



## Indian Banks' Association

### HR & INDUSTRIAL RELATIONS

No.CIR/HR&IR/SKK/2017-18/4439

February 1, 2018

HR Heads of all PSBs

Dear Sir/Madam,

**Hon'ble Supreme Court Judgement : Civil Appeal No (s) 9371-9374 of 2017 (Arising out of SLP © No (s) 5378-5381 of 2015) Regarding Additional Notional Service Under Regulation, 26 of Bank Employees Pension Regulations, 1995**

As per the provisions of regulation, 26 of Bank Employees' Pension Regulations, 1995, an employee shall be eligible to add to his service qualifying for superannuation pension (but not for any other class of pension) the actual period not exceeding one fourth of the length of his service or the actual period by which his age at the time of recruitment exceeded the upper age limit specified by the Bank for direct recruitment or a period of five years whichever is less, if the service or post to which the employee is appointed is one :-

- (a) for which post-graduate research, or specialist qualification or experience in scientific, technological or professional fields, is essential, and
- (b) to which candidates of age exceeding the upper age limit specified for direct recruitment are normally recruited;
- (c) for which the candidate was given age relaxation over and above the maximum age limit fixed by the Bank on account of his possessing higher qualifications or experience:

Provided that this concession shall not be admissible to an employee unless his actual qualifying service at the time he quits the service in the Bank is not less than ten years.

Provided further that this concession shall be admissible if the recruitment rules in respect of the said service or post contain specific provision that the service or post is one which carries benefit of this regulation.

Provided also that the recruitment rules in respect of any service or post which carries the benefit of this regulation shall be made with the approval of the Central Government.

2. In this connection, queries were raised by various banks to the Ministry of Finance as to whether the benefits of Regulation 26 ibid can be allowed to the existing employees who may fulfil the conditions laid down in this Regulation although there was no specific provision in the recruitment rules with regard to this benefit.

3. On examining the matter, the Ministry of Finance, vide its letter F.No. 4/8/16/98-IR dated the 14<sup>th</sup> October, 1998, addressed to the Chief Executives of all the Public Sector Banks (except SBI), clarified that Regulation 26 of the Pension Regulations enable the banks to frame recruitment rules in respect of any service or post for which post graduate research or specialist qualification or experience in scientific, technological or professional fields is essential and to which candidates of age exceeding the upper age limit specified for direct recruitment are normally recruited and envisages making of a provision in the Recruitment Rules that such person shall be admissible for addition to qualifying service at the time of retirement on superannuation as per provisions contained in the Regulations *ibid*. The regulation further provides that such recruitment rules have to be framed with the approval of the Central Government. However, till date no bank has approached the Central Government for approval of such rules. As such, the benefit of addition to qualifying service in terms of Regulation 26 of the Pension Regulations shall be applicable only to those candidates who have been/would be recruited in accordance with the recruitment rules framed by the banks with the approval of the Central Government and that such benefit does not extend to existing Officers recruited under old Scheme/procedure.

4. Public Sector Banks having been advised as above by the Ministry of Finance were accordingly disposing off requests made/being made by the Employees for giving the benefit of Regulation, 26.

5. In the absence of Recruitment Rules duly approved by the Central Government, the employees who were otherwise fulfilling the other conditions stipulated in Regulation 26, for said benefit, were denied such benefit.

6. Aggrieved with such denial, Shri V Vijayan and others filed a Writ Petition before Hon'ble Madras High Court against Bank of Baroda. Similar Writ Petition was filed by Shri Anand Pal Saxena & others before Hon'ble Allahabad High Court, against Allahabad Bank. The Hon'ble Madras High Court delivered the judgement in favour of Bank of Baroda whereas Hon'ble Allahabad High Court gave its judgement in favour of Shri Anand Pal Saxena & others.

7. Shri V. Vijayan & others filed Civil Appeal before Hon'ble Supreme Court against the judgement of Hon'ble Madras High Court, Allahabad Bank also filed a Civil Appeal before Hon'ble Supreme Court against the judgement of Hon'ble Allahabad High Court. Both the Civil Appeals were clubbed by Hon'ble Supreme Court for hearing.

8. After hearing the arguments of the parties the Hon'ble Supreme Court found that once the regulation was framed and the same was acted upon, the plea of absence of prior approval cannot be pressed into service by the Bank as the Bank itself has not moved for such prior approval. The Hon'ble Supreme Court vide its order dated the 20<sup>th</sup> July, 2017 allowed the civil Appeal filed by Shri V Vijayan & others in the matter of Bank of Baroda and also





dismissed the appeal filed by Allahabad Bank in the matter of Shri Anand Pal Saxena .  
(copy of Hon'ble Supreme Court, Judgement enclosed)

9. Affected ex-employees of Public Sector Banks are representing to respective banks to give the benefit of Regulation 26 of Bank Employees' Pension Regulations 1995 to them quoting the above mentioned judgement of Hon'ble Supreme Court. IBA is therefore, receiving references from various PSBs seeking our advices as to whether the benefits as available under Pension Regulation. 26 can be given to the affected ex-employees in the light of said judgement of Hon'ble Supreme Court.

10. The matter was put up to the Managing Committee of IBA in its meeting held on 29-12-2017. The Committee after deliberation advised to obtain a legal opinion on the applicability of Supreme Court Judgement as to whether it is applicable to all banks uniformly and thereafter advise the member banks accordingly.

11. We have obtained the legal opinion of Shri S D Kelkar, Senior Partner, Kelkars & Associates whose services have also been engaged on Retainership basis at IBA. The opinion given by him is as under :-

*"In the light of the reasons appearing in last but one paragraph of the Hon' SC order dated 20th July, 2017 we are of the considered view that the benefit of additional notional service will have to be given to all those employees who fall within the ambit of clauses (a) and (b) of the Regulation 26 of the Pension Regulations, 1995. The judgment would apply to all banks having a regulation which is in pari materia or similar to Regulation 26 considered by the Hon'ble SC, in their Pension Regulations.*

*We also understand that the review petitions filed by Bank of Baroda and Allahabad Bank against the judgment dated 20<sup>th</sup> July, 2017 have been dismissed and as such the judgment has become final and binding."*

12. In view of foregoing opinion and also as approved by the Managing Committee of IBA in its meeting held on 29.12.2017, the Judgement of Hon'ble Supreme Court (copy enclosed) may be implemented in all Public Sector Banks (except State Bank of India), as Regulation, 26 of Bank Employees Pension Regulations, 1995 is uniformly applicable to all Public Sector Banks

Yours faithfully,



**S K Kakkar**  
Senior Advisor (HR&IR)