

Common Bond, June - 2013



A RECURRING ENACTMENT OF SHAME

“Women’s safety needs to be improved-Ensure security, safety and status for women”. Similar statements are frequently being heard from various quarters across the country in recent times expressing serious concern about the safety of women. This time heard none other than from the Prime Minister of the country, when a five year old girl was brutally raped by a couple of youth from the capital that made the capital erupt once again and put the nation in to shame.

Similar statements were heard earlier when a 23 year old girl was gang raped at Delhi on 16th of December 2012. It was so horrified and stomach churning, shocked the entire nation. When there was a public outcry across the nation, the government woke up and appointed a commission headed by Justice Verma (Retd) former Chief Justice of Supreme Court, for strengthening the criminal law especially on crime against women and children. After accepting many of the recommendations of Verma Commission, the criminal law was amended. However the question of giving death penalty to the accused is still being debated and the crime being continued unabated against women and children irrespective of age. According to National Crime Records Bureau (NCRB) the number of rape cases registered in India is increased by startling 873.3% from 2487 in 1971 to 24206 in 2011. Even young kids are not spared in such crime. The present incident once again confirmed that the Delhi has become the capital of rape. This is against the advise of UNICEF to give protection to every girl child as even their house itself is not found to be safe for them. According to UNICEF 30000 crimes were

reported against children in India in the year 2011. This is when only one out of 30-40 cases are reported, mostly related to urban areas that too when exposed by media.

In the present case of rape of the five year old girl at Delhi it is reported that the police refused to register the case initially and the parents were made to wait at the station for hours to register the complaint. They even failed to inspect the place of rape. Instead of registering the complaint they even ridiculously offered a bribe of ₹ 2000/ to the parents as hush money to suppress the case. It was the girls cry that attracted the crowd in the vicinity and exposed the incident leading to public outcry. There were many instances where victims were made as an accused or were raped by the investigating authorities or faced with awkward questions. What we see to day is the protection being given to the rapist instead of the victim. If the investigating authorities have no will or courage to act impartially against such horrendous crime the entire efforts of the government will be a misnomer.

There are also tendency of ignoring the statement of the victim especially when the culprits are influential. Police may create their own stories that may lead to denial of justice to the victim. To avoid this anomaly the Apex Court in the matter of *Delhi Domestic working women Vs Union of India*, had directed the police to engage a lawyer and counsellor to help the rape victim and to write a proper FIR. In spite of the direction of the Apex Court often the victims had to struggle to convince the doctors, police and the society besides facing threat from the culprit and social boycott. A faulty FIR may also spoil the chance of

justice to victims. In spite of establishing fast track courts, proceedings are still being protracted much to the comfort of the culprits and amusement of the public. The Supreme Court has now asked the lower courts to cut down the adjournments and curb the tendency of trial courts, liberally granting adjournments at the instance of lawyers. By giving adjournments the courts are only flouting with impunity the criminal procedure code as according to the provision once the examination of the witness begins trial proceedings shall be continued on day to day basis. As per report the average time taken in Civil case in India is 15 years while it is 5-7 years in criminal case. This leads to the question that when the justice is delayed justice is denied.

The loopholes in our criminal jurisprudence enable the lawyers to torpedo the investigation or bailout their clients who are involved in rape or other criminal cases and delay the execution process. This lacunae are encouraging criminals to perpetrate the crimes, while sitting pretty on high pedestal. The Second Administrative Reforms Commission noted that the "opportunity to influence crime investigations and to convert the policemen from being potential adversaries to allies is the irresistible magnet drawing criminals to politics". Now a situation has come that the wheel of justice will not move unless it is taken, out of the clutches of political power who are escaping with the normal statement that 'the law will take its own course. Law is like a spider

web, as it catches small insects while the big one passes through it.

There were calls for a national debate and positive change in the attitude of the society of men and in particular the law enforcement machinery. However, the callousness of the official machinery remain unchanged. In the present case of rape of five year old girl there was a public out cry in the capital a repetition of Nirbhaya agitation that took place during December 2012. The police had to use force to control the mob and in that process slapped women agitators much to the surprise of the general public. Caught in the wrong foot government had to suspend the concerned police officer and the officer who offered the bribe. History however reveals that in every such crime the public response follow a pattern that initially there is an outrage then there is concern and finally they goes to their usual amnesia in words of Union Home Minister. In the present case the Home Minister also tried to justify the incident and reminded the nation that similar rapes are being taken place everywhere in the country forgetting his responsibility to the nation.

Every woman in the country is entitled to respect for her life, integrity and security. Besides she has the right to dignity and to lead an independent life which the constitutional authorities are bound to recognize and provide. ■



ARCHANA BHARGAVA NEW CMD OF UNITED BANK

Ms Archana Bhargava has been appointed Chairman and Managing Director of United Bank of India. The appointment will become effective from the date of her taking over the charge and continue up to 20th February 2015 or until further orders which ever is earlier. Ms Archana Bhargava

presently is the Executive Director of Canara Bank.

"*Common Bond*" congratulates Ms Archana Bhargava for having appointed as CMD of United Bank of India and wish her all success in her future endeavours. ■

UFBU MEETING ON ORGANISATIONAL ISSUES

Text of UFBU Circular dated 24-05-2013

UFBU meeting was held on 23.5.2013 at New Delhi in the AIBEA Office. Com. Ashwani Rana, (General

Secretary of NOBW) presided over the meeting. All the nine constituent unions were present in the meeting. A report on the developments since the last meeting was placed by the Convener along with the

WORK IS WORSHIP, DO YOUR DUTY

minutes of the previous meeting held on 31.1.2013, 22.2.2013 and 22.4.2013. He also outlined the issues to be taken up with the Chairman of IBA in the afternoon.

The meeting deliberated and took note of the attitude of IBA in dealing with the charter of demands on wage revision submitted by the UFBU. The meeting observed that even before any preliminary discussions could take place on the demands raised by the unions, the IBA was keen to foist their issues. The meeting pointed out that while the UFBU would always willing to discuss any issue raised by the IBA with an open mind, the same cannot take precedence over the demands for wage revision.

The meeting also observed that the Government continued to pursue their reforms agenda and have recently announced their decision to issue banking license to business and corporate houses. The pronouncements on merger and consolidation of nationalized banks as well as merger of Associate Banks with SBI are again being repeated frequently nowadays. The bill to allow 49% private capital in RRBs has been introduced in the parliament recently. Banking laws are sought to be amended to allow banks to indulge in speculative business. Banking jobs and services are increasingly being outsourced.

Hence the meeting decided to continue our campaign on these challenges and resort to agitation when warranted.

The meeting also decided that we must expedite the resolution of the pending demands like compassionate appoint scheme, 5 Day banking, etc., and also the current issues like asking employees / officers to attend office on holidays in the name grid-based clearing system. The meeting also observed that the attacks in SBI by the management has not receded and the issue needs to be taken up by UFBU.

The Convener summed up the discussions as under :

1.As per the discussions of the meeting, the UFBU would pursue the demands on wage revision in the

next round of talks with IBA scheduled on 07.06.2013.

2. The issues like adequate representation to unions while participating in the talks with IBA, change of procedure in allowing new unions for negotiations, compassionate ground appointment scheme, introduction of 5 Day banking, problems faced by employees and officers under grid-based Cheque Truncation System for clearing of cheques, proper guidelines to be issued on adhering to KYC norms to avoid harassments of innocent officers, managers, etc. would be taken up with the IBA Chairman during the meeting him in the afternoon.

It was decided that the next meeting of UFBU will be held at Mumbai on 6.6.2013 on the eve of the next round of Bipartite Talks with IBA to be held on 7th June.

Meeting with Chairman, IBA :-

In the afternoon, the UFBU representatives met Mr. K.R. Kamath, Chairman, IBA in his office in Punjab National Bank, Head Office, Delhi. Mr. T.M. Bhasin, CMD, Indian Bank and Chairman of the negotiating Committee, Mr. Rajiv Rishi, ED, Indian Bank and Mr. R.K. Sethi, ED, PNB were also present.

In this meeting, we took up the following issues with him.

- i. Wage revision should be expedited in a time bound manner.
- ii. The number of representatives participating in the Talks with IBA needs to be reviewed and revised.
- iii. The procedure of discussions by IBA with UFBU constituents should not undergo any change and the earlier pattern to continue.
- iv. Based on UFBU's letter to IBA, the compassionate ground appointment scheme should be introduced at the earliest as it has been already delayed inordinately.

SELF HELP IS BEST HELP

- v. The problems faced by employees and officers of Banks covered by the Southern Grid based clearing system should be resolved so that the staff do not face unwanted risks and also not forced to work on holidays.
- vi. 5 Day banking should be introduced at the earliest.
- vii. The IBA should intervene in the matter to

normalize the industrial relations in SBI.

- viii. IBA should issue proper guidelines to Banks to advise the staff to strictly adhere to KYC norms so that the Banks and the staff do not become vulnerable at a later stage.

The Chairman gave a patient hearing to the issues raised by us but we found that these issues need to be further pursued. Further developments will be informed in due course. ■

10TH BIPARTITE – ROAD BLOCKS IN THE NEGOTIATIONS AIBOC IS FULLY PREPARED TO OVERCOME

Our members are aware that the 2nd round of discussions on the Charter of Demands submitted by the Officers' Organizations and the Workmen Union was scheduled on 22nd April after a gap of one month since the preliminary discussions on the negotiations during the last month by the Indian Banks' Association. The members were anxious to know the developments since our last round of discussions with IBA and IBA informed us that they were yet to collect all the required data from the Banks to enable them to present the views of the IBA on the forthcoming salary revision talks. They also had expressed certain apprehensions about the delay in the matter of obtaining mandate from all the member banks to commence the negotiations.

2. When the IBA sent an invitation to resume negotiations all round hopes have been raised for a fair and reasonable settlement during the current negotiations on the charter of demands submitted by us. When we met at Mumbai to resume negotiations, the IBA team was headed by Shri.T.M.Bhasin, the head of the negotiating team along with his other colleagues from the IBA to negotiate on behalf of the Indian Banks' Association. The Chairman of the negotiating team spoke overall view about the banking scenario and shared the data that have been collected by the IBA for the purpose of negotiations on the salary revision.

3. The AIBOC team was represented by Com.PK.Sarkar, the President of the Confederation and also the Convener of the United Forum of Bank Unions along

with Com.D.S.Rishabadas, the General Secretary of the Confederation accompanied by other senior office-bearers of the Confederation. The representatives of the Confederation expressed their genuine concern about the need for an early salary revision and also conveyed their unhappiness over the manner in which the negotiations are being carried forward while the other serious issues that were pending are being completely ignored by IBA despite our repeated representations for an exclusive meeting on all those issues.

4. The IBA has also come out with a list of Management Issues which is totally unacceptable to us since it challenges the very root of bipartite relations as far as the salary revision for the officers' are concerned. The issues that have been given as Management Issues are as follows:-

- a) Introduction of Cost to Company
- b) Introduction of Performance Linked Variable Pay
- c) Restriction on applicability of wage revision.

5. The collective bargaining which we could establish after a long drawn struggle and sacrifices are now threatened by the IBA with the proposal a restricted negotiations and also to change the concept of salary revision approach by suggesting the introduction of the cost to the company and also the introduction of variable pay in the guise of performance linked incentives. We have expressed our strong reservations about these initiative so that, the IBA should get clear message as to the hopes and aspirations of our rank and file across the

BE TRUTHFUL, BE FEARLESS

country is concerned

6. The IBA has also given similar Management Issues in respect of the Workmen as well. We have already communicated the details of the circular issued by the United Forum of Bank Unions in this regard. The UFBU will also take a collective view with regard to the issues given by the Management before we proceed for the next round of discussions.

7. Thus, the attitude of IBA appears to be a confronting one rather creating a favorable climate for a reasonable and fair salary revision. We have showed restraint on our part but have at the same time conveyed to the Negotiating Team that the Management Issues needs to be fine tuned to see that the time tested bipartite negotiations are not jeopardized in the process.

8. We have a long way to go. The roadblocks that may

be placed by IBA needs to be tackled in an effective manner without hurting the interest of the Bank Officers' fraternity in the country. We cannot allow the division of our rank and file in the name of restrictions on applicability of wage revision etc. Hence, there is a need to keep our organizational activities in full swing so that we are in a position to strike back to make the IBA to understand the sentiments of the rank and file across the country and come out with a comprehensive and acceptable salary revision proposals.

9. It is therefore essential to keep ourselves in readiness to tackle these situation through sustained struggles if need be so that we would able to achieve yet another mile stone in the bipartite settlements when we conclude our 10th bipartite negotiations.

