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Editorial

BANKING IN NEO-NORMAL INDIA

Bankers are extending normal service all along. Be it during demonetization or in the current pandemic situation, bankers are in the frontline for keeping the wheels of the economy rolling. They have laid down their lives in the line of duty, endangered the lives of their family members and also faced social orchestration for serving the society itself. In reality, this is the neo-normal life of a banker. Unfortunately, the most fatal blow to the Indian banking in general and of the public sector banking in particular was inflicted in the first week of lock down, when the government disregarding the nationwide protest of bankers and ignoring the sentiments of the customers went through the process of consolidation of 10 public sector banks. Life is not really normal for bankers in those banks ever since.

Regrettably this is true for the customers, both depositors and borrowers, who are paying the price for such hasty implementation of the merger decision.

Not content with consolidation and merger, a paid campaign is on in the media suggesting various permutation and combination of impending privatization or even closure of public sector banks. This entire campaign has been theorized in a recent publication by former central bankers Shri Raghuram Rajan and Shri Viral Acharya. They have called for privatizing some public sector banks and dismantling of DFS. They argued that privatization of select PSB can be undertaken as part of a carefully calibrated strategy, bringing in private investors who have both financial as well as technological expertise. They are gracious enough in softening their prescription by suggesting that corporate houses must be kept from acquiring significant stakes, given their natural conflict of interests.

The recommendation as contained in their paper “Indian Banks; a time to reform” is nothing new to the bankers. Rather, it is normal in their life. This paper is the continuation of recommendation made by the various committees over the years starting from Narasimham Committee in 1993 to P. J. Nