the corporate office which looks into various areas of welfare facilities extended to the staff. A similar structure was prevalent in the

Associate Banks as well. The Welfare Funds allocated at each Associate Banks were also utilized for various purposes, with the participation of the Officers organizations as well as unions.

There were a number practices specific to the local requirements under the welfare facilities and was being extended to the employees of Associate Banks. Federation had sent a Communication to the corporate centre to collect all such details ensure that all the welfare facilities are protected and continued so that the sentiments and emotions of the employees who have joined us on merger are respected and at the same time the welfare facilities which were available earlier is not given up.■

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## **ISSUES FOR URGENT INTERVENTION – COMMON TO THE OFFICERS AND WORKMEN**

**T**he Joint Forum of *All India State Bank Officers Federation* and ALL INDIA STATE BANK OF INDIA STAFF FEDERATION have sent a communication to the Corporate Centre on 29th May 2017 reminding the management to resolve many issues common to officers and staff confronting them as indicated in their joint letter addressed to the management.

They have also reiterated their total support to the Management towards the growth of the Bank in all respect and requested him to convene the joint meeting of the both the Federations at the earliest to discuss the above referred issues to find an amicable solution to the satisfaction of all. The issues are long pending and there is a need to call an urgent meeting to sort out the same amicably.■

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## **BAD LOAN MESS TO GET SORTED IN 3 YEARS: SBI**

**S**tate Bank of India sees a “positive turnaround” in the bad loan mess after the government implements a new rule aimed at resolving the problem, said Chairman, SBI Smt. Arundhathi Bhattacharya said.

“The non-performing asset cycle is different this time,” said the chairman in an interview with Bloomberg News in Yokohama, Japan, “Many assets are good quality and required by the economy – when growth turns up, they will perform again.

“It’s not going to be such a difficult cycle to turn,” she said from the sidelines of the Asian Development Bank’s annual meeting. “Economic

indicators point to a revival in demand very shortly. If you can get these assets to participate in that cycle again, I think this is an issue that can be resolved in two to three years, maximum.”

The Cabinet on 3rd May 2017 approved a plan to give the Reserve Bank of India more power to order lenders to deal with bad loans, according to an official with knowledge of the matter.

The SBI chairman said she expects it to empower the regulator to resolve the bad loan problem within a few years.

India is being weighed down because soured loans

on banks' balance sheets hinder credit growth and job creation. Various programmes proposed by the RBI to resolve the problem have been unsuccessful, with lenders reluctant to write down assets sufficiently and company owners unwilling to negotiate repayment plans.

Stressed assets- made up of bad loans, restructured debt and advances to companies that can't servicing

requirements have risen to about 16.6% of total loans, the highest level among major economies, data compiled by the government shows.

"India needs a lot more infrastructure than it currently has and therefore it does not make sense to throw it away-rather it makes sense to revive them," Chairman said. ■

*Source: Financial Express, Dt:5.5.17*

*Banking*

## **BAD LOAN ORDINANCE TO IMPROVE TRANSPARENCY, SBI - CHAIRMAN**

**T**he new ordinance that empowers RBI to nudge banks to deal with stressed assets will improve transparency and provide higher assurance when dealing with bad loans, said Smt. Arundhati Bhattacharya, Chairman, State Bank of India (SBI). "People having to take difficult decisions can now feel they are doing it in the proper way, with a transparent process," said the Chairman.

The government approved an ordinance enabling action by RBI in case of bad loans. RBI can now instruct banks to act against defaulters and propose resolutions. Even as deteriorating loan books plague the Indian financial sector, the Chairman is charting plans to take the country's largest bank to a global top 30 position. ■

*Source: Economic times -Date-11.5.17*

*Article*

## **EMPLOYEE -DEFINITION UNDER P.F. ACT NEEDS RE-LOOK**

**A**uthorities are known for creating disputes where there is none or to make the net so wide so as to have galore of disputes. Finding the solution to the problems is not their hallmark but by making them messy ensures them the epithet of 'experts'. It has been the main reason for most of the litigations. Department of Provident Funds adopts many methods to use sticks against employers for their harassment on the one hand and for indulging in the corruption on the other. Although the technology has considerably reduced the scope of exploitation yet wherever there is any possibility of subjective consideration invidious ways are invariably adopted for arms twisting.