10. All our members, State Units, affiliates etc., are requested to await further developments in the matter. ■

PRESS REPORTS ON THE ISSUE OF MERGER CONFEDERATION OPPOSES THE INITIATIVE

In response to some of the statements appeared in the press about the initiatives of the Government towards the Merger of Banks, Federation sent a

communication to the Hon'ble Minister of Finance, Government of India, New Delhi, a copy of which is enclosed for your information. ■

**Text of the letter No.1452/29/13, Dated. 22.05.2013, Addressed to
Shri.P.Chidambaram,Honourable Minister of Finance,
Government of India,NEW DELHI.**

GOVERNMENTS' INITIATIVES TOWARDS MERGER OF BANKS OPPOSITION BY OUR CONFEDERATION AND OTHER UNIONS

We are surprised to note the reports appearing in the Press about the initiative of the Government towards Merger of Banks although the issue has been a bone of contention between the Government and the Unions in the Banking Industry. The Confederation the largest officers organization in the Banking Industry has been campaigning since last several years against the initiatives of the Government in this direction and it was one of the major issues that was flagged for the last 2 days' industry wide strike on 21st and 22nd February, 2013 by the entire banking industry wherein all the 9 unions

under the banner of the United Forum of Bank Unions have successfully implemented the strike action giving vent to their grievances against several long pending issues as also the encouragement that the Government is giving to the banks' managements in the matter of mergers and acquisitions.

2. The Indian Banking Industry has accounted itself in a creditable manner in comparison with the banking industry elsewhere including the affluent nations for the last couple of years and there is a vast scope for expansion of the industry through creation of additional banking institutions rather attempting in the name of merger and consolidation by way of merger of banks which would be resisted by the workforce in the banking industry. The Government has declared that it would provide more opportunities

SUCCESS COMES ONLY TO THOSE, WHO DARE AND ACT

to new operators in the banking industry by granting license to them for establishment of new banks so that the private participation in the banking industry gets enhanced. While, these initiatives are definite indication of the tremendous opportunities that are available for further expansion of the banking industry any idea to truncate the existing number of banks both in the old private sector as well as the Public Sector are nothing but a sinister design to slowly and steadily privatize the entire banking industry.

3. The Confederation on a number of occasion has made their stand clear on this issue of merger of the banks and the existing well established Public Sector Banks as well as old Generation Private Sector banks including the Associate Banks in State Bank of India should be allowed to continue in their existing position and allowed to expand their activities in an effective manner. While, the Government has assured to discuss all the issues related to the last 2 days' strike action by the unions, the issue of the merger also

being one of the issues which was flagged for the strike, the recent declarations in the public as well as the press by the Honorable Minister of Finance has again created heart burn amongst our rank and file.

4. We therefore request you to kindly take note of our strong resentment about the proposed initiatives of the Government in regard to Merger and kindly shelve all such initiatives if any and convene a meeting of the representatives of the unions in the banking industry to enable us to present our views before the Government to avoid industrial unrest in the banking industry.

5. Please treat the matter as urgent.

Thanking you,

Yours faithfully,
Sd/-
(D.S.RISHABADAS)
GENERAL SECRETARY

TRAVELLING/DAILY ALLOWANCE PAYABLE TO RETIRED OFFICER EMPLOYEES OF BANKS ATTENDING DEPARTMENTAL ENQUIRIES AS DEFENCE REPRESENTATIVES AND DEFENCE WITNESSES

Many of our affiliates have brought to our notice during the recently held EC meeting at Chennai that, the retired Officer employees attending Departmental Enquiries as Defence Representatives or as Defence Witnesses are being denied the TA/HA/DA facility. This is in contravention of the guidelines issued by the Central Vigilance Commission, to the Chief Vigilance Officers of Public Sector Banks. This has also put both the retired Officer employees appearing as

Defence Representatives or as Defence Witnesses to considerable hardship. Hence, we have addressed letters to the Chief Vigilance Commissioner, New Delhi and to the Chairman IBA requesting them to restore their earlier instructions to the Public Sector Banks and pay TA/HA to the retired officer employees who appear as Defence Representatives or as Defence Witnesses in the Departmental enquiries, so as to meet the ends of justice. Copies of the letters are reproduced hereunder:-

**Text of our letter No. 1454/27/13, Dated 10.04.2013, Addressed to
The Chief Vigilance Commissioner, Satarkata Bhavan, Block- 'A' GPO Complex, INA,
NEW DELHI - 110 023.**

TRAVELLING/DAILY ALLOWANCE TO RETIRED OFFICER EMPLOYEES OF BANKS ATTENDING DEPARTMENTAL ENQUIRIES AS DEFENCE REPRESENTATIVES AND DEFENCE WITNESSES

