



ALL INDIA BANK PENSIONERS' & RETIREES' CONFEDERATION



(A.I.B.P.A.R.C.)

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(For circulation among all the members of the Managing Committee as well as
the Governing Council of AIBPARC, Special Invitees, State Secretaries and Advisors of AIBPARC.)

Dear Comrade,

Sub : **100% D.A. Neutralization in Pre-November 2002 Retirees' case**
Judgment in Hon'ble Supreme Court reserved

We reproduce hereunder the text of CBPRO Circular no. 009/2017 dated 01.08.2017 for information of the members :

With best wishes,

(SUPRITA SARKAR)
ACTING GENERAL SECRETARY

QUOTE :

To,
All the General Secretaries of the Constituents of CBPRO.

As you are aware the above case is pending before the Hon'ble Supreme Court of India. After few adjournments, it came up for arguments today for disposal. The Senior Advocates of all the parties were heard at length. The arguments by the lawyers representing the Retirees' Organizations were very well received. Our presence in the Court helped an excellent coordination among the Senior Advocates who represented the Retirees' Organizations.

The Senior Advocate who represented the Bank Management argued vehemently that there was no discrimination as the employer has a right to restrict the applicability of new benefits/ improvements to the future Retirees and for that purpose the cut-off date in this case being 01.11.2002 was in order. He also argued that making the 100% D.A. neutralization applicable to all past Retirees would involve huge financial burden. His argument was that the quantum of amount mutually agreed at the time of signing the settlement as a load factor to be distributed among various components of pay like Basic pay, D.A., HRA, Medical, other allowances, etc. was a limiting factor which was agreed to by all the Unions representing the Employees and Officers. Hence, it could not be questioned at this stage. These arguments were effectively countered by the Senior Advocates who represented various Organizations of Retirees.

Shri V.K. Bali, Senior Advocate (Former Chief Justice of Kerala High Court and Former Chairman of Central Administrative Tribunal), who represented AIBRF, argued the case excellently. His arguments were able to impress the Court about the distinctions made out in Para2(b) of the Bipartite Settlement of May, 2005 in respect of applicability of uniform rate of D.A. and the distortions in its implementations vide IBA Circular dated 28.06.2005 going against the spirit of the Bipartite Settlement. The clauses relating to payment of uniform D.A. from May, 2005 in the Bipartite Settlement and Joint note did not stipulate any cut-off date with regard to exclusion of Pre-November 2002 Retirees from the applicability of 100% D.A. rather it only mentioned about the change in the

D.A. formula to 100% D.A. neutralization from 2005. IBA while issuing the circular to the Member Banks unilaterally created artificial classification by wrongly dividing the Retirees into different groups as Pre-01.11.2002 Retirees and post 01.11.2002 Retirees. It was sought to be questioned in the Court by the Senior Advocates representing the Retirees Organizations. The distortion caused by IBA Circular was well explained to the Hon'ble Supreme Court. **Shri Jitendra Sharma**, Senior Advocate, representing the Petitioners namely United Bank of India Retirees' Welfare Association strongly supplemented the arguments of Shri Bali while also highlighting the clause 6 of Pension Settlement of 1993.

Shri A.S. Nambiar, renowned Senior Advocate who represented the ARISE, an affiliate of AIBPARC made very valid points invoking Article 14 of the Constitution of India. He also argued about the absence of justification and rationale objectives with regard to Artificial Classification made by IBA Circular based on the date of retirement of the Pensioners. He effectively highlighted the ratio laid down in the case of D.S.Nakara. He also pointed out that the inflation equally hurts all the Pensioners irrespective of their date of Retirement. D.A. is payable towards part compensation on account of price-rise and hence there cannot be different rate of D.A. payable to the Retirees merely on the basis of their date of retirement. Mr.Nambiar was ably assisted by **Mr. Sewa Ram**, Advocate(Former IOBian). Mr.Sewa Ram also argued that the Pension Options were exercised by the Employees in 1993-94 on the basis of the Pension settlement even before the Pension Regulations were finalized on 29.09.1995. He also argued that IBA's letter dated 17.12.1993 to Sri R.N. Godbole the then General Secretary of AIBOC clearly stated that the Pension Regulations will be finalized on the lines of Pension rules of the Central Government and the Reserve Bank of India. The argument of the Management Lawyer about the Pension fund being contributory was well countered by him on the grounds that it is a revenue expenditure which has to be fully met by the Bank in accordance with the actuaries investigation. He also supplemented the arguments of Mr.Nambiar. Mr.Sewa Ram also actively coordinated the mutual consultations amongst the Senior Advocates so as to ensure effective and fruitful arguments before the Hon'ble Supreme Court.

Mrs. V. Mohana, Senior Advocate, representing RBONC (Constituent of CBPRO) advanced arguments about discrimination caused by IBA's Circular dated 28.06.2005 despite there being no such clause in the Bipartite Settlement or Joint Note. She also made a point that the judgment in the case should apply to all the affected Bank Pensioners. She also made a point that the Management's argument about huge financial burden on account of 100% D.A. Neutralization was without any substance or justification and the number of pre-2002 Retirees is small in number as compared to the large number of Pensioners who have retired after November, 2002.

The arguments in the case started at 10:30 AM and concluded at 03.00 PM. After hearing the arguments of the parties, the Hon'ble Court sought some clarifications in the light of the earlier case of 100% D.A. neutralization having been dismissed by the Hon'ble Supreme Court. The Judges sought the views of the Advocates representing the Pensioners' and Retirees' Organizations about their earlier judgment relating to dismissal of appeals against the Order of Hon'ble High Court of Madras and implications thereof. The Senior Advocates expressed their views in response to the queries raised by the Hon'ble Court. In view of very sound and valid Constitutional points raised by the Senior Advocates representing the Pensioners' and Retirees' Organizations, the Hon'ble Court reserved the judgment. We hope for a favourable verdict in the matter. We also hope that the initiative on the part of the Delhi based Leaders of Pensioners' and Retirees' Organizations in ensuring excellent coordination amongst the Senior Advocates shall go a long way in further strengthening the Bank Retirees' Movement.

With Regards,

Yours Comradely.



A.Ramesh Babu



K.V. Acharya

Joint Conveners