The terms of the definition of 'employee' under the Employees' Funds Act are very wide. They include not only persons employed directly by the employer but also persons employed through a contractor. Moreover, they include not only persons employed in the factory but also persons employed in connection with the work of the factory or

establishment. For example, a home worker in beedi industry, by the fact that he rolls beedies, is involved in an activity connected with the work of the factory but under the statutory definition even if a person is not wholly employed, he would be a person within the meaning of the term 'employee'.

Section 2(f) of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952, hereinafter referred to as Act of 1952, is very comprehensive, which defines an 'employee' as under, which says that any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of an establishment, and who gets, his wages directly or indirectly from the employer, and includes any person- -

- (i) employed by or through a contractor in or in connection with the work of the establishment;
- (ii) engaged as an apprentice, not being an

apprentice engaged under the Apprentices Act, 1961 (52 of 1961), or under the standing orders of the establishment.

Despite above definition it is not easy to determine as to who is an employee in view of various nomenclatures like home worker, domestic help, daily wage worker, casual worker, workman, part-time retainer, advisor, consultant, piece rated worker, Director, partner, flexitime worker, field worker, agent, commission agent, hawker, vendor, apprentice, trainee, drivers and conductors of school buses, car driver, courier, loader-unloader, driver of the company executive getting reimbursement, team member, karamyogi, hon'ry doctor, volunteer, sevadaar, retired employee of Government, re-employed retired employee, newspaper employees, cinema employees, employees from foreign countries or Indian employees appointed into foreign countries, summer trainees paid stipend etc.

Sometimes the employers do not ' want to cover such employees under the Employees Provident Fund Act whereas the authorities insist they should be covered. There have been number of cases interpreting as to who is an employee to be covered under the Act. Therefore, it is necessary to have a look at some of the judgments on the subject in order to understand the legal implications. At the very outset reference is made to a landmark judgment of the Gujarat High Court in Satish Plastics v. Regional Provident Fund Commissioner, wherein it has been observed that:

"The inclusive part of the definition makes it clear that even if the person concerned has been employed through a contract in or in connection with the work of establishment, he would yet fall within the description of "employee" within the meaning of the Act. In order to answer the question some other questions have to be asked and answered viz:—

(1) Was he doing the work of monetary payment?

(2) Was the work done by him the work of the establishment or has a nexus with such work?

(3) Was the payment made wages, in the sense of being remuneration for the physical or mental effort in connection with such work?

(4) Was the work such that it had to be done as directed by the establishment or under its supervision and control to the extent that supervision and control are possible having regard to the specialized nature of the work or the skill needed for its performance?

(5) Was the work of such a nature and character that ordinarily a master- servant relationship could exist and but for the agreement styling it as a contract common practice and common sense would suggest a master-servant bond?

(6) Was the relation indicative of master-servant status in substance having regard to the economic realities irrespective of the nomenclature devised by the parties?

(7) Was he required to do the work personally without the liberty to get it done through someone else?

(8) Is such relationship any the less a master-servant relationship in case the person is allowed to work (1) at his own place, and/or (2) at the hours of his sown choice and/or (3) for someone else?"

In the era of very high technological development, where the very concept of work and workplace have completely changed and robotic machines are replacing human beings, the definition of 'employee ' needs to be drastically changed to make it more rationale and in consonance with developing situations.■