We draw your kind attention to the Circular issued by the IBA Vide their Circular No. CIR/HR/IR/665/

E-10/2010-11/2004 dated 25.04.2011, wherein they have advised the Public Sector Banks, not to pay TA/DA to the retired Officer employees if they are attending the enquiry as Defence Representatives or as Defence witnesses. We wish to bring to your kind notice the fact that many retired Officers in the Banking Industry are facing disciplinary proceedings and are being defended by retired officer employees

NEVER BEND BEFORE THE INSOLENT MIGHT

as per the wish of the chargesheeted officer employee. Such of the retired officer employees extending defence assistance to the retired, chargesheeted Officer, were hitherto entitled for TA/DA, commensurate with his/her grade/scale. By issuing the above circular the IBA has abruptly withdrawn the facility, putting the interests of retired, chargesheeted officers to jeopardy, which tantamounts to denial of the principles of natural justice.

2. In this connection we invite your kind attention to your guidelines issued to all the Chief Vigilance Officers of Public Sector Banks vide No.022/MS/15 dated 10.02.2003, where it is clearly mentioned that the retired officer employees appearing before the Departmental inquiry as Defence Representatives or as Defence witnesses and also the private defence witnesses are entitled for TA/DA. These guidelines cannot be diluted by any authority. These instructions are also in conformity with the guidelines issued by the Ministry of Finance vide U.O.Note 3221-E-IV(B) 161 dated 20.11.1961 and OM No.F.5(15) F-IV (B)/68 dated 15.09.2009.

3. In this background, the guidelines issued by the IBA are arbitrary, unilateral and prejudicial to the

interest of the retired, charge sheeted officer and amounts to denial of the principles of natural justice. Hence, we request for your kind indulgence and intervention in the matter and instruct IBA to withdraw their guidelines dated 25.04.2011 mentioned supra, and permit the retired officer employees to get reimbursement of TA/DA for attending the Departmental Proceedings either as defence representative or as defence witness. This will be upholding the principles of natural justice and meet the ends of justice.

4. We seek your early intervention in the matter, as it was reported by our affiliates in the recently held Executive Committee Meeting that many retired officer employees are being charge sheeted and the retired officer employees defending such officers are denied TA/DA facility; in gross violation of the principles of natural justice.

5. We request your kind and immediate intervention in the matter, so that ends of justice are met.

Thanking you,

Yours faithfully,
Sd/-
(D.S.RISHABADAS)
GENERAL SECRETARY

**Text of our letter No.1452/26/13, Dated:13.04.2013, Addressed To The Chairman,
Indian Banks' Association, World Trade Centre Complex, Centre:1, 6th Floor,
Cuffe Parade, MUMBAI - 400 005.**

**TA/DA/HA PAYABLE TO
RETIRED OFFICER EMPLOYEES OF
BANKS ATTENDING
DEPARTMENTAL ENQUIRIES
AS DEFENCE REPRESENTATIVES OR
AS DEFENCE WITNESS**

During the recently held Executive Committee Meeting of AIBOC, many of our affiliates brought to our notice the fact that the retired employees/officers of Banks attending Departmental enquiries either as Defence Representatives or as Defence witnesses are being denied Travelling, Daily/Halting Allowance; thereby causing great hardship to both

the Defence Representatives and the charge sheeted officers. We wish to bring to your kind notice the fact that these days the number of charge sheets issued to retired officers is on the increase and such charge sheeted officers need expert Defence Representatives to defend their cases. As the office bearers of serving Officer's Associations are having their own share of burden on account of umpteen number of chargesheets, they are finding it difficult to defend the retired officers. This situation has compelled the retired officers to approach the retired Officers to extend defence assistance. This is necessary to ensure ends of justice. By denying TA/HA/DA to Officers extending defence

SAVE PUBLIC SECTOR, SAVE INDIA

Common Bond, June - 2013

assistance, the Managements are depriving the chargesheeted, retired officers to defend their cases effectively. The action on part of the Managements is arbitrary and in violation of principles of natural justice.

