RESIGNED BANK EMPLOYEES' WELFARE ASSOCIATION

Registered Office: #304, Subhodaya L.I.C.Colony, Mehdipatanam , Hyderabad - 500028
Mumbai Office: D/402, Amazon Park, Devki Nagar, Eksar, Borivli (West), Mumbai 400 103
Pune Office: #2, Golden Pearl, 15th August Chowk, Mangalwar Peth Pune - 411011
Chennai Office: New No.27/B, Bajanai Koil Street, Choolaimedu, Chennai- 600094
Bangalore Office: # 331, Shriniket Appartments, M.S.R ENGG. College Rd, Bangalore 560054
(E-mail:rbef2010@gmail.com; rbewa2010@gmail.com)

August 4, 2012

Shri D K Mittal (IAS),
Secretary,
Ministry of Financial Services, Banking Division,
Jeevandeep Building, 3 rd Floor,
Sansad Marg, New Delhi 110001

Dear Sir,

Sub: Reconsideration of pension option to resigned bank employees

We have reliably learnt that you have conveyed approval for extending the benefit of one more option of pension to left over employees, in terms of the MoS dated 27.04.2010, but restricted only to the VRS optees and the issue of resigned employees has been still left over.

We would like to draw your kind attention to our various letters, last of its kind dated 25.07.2012 wherein number of justifications have been given as to why and how the concept of VRS was not uniformly adopted and implemented by various public sector banks and the lacunas in the process followed by the IBA by devising one common rule for all the banks while all the banks did not have one common rule so also the rule differed for different categories of employees from Bank to Bank. In this connection we request you to kindly note the following serious issues which the ministry, the IBA and the member banks need to consider while dealing with the pension issue of the resigned employees.

1) Please recollect that while interpreting Clause 2 (II) (a) of the MOS dated 27.04.2010 the IBA and the member banks have included all the EDs & C&MDs who had resigned from the posts of GMs and took positions as EDs and CMDs. The IBA has mischievously treated them as 'deemed to have retired' under clause 2 (I) of the Pension Regulation even though the regulation was not applicable to those GMs at the relevant time as they have not opted for pension. In terms of section 2(n) of the Pension Regulations 1995, the same are applicable to those who opt for pension. Thus the PF optees are not covered under the Pension Regulations Whereas the IBA and the member banks have however, failed to extend the same option to other employees who have similarly resigned after serving for life time. The approach of the IBA and the member banks is ***discriminatory and strikes at the right of equality enshrined in Article 14 of the Constitution of India***. These issue have been explained in our letter dated 27.07.2012.

2) Please recollect that Regulation 56 of the Bank Employee's Pension Regulations, 1995 states that the said regulations shall be interpreted as per the provisions of the Central Civil Services Rules, 1972. The Rule 48-A of the Central Civil Services Rules, 1972 provided for voluntary retirement and pension thereon after serving for 20 years of qualifying service. The IBA while drafting the Pension Regulations, 1995 and again while extending the same in April 2010 failed to take note of the said CCS Rules and ignored the interests of employees who had to resign due no option to seek VRS even after serving for up to 40 years service in the banks. The IBA however, had unjustly copied Rule 26 of the said CCS Rules in to the Pension Regulations at Regulation 22 entailing forfeiture of past service on resignation even if the employee has served for his life time up to 40 years and made deliberate attempt to ignore the fact of non availability of option to retire under VRS. The IBA has thus equated the life time unblemished, unstinted and honest service of resigned employees with that of services dispensed with for lack of integrity, honesty, devotion and diligence leading to dismissals and discharges. Therefore, when the Pension Regulations are interpreted with the help of CCS Rules (as provided in the pension regulation), the CCS Rules extend help by way of Rule 48-A for allowing VRS after 20 years service; the IBA did not took note of this but only copied Rule 26 providing forfeiture clause for resignation. When there was no provision for VRS after 20 years in the Bank Employee's Pension Regulation in line with the CCS Rules, mere inclusion of Rule 26 of CCS Rules (Regulation 22 in Pension Regulation) the purpose and object of Rule 48-A is squarely defeated to the detriment of workers who fought for life time to earn their living during their December months.

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3) We have reliably understood that you have conveyed approval to IBA on 25.07.2012 for extending the benefits of the MoS dated 27.04.2010 to leftover categories by deleting the word "SUPERANNUATION". The IBA is still interpreting the Ministry's advise limited to OSR based VRS optees and still excluding the well deserved benefits to the resigned employees. It is also understood that now IBA has made reference to you for seeking clarification for extending the pension option to resigned bank employees and we earnestly request you to advise the IBA to include the resigned employees within the definition of VRS optees for the reasons mentioned in this and our communication dated 27/07/2012.

4) We invite your kind attention to the recent rulings of the Hon'ble Karnataka High Court, in Writ Petition No. 24158/24160 of 2011 directing Vijaya Bank to extend pension option to resigned employees who have completed qualifying service for pension. The appeal filed by the Vijaya Bank is also dismissed by Hon'ble Karnataka High Court in July 2012. Similarly Hon'ble Supreme Court on 28.07.2011, in the matter of Sheelkumar Jain Vs. New India Assurance Co Limited has ruled that qualifying service should be the criteria for deciding eligibility for pension and not the mode of exit i.e. resignation / VRS and that it should be examined from the number of years of qualifying service put in by an employee as to whether a termination from employment should be termed as VRS or resignation. As such if the resignees are excluded it will be in total disregard to the recent rulings of the Honorable Supreme Court. Hope the Govt. Of India, Ministry of Finance will honor the decision of the Highest Court of the land.