**By..... H.L. Kumar**  
**Labour Law Reporter, Delhi**  
**Source: FLR 2017(153)**

**NEVER BEND BEFORE THE INSOLENT MIGHT**

2017-II-LLJ-28 (Ker)  
LNIND 2017 KER 1150  
IN THE HIGH COURT OF KERALA

**Present:**

**Hon'ble Mr. Chief Justice Mohan M. Shantanagoudar and**

**Hon'ble Mr. Justice Anil K. Narendran**

**W.A. No. 118 of 2017 in W.P. (C). 38150 of 2016**

**19th January, 2017**

**State Bank of Travancore, Represented By Its General Manager ... Appellant(s)**

**Versus**

**K.P. Kiran Kumar ... Respondent (s)**

*Termination — False Declaration — Respondent was appointed as peon in Appellant bank - Respondent was dismissed by Ext.P5 order — Ext.P5 order of termination came to be issued against Respondent for concealment and for making false declaration at time of obtaining appointment- Single Judge set aside Ext.P5 order and directed Bank to pass fresh orders after considering dictum laid down by Apex Court - Whether Single Judge was right in setting aside termination order - Held, there cannot be dispute that matter needs to be reconsidered by Bank in light of verdict laid down by Apex Court – Single Judge not justified in quashing Ext.P5 termination order while directing Bank to reconsider matter — Prima facie, it is proved that there is concealment of material fact — No prejudice or injustice will be caused to either of parties if case is reconsidered by Bank keeping in tact Ext.P5 order — in case Bank decides in favour of respondent after hearing consequences of reinstatement of Respondent would follow- Till such time Respondent cannot be allowed to work as employee - Court sets aside portion of judgment of Single Judge quashing Ext.P5 order — Ext.P5 order re- mains on record - Direction issued to Bank to reconsider matter afresh in light of judgment of Apex Court stands confirmed.*

**ADVOCATE APPEARED**

P. Ramakrishnan, SC, State Bank of Travancore for Appellant(s)

S..K. Krishnakumar, for Respondent(s)

**JUDGMENT**

Mr. MOHAN M. SHANTANAGOUDAR, CJ.

The judgment dated 8.12.2016 passed in W.P(C). No. 38150 of 2016 is called in question in this appeal.

2. The respondent was appointed as a peon in the appellant bank. However, he was dismissed by Ext.P5 order on the ground that at the time of applying for the post, he has suppressed the material particulars relating to his involvement

in a criminal case.

3. Thus in effect, Ext.P5 order of termination came to be issued against the respondent for concealment and for making false declaration at the time of obtaining appointment. The learned Single Judge, relying upon the judgment of the Apex Court in *Avtar Singh v. Union of India* AIR 2016 SC 3598 : (2016) 8 SCC 471. set aside Ext.P5 order and directed the Bank to pass fresh orders after considering the dictum laid down by the Apex Court mentioned supra and after hearing

**TIME AND TIDE WAIT FOR NONE**



the respondent.

4. The Apex Court, in the case of ***Avtar Singh v. Union of India*** (supra) had occasion to consider the circumstances under which a false declaration would be material for the purpose of termination of services of an employee. In that view of the matter, the learned Single Judge by exercising judicial discretion directed the Bank to reconsider the matter keeping in mind the observations made by the Apex Court in the aforementioned judgment.

5. There cannot be any dispute that the matter needs to be reconsidered by the Bank in the light of the verdict laid down by the Apex Court in ***Avtar Singh v. Union of India*** (supra). However, in our considered opinion, the learned Single Judge is not justified in quashing Ext.P5 termination order while directing the Bank to reconsider the matter, since, prima facie it is proved that there is concealment of material fact. Hence we propose to set aside the portion of the judgment passed by the learned Single Judge quashing Ext.P5 order.

6. No prejudice or injustice will be caused to either of the parties, much less to the respondent if the case is reconsidered by the Bank keeping in tact Ext.P5 order. In case the Bank decides in favour of the respondent after hearing him and after reconsidering the matter, the consequences of reinstatement of the respondent would follow. But till such time, the respondent cannot be allowed to work as an employee.

Accordingly, we set aside the portion of the judgment of learned Single Judge quashing Ext.P5 order. We make it clear that Ext.P5 order remains on record. However, the direction issued to the Bank to reconsider the matter afresh in the light of the judgment of Apex Court in the case of ***Avtar Singh v. Union of India*** (supra) mentioned supra stands continued. Such consideration shall be made by the Bank on merits, after hearing the respondent, as early as possible but not later than the outer limit of One month from the date of receipt of a copy of this order.■

***Ordered accordingly.***

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