

STATE BANK RETIREES' ASSOCIATION

Federation of Erstwhile
Associate Bank Retirees' Organisations



Dr. A Ananthakrishna Rao
President

C N Prasad
General Secretary

Ref No.: BEPR/NPS/818

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The Chairman,
State Bank of India,
Corporate Centre,
MUMBAI 400 021.

Respected Sir,

Payment of Pension in terms of Bank Employees' Pension Regulations, 1995 to those who have joined the Bank on or after 01.04.2010 instead of Defined Contributory Pension.

We are representing surviving spouses and dependents of deceased employees and officers who have joined erstwhile Associate Banks on or after 01.04.2010 who are members of our affiliates. This representation is on behalf of these members.

Erstwhile Associate Banks' employees and officers are/were entitled to Pension in terms of Bank Employees' Pension Regulations, 1995. These Regulations are framed in terms Sub-section (1) and Clause (O) of Sub-section (2) of Section 63 of the SBI Subsidiary Banks) Act, 1959, by the State Bank of India, in consultation with the Board of Directors of erstwhile Associate Banks and with the approval of the RBI. Therefore, it is statutory in nature. In terms of Regulation 3 (4) of the Associate Banks' Employees Pension Regulations, 1995 (BEPR-1995), all those who join the service of the Bank on or after the notified date, (i.e 29.09.1995, the date on which BEPR-1995 deemed to have come in to force) are covered by these BEPR-1995. Therefore, all employees and officers who have joined erstwhile Associate Banks on or after 29.09.1995 are entitled to pension in terms of BEPR-1995. Officers' Service Regulations, 1979 of erstwhile Associate Banks. Both BEPR-1995. Officers' Service Regulations, 1979 are Statutory in nature and even in terms of Regulation 48 of Officers Service Regulations, 1979, Officers joining Associate Banks' service on or after 29.9.1995 are governed by the Pension scheme.

On the basis of provisions culled from BEPR-1995 and Officers Service Regulations, 1979, all those who have joined the services of erstwhile Associate Banks are entitled to Pension in terms of BEPR-1995. There is no clause which stipulates submission of authorisation to transfer Provident Fund contribution by the Bank and those clauses are not applicable to these officers/employees who have joined these erstwhile Associate Banks on or after 29.09.1995. These clauses are only applicable to those who were in service on or before 29.09.1995, but after 01.01.1986. The Clause authorising the trustees of the Provident Fund of these Banks to transfer the entire contribution of the Bank to the Provident fund including interest accrued thereon is not applicable to those who have joined on or after date of notification. In view of what is stated above, one can summarise that all those who have



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joined on or after notification date are entitled to receive pension in terms of Associate Bank Employees' Pension Regulations, 1995, without any other condition with regard to Provident Fund balance/contribution.

It is agreed to cover those who have joined erstwhile Associate Banks on or after by a Defined Contributory Pension Scheme in Bipartite Settlement dated 27.04.2010. We are extracting relevant portion of the settlement, hereunder:

- (3) (i) *The existing pension scheme will not be applicable to those who join the services of banks on or after 1st April 2010.*
- (ii) *Employees joining the services of banks on or after 1st April 2010 shall be eligible for the Defined Contributory Pension Scheme, the banks will be introducing for them. The Defined Contributory Pension Scheme proposed to be introduced for them will be one as governed by the provisions of New Pension System introduced for employees of Central Government w.e.f. 1st January 2004 and as modified from time to time. The Scheme shall be regulated and administered by the Pension Fund Regulatory and Development Authority (PFRDA).*
- (iii) *The employees joining the services of the banks on or after 1st April 2010 shall contribute 10% of Pay and Dearness Allowance towards the Defined Contributory Pension Scheme and the bank shall make a matching contribution in respect of these employees.*
- (iv) *There shall be no separate Provident Fund for employees joining services of Banks on or after 1st April 2010.*
- (7) *The terms of this Settlement shall be incorporated in the Bank Employees' Pension Regulations, 1995 dated 29th September 1995 in case of Nationalized Banks / 26th March 1996 in case of Associate Banks of State Bank of India respectively by complying with the procedure for amendment of the relevant Pension Regulations*

In terms of above provisions, those who join the services of banks on or after 01.04.2010 are eligible for the Defined Contributory Pension Scheme. It is also provided that there is no separate Provident Fund for them. Banks contribute 10% of Pay and Dearness Allowance towards the Defined Contributory Pension Scheme.

Extension of pensionary benefit or otherwise to those who have retired under Voluntary Retirement Scheme – 2001 after serving 15 years in terms of the same Bipartite Settlement/Joint Note dated 27.04.2010 is a subject matter of a dispute before Hon'ble Supreme Court in Civil Appeal No.4965 of 2019 in State Bank of India & another Vs. Vandana and another. On behalf of the Bank, in Rejoinder Affidavit dated 26.04.2019, it is stated that :

4. *It is submitted that though a memorandum of settlement was arrived at to extend the benefit to join the pension scheme to such employee who ceased to be in service on ground of voluntary retirement, however the said terms of settlement were to be given effect to only after complying with the procedure for amendment of the relevant*



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regulations, in case of associate banks of SBI, in terms of clause 7 of the settlement dated 27.04.2010 itself.

5. *Therefore, the settlement cannot be enforced or made applicable unless and until the power is exercised under Sec-63 of the SBI (Subsidiary Bank) Act, 1959. The said Sec-63 provides and mandates that any rules or regulations are required to be made by consultation of State Bank of India and with the approval of the Reserve Bank of India vide notification in the official Gazette. It was in consultation with the SBI and with the approval of the RBI and the trustee of the SBBJ trust, the decision was taken to implement the settlement for extending the benefit of exercising option to join the pension scheme to the retired employee of e-SBBJ who retired under VRS 2001 which came vide circular dated 30.11.2015. The settlement thus does not confer the sole and exclusive right of the employees to claim the benefit unless and until the same is approved after following due process of law.*

Only inference that could be drawn from the above portion of the Rejoinder Affidavit filed on behalf of the Bank is that provisions of this settlement could be enforced or made applicable only after power is exercised under Section 63 of State Bank of India (Subsidiary Banks) Act, 1959 and relevant portions of Pension Regulations are amended by consultation of State Bank of India and with the approval of the Reserve Bank of India by notification in the official Gazette. Consequently, what is provided in Clause 3 of the Bipartite Settlement could be enforced only after power is exercised under Section 63 of State Bank of India (Subsidiary Banks) Act, 1959 and relevant portions of Pension Regulations are amended by consultation of State Bank of India and with the approval of the Reserve Bank of India by notification in the official Gazette. Till such time relevant portion of the Pension Regulations and Officers Service Regulations are amended duly following the prescribed procedure, existing rules are applicable and the Bank cannot deny Pension in terms of Associate Banks Employees Pension Regulations, 1995, even to those who have joined these erstwhile Associate Banks on or before 31.03.2017. **Consequently, all provisions of Bank Employees' Pension Regulations, 1995 are applicable on all fours and the Bank cannot refuse application of Bank Employees Pension Regulations, 1995 to all those who have joined the erstwhile Associate Banks on or before 31.03.2017.**

Hon'ble Supreme Court has already decided this issue of Joint Note/Bipartite Settlement taking away vested or accrued right. Hon'ble Supreme Court in Bank of Baroda v. G. Palani, (2022) 5 SCC 612. The relevant portion is extracted, hereunder:

14. First we come to the rigour of the Regulations. The Regulations have statutory force, having been framed in exercise of the powers under Section 19(2)(f) of the 1970 Act and are binding. They could not have been supplanted by any executive fiat or order or Joint Note, which has no statutory basis. The Joint Note of the officers also had no statutory force behind it and could not have obliterated any of the provisions of the 1970 Act or the existing Regulations. Thus, Joint Notes could not have taken away the rights that were available under the 1995 Pension Regulations to the Officer.

It is important and pertinent to note that the above decision is in tune with several judgments of Constitution Benches of Hon'ble Supreme Court.



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Further, we find that the State Bank of Bikaner & Jaipur Employees' Pension Regulations, 1994 has been amended and notified on 10.10.2014. This amendment has taken place four years and six months after Joint Note/Bipartite Settlement dated 27.04.2010. The Bank has not amended Pension Regulations incorporating provisions of this settlement. Other erstwhile Associate Banks have not at all amended Bank Employees' Pension Regulations, 1995 and Officers Service Regulations, 1979 also. Therefore, the Bank is acquiesced to pay pension in terms of existing pension regulations to those who have joined on or after 01.04.2010. This is because the Bank with full knowledge and responsibility has remained silent as far as amendment to Pension Regulations and Officers Service Regulations of erstwhile Associate Banks. In fact, the Bank was held liable to pay costs of Rs. 10,000/- to each of their former employees/petitioners, as the Pension Regulation, 1995 are not at all amended and appeals were bereft altogether of any merit. Therefore, the Bank has no option but to pay Pension to all those who have joined on or after 01.04.2010 by applying Bank Employees Pension Regulations, 1995.

We request you to kindly order coverage of all those who have joined erstwhile Associate Banks on or before 31.03.2017, but on or after 01.04.2017 with Associate Bank Employees' Pension Regulations, 1995. Please extend and pay Family Pension to surviving spouses or eligible dependents, if otherwise they are eligible to receive Family Pension. We owe gratitude, if this benefit is extended.

Thanking you,

With warm regards,

(C N Prasad)
General Secretary

Mobile Phone No.97400 72620