5) It is also respectfully prayed before the Ministry that the government and the Ministry should respect the rulings of the Honorable Karnataka High Court (Single Judge dated 18.04.2012) and again the Divisional Bench dated 28.07.2012. The Honorable Karnataka High Court, while interpreting the Clause 2 (II) (a) of the MOS dated 27.04.2010 has held that resignees who were on the roles of the bank as on 29.09.1995 and who have served for qualifying years and subsequently resigned are eligible for pension option. It is respectfully prayed that the central government should not disrespect the rulings of the above judgments and make the senior citizens to hang around the High Courts and the Supreme Court, at this age. The government should also honor the ***National Litigation Policy*** wherein it is contemplated that the government and its instrumentalities should discourage the litigations as much as possible and settle the issues by following the rules and court made laws; the government would honor the policy by accepting our request as thousands of resigned employees have moved the High courts and the Supreme Court.

6) The concept of forfeiture of service in case of resignation even for those who have served for the qualifying services need to be removed from the bank employees pension rules since the rules approved by the Parliament for some of the state government employees, central government undertakings and the SBI employees (under the same Ministry) for grant of pension recognizes 'resignation' as an approved mode of retirement to qualify for pension. Specific reference is made to SBI employees pension rules; State Civil Services Pension rules of UP, Karnataka, Gujarat and many others; Border Security Force Pension Rules etc. ***Moreover Regulation 22 of the Pension Regulations is not applicable to PF optees as in terms of Regulation 3 of the said regulations the same are applicable to those who had opted for pension in 1995.***

7) Following important reasons also need to be seriously considered and deliberated for grant of one more option of pension to the resigned employees who have served for qualifying years:

a. **Absence of OSR based VRS schemes in 6 Public Sector Banks such as** Vijaya Bank; Andhra Bank; Indian Bank etc.
b. **Absence of uniformity in OSR based VRS schemes in different banks**: **Such as** some banks have schemes of VRS after 30 years of service but after attaining 55 years of age; some banks the VRS under OSR can be taken after 20 years of service and many banks do not have the VRS schemes.
c. **Total absence of VRS scheme for Workmen employees (Award Staff) that is t**here is no VRS scheme framed for workmen employees (Award Staff) in the banks. Therefore if a member of the award staff had to retire from the services even after 38-39 years of service, he had to necessarily leave the services by tendering resignation as there is no scheme of VRS available to the member of the award staff as is available to some of the officer employees in some of the banks.
d. **Deductions from salaries of resigned employees towards pension fund for 13 years**. The IBA and the UFBU, in the name of and under a veil of collective bargaining settlements, effected **deductions from the wages of the non-pension optees**, at the rate of 50% of wage revision, for the period from 01.11.1997 to 27.04.2010 and the wages of non-pension optee employee's were taken away, in the name of pension fund. The amount so deducted, on a cumulative basis exceeds Rs.20 lacs.

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schemes. c. Total absence of VRS scheme for Workmen employees (Award Staff) that is there is no VRS scheme framed for workmen employees (Award Staff) in the banks. Therefore if a member of the award staff had to retire from the services even after 38-39 years of service, he had to necessarily leave the services by tendering resignation as there is no scheme of VRS available to the member of the award staff as is available to some of the officer employees in some of the banks. d. Deductions from salaries of resigned employees towards pension fund for 13 years. The IBA and the UFBU, in the name of and under a veil of collective bargaining settlements, effected deductions from the wages of the non-pension optees, at the rate of 50% of wage revision, for the period from 01.11.1997 to 27.04.2010 and the wages of non-pension optee employee's were taken away, in the name of pension fund. The amount so deducted, on a cumulative basis exceeds Rs.20 lacs.

e. **Disharmony between bank level retirement rules and scheme framed at IBA level**. The VRS scheme under the Pension Regulation of 1995, decided at the IBA level is available for 20 years service only for the employees who have opted for pension in the year 1995. No retirement scheme is framed either at the industry level (IBA level) or at the bank level for voluntary retirement for non-pension optees.

f. **Objectives of pension scheme**. The object of the pension scheme is to accord pension to employees who served for long years. The resigned employees have served for long years and definitely much more than the CMDs.

8) We understand that the IBA too has made a representation after the Ministry's above referred advice on the issue of resigned employees, which has still remained unaddressed.

9) All the constituent trade unions of the UFBEU have persistently been following up the matter very vigorously at the IBA and the government level for pension to resigned employees who have worked for the qualifying years, for all justified reasons.

Considering all the issues involved and ***flagrant discriminations shown in favor of the EDs and CMDs*** (RESIGNED PF OPTEE GENERAL MANAGERS) and IBA and Banks paying no attention to the interests of the poor class IV and class III employees who served for their life time, you are requested to be kind to advise the IBA to extend the benefit of the MOS dated 27.04.2010 to the resigned employees who were on the rolls as on 29.09.1995 as stated in the MOS dated 27.04.2010 and have put in the qualifying service.

Yours faithfully,

For Resigned Bank Employee's Welfare Association,

(Ratnakar Pathak)
Honorary President

CC

To:

Mr. Alok Kumar Mishra
Chairman of IBA and Chairman &Managing Director,
Bank of India, Star House, C 5 "G" Block,
Bandra-Kurla Complex,
Bandra East MUMBAI - 4000051

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