2. We draw your kind attention to the guidelines issued by the Central Vigilance Commission, New Delhi, to all the Chief Vigilance Officers of Public Sector Banks vide No.002/MS/15 dated 10.02.2003 that retired Officer Employees appearing before the departmental enquiry as Defence Representatives or as Defence witness and also the private defence witnesses, are entitled for, TA/DA/HA. These guidelines issued by the Central Vigilance Commission are in conformity with the guidelines issued by the Ministry of Finance vide their notification U.O.Note 3221 – EIV (B) 161 dated 20.11.1961 and OMNO.F.5 (15)F-IV (B)/68 dated 15.09.1969.

3. In this background, we have a strong feeling that

TA/DA/HA facility should be extended to the retired officer employees, who are extending defence assistance to retired, charge-sheeted officers and also the Officer employees attending as Defence witnesses. Positive consideration of our suggestion will uphold the Principles of natural justice otherwise the interests of the retired chargesheeted officers will be put to jeopardy.

4. We request you to take note of our suggestion and issue guidelines to all the Public Sector Banks to restore the facility of TA/DA/HA to the retired Officers acting as defence assistants or defence witnesses.

5. Please inform us the steps initiated by you in this regard.

Thanking you.

Yours faithfully,
Sd/
(D.S.RISHABADAS)
GENERAL SECRETARY



COUNTRY NEEDS MORE WHISTLE BLOWERS

Right to Information Act (RTI) has created immense transparency in the working of administrative system in the country which has become an antidote to corruption. But for the RTI many scams that were exposed in recent times would have had a natural burial without any postmortem. Public would have been in darkness and could not question the improper acquisition of properties by the representatives of the people and their relatives or various scams that are exposed recently. The veil over our administrative secrecy was lifted with the introduction of the Act, much to the amusement of the general public. Country had awakened with revelation of various irregularities in our administrative system that caught the administration by surprise. Many VIPs were exposed on their misuse of government machinery, and that how the head of state and other VIPs indulged in wasteful expenditure of public fund for their foreign tour, renovation of

bungalows, quarters, purchase of vehicle etc., all taken by the public by surprise. After having hurt and exposed through RTI, government has recently proposed to bring out amendments to the Act., curtailing certain provisions that allows a common man to go deep in to the functioning of the administrative machinery. However in view of the public outcry the move was abandoned.

Various whistle blowers who have exposed many scams involving VIPs and their relatives are under threat from the representatives of the state. Even state machineries are being misused to strangulate the whistle blowers. Media are scared to disclose the fact about corruption in high places till the members of India Against Corruption (IAC) an NGO came out undeterred with the facts. Whistle blowers have become a common enemy of all political parties who could well collaborate discretely against IAC working

NATION FIRST, ORGANISATION NEXT, INDIVIDUAL LAST

to expose corruption in public place irrespective of party affiliation. According to IAC all political parties are drowned in corruption, as politics is the right platform for indulging in corruption. There is a rare combination of political rivals coming together against their common enemy of IAC. Infact IAC has been giving a clarion call to peoples to come forward and co-operate in their movement against corruption. According to them 'Ceaser's wife should be above all suspicion' and that those who are occupying high position should come clean and be a model to others. IAC has got abundant support from the media who failed to expose directly. They had forced the fourth estate to rediscover their investigating instinct by providing them with sufficient evidence that they could not ignore. Still there were willing and unwilling media due to high pressure.

Corruption is no longer a taboo for politicians as they indulge in corrupt practices along with their kith and kin discarding honesty for earning through illegal method. Those who indulge in corrupt practices are generally thick skinned who will stop at nothing to get what they want. The allegation against the biggest real estate company in Delhi and a VIP related to a political bigwig in their property deal recently was well known in Delhi media and political circle who refused to expose due to obvious reasons. The argument that the transaction of a private firm cannot be subject to public scrutiny is nothing but flimsy, though it is a listed public company. As such it is subject to scrutiny by SEBI, Registrar of Companies and share holders. Most surprisingly the IAS officer who ordered an enquiry against the alleged misdemeanor of the VIPs was awarded with a punishment transfer. An upright officer, he had to suffer in the past with many such transfers for raising his voice against corrupt practices in the state administration.

IAC has recently made an allegation against a Central Minister misusing of a trust fund managed by his wife meant for rehabilitation of disabled people in the society. According to report some of the beneficiaries are ghosts. There are many aggrieved people in the society who alleged not getting any

benefit from the trust. When the issue was revealed the minister concerned challenged the whistle blower to step in to his constituency and return safely . The whistle blower has accepted the challenge only to be greeted with a shoe hurled at him by some of the supporters of the minister. When the Prime Minister was targetted by the opposition on his inaction in controlling corruption he had even suggested that the private sector giving bribe should be equally liable and their action should also be made a cognizable offence, as bribery is a consensual activity between the giver and the taker. Interference with the established procedure by giving bribe leads to loss to the public ex-chequer. As such speedy disposal of files through administrative mechanism would be an affective step towards controlling corruption. There is a Prevention of Corruption Act meant for the public servants to control corrupt practices among public servants, while the givers who are spoiling the public servants are from the private sector. Shri Kaushik Basu, former Chief Economic Advisor to the Prime Minister, and the present Economic Advisor to World Bank had suggested that there should be an asymmetric treatment to the bribe taker and giver.

Political and economic instability had started shaking the country due to various scams involving crores of rupees. It was the vision of our leaders of post independent India to bring up a Lokpal Bill to root out corruption from the society. It was originally introduced in the year 1962 during the period of Pt. Jawaharlal Nehru former Prime Minister only to be consigned to cold storage during China war. It woke up nearly on nine occasions earlier like a ghost to chase many corrupt ministers and representatives of the people only to be dumped on all occasions. Nearly five decades of waite with hope and expectation, the bill was once again brought up before the Parliament when the Citizen Forum led by Shri. Anna Hazare who agitated for such a bill only to be thrown away unceremoniously in the dust bin. Every arm of democracy has to be strengthened if we need to confront corruption and to expose corruption. When we need to build up the value of honesty and integrity in the society, we need more whistle blowers. ■

DUTY FIRST, RIGHT NEXT

**[2010 (126) FLR 119]
(ALLAHABAD HIGH COURT)**

ARUN TANDON, J.

Civil Misc. Writ Petition No. 67881 of 2006

March 11, 2010

Between

ALLAHABAD BANK STAFF ASSOCIATION, ALLAHABAD and others

and

**CHAIRMAN AND MANAGING DIRECTOR, ALLAHABAD BANK HEAD OFFICE,
KOLKATA (W.B.) and others**

Compassionate Appointment-Ex-gratia payment-Petitioners Nos. 3 and 4 claim compassionate appointment on death of their father in harness- Which was refused. in view of changed scheme of Allahabad Bank-Where only ex gratia payment is to be provided to dependants of employee dying in harness-However, since application made in year 2002-2003-And at relevant time the scheme was in force provided for compassionate appointment—Hence his application was liable to be considered in accordance with said scheme only. [Para 5].

JUDGMENT

ARUN TANDON, J.-The applications made by the petitioners No.3 and 4 for compassionate appointment in view of the death of their father during harness while working with Allahabad Bank have been refused acceptance with the remark that in view of the changed scheme of the Allahabad Bank, only ex gratia payment is to be provided to the dependents of an employee dying during harness. The petitioners may, therefore, submit their applications in proper form for computation of ex gratia payment. The order dated 20.2.2006 in that regard has been challenged by means of the present writ petition. It has been stated that the applications of the petitioners for compassionate appointment were processed as early as on 9.10.2004 by the Personnel Administrative Department at the Head Office of the Allahabad Bank. Compassionate appointments were approved under the said resolution. However, before the resolution could be -given effect to and appointment could be offered, there was change in the Scheme pertaining to compassionate appointment enforced in the Bank. On 4.2.2005 a Circular was issued by the Allahabad Bank for providing payment of ex gratia amount to the dependent of the employees dying during harness. It is stated that under the said Scheme which was become effective from

18.12. 2004, the right of compassionate appointment has been taken away..

2. The Counsel for the petitioner submits that Scheme is prospective in nature and will not have the effect of taking away the right of the petitioners for compassionate appointment which was approved by the Personnel Administrative Department of the Bank in its Meeting dated 9.10.2004. He submits that since the Scheme is prospective in nature, . the right accrued in favour of the petitioner under the earlier scheme will not be adversely effected. He has placed reliance upon the judgment of the Hon'ble Supreme Court in the case of *State Bank of India and others v. Jaspal Kaur*, (specifically para 26), which, lays down that the case of compassionate appointment has to be considered on the date the application was made. He points out that on the date of making the application and “even on the date of final consideration of his application by the Personnel Administrative Department of Bank in its meeting held on 9.10.2004, the scheme providing for compassionate appointment was in force.

3. On behalf of the respondent Bank, it is stated that mere approval of the name of the petitioner for compassionate

LET NOBLE THOUGHTS COME TO US FROM EVERYWHERE

appointment will not create any right in their favour and, therefore, if the Bank has decided to do away with compassionate appointment under its Scheme floated on 4.2.2005 which has come into effect on 18.12.2004, no compassionate appointment, can be offered subsequent to that date irrespective of the fact whether the application for compassionate appointment was made, processed and approved prior to the enforcement of the new Scheme. He submits that in view of the judgment of the Hon'ble Supreme Court in the case of **Government of Orissa through Secretary Commerce and Transport Department, Bhubaneshwar v. Haraprasad and others**, no right is conferred merely because of empanelment of the candidate in the select list.

Counsel for the respondent bank clarifies in reply that since no appointment letter was issued and in between the scheme was altered, it cannot be said that his claim. was finally considered under resolution dated 9.10.2004. No appointment on compassionate ground can be offered after the enforcement of scheme of 2005.

4. I have heard learned Counsel for the parties and have gone through the records of the writ petition.

The issue with regard to the consideration of an application for compassionate appointment has been examined by the Hon'ble Supreme Court in the case of **State Bank of India and others v. Jaspal Kaur** (supra) and in paragraph 26 it has 'been held as follows:

"26. Finally in the fact situation of this case, Shri Sukhbir Inder Singh (late), Record Assistant (Cash & Accounts) on 1.8.1999, in the Dhab Wasti Ram, Amritsar Branch, passed away. The respondent, widow of Shri Sukhbir Inder Singh applied for compassionate appointment in the appellants Bank on 5.2.2000 under the scheme which was formulated in 2005. The High Court also erred in deciding the matter in favour of the respondent applying the scheme formulated on 4.8.2005, when her application was made in 2000. A dispute arising in 2000 cannot be decided on the basis of a scheme that came into place much after the dispute arose, in the present matter in 2005. Therefore, the claim of the respondent that the income of the family of the deceased is Rs. 5855 only, which is less than 40% of the salary last

drawn by late Shri' Sukhbir Inder Singh, in contradiction to the 2005 scheme does not hold water."

5. In view of the aforesaid conclusion drawn by the Hon'ble Supreme Court it has to be examined in the facts of the present case as to under which scheme the claim of the petitioner has to be considered. Since the application for compassionate appointment was made by the petitioner in the year 2002-2003 and at the relevant point of time the scheme in force provided for compassionate appointment, his application was liable to be considered in accordance with the said scheme only .

6. This Court may now deal with the contention raised on behalf of the respondent bank to the effect that there has been no final consideration of the application of the petitioner till the issuance of scheme 2005.

7. In the opinion of the Court the contention is totally misplaced. Under the resolution of the Personnel Administrative Department of the Bank as per its meeting dated 9th October, 2004 the application of the petitioner for compassionate appointment was allowed and he was directed to be offered compassionate appointment. .The application of the petitioner stood finally disposed of and what remained was the performance of the ministerial act of issuance of the appointment letter .

8. This Court therefore, holds that both on the date the application was made as well as on the date it was finally considered by the Personnel Administrative Department of the Bank, the scheme as was applicable provided for compassionate appointment. The enforcement of scheme dated 4.2.2005, which has done away with compassionate appointment, has no application qua the case of the petitioner.

9. The writ petition is therefore allowed. Respondent bank is directed to take appropriate action for appointment of the petitioner in terms of the decision of the Personnel Administrative Department of the Bank dated 9.10.2004, preferably within six weeks from the date a certified copy of this order is filed before the authority concerned. ■

Petition Allowed

KNOWLEDGE IS POWER

DEARNESS ALLOWANCE

The Index Numbers for the quarter ended March 2013 are as under:

MONTH & YEAR	INDEX AS PER 2001 SERIES	CONVERSION FACTOR	INDEX AS PER 1960 SERIES
Jan 2013	221	4.63 x 4.93	5044.52
Feb 2013	223	4.63 x 4.93	5090.17
Mar 2013	224	4.63 x 4.93	5113.00
Total			15247.69
Average =			15247.69/3
			5082.56
Difference in excess of 2836 points			2246.56
D.A.paid for the previous quarter on (i.e. 535x4)			2140.00
Difference			106.56
Increase in number of Slabs = $106.56/4 =$			26.64

Accordingly, Dearness Allowance is payable to Officers on 561 (i.e. 535+26) slabs with effect from 01-05-2013 as against 535 slabs for the previous quarter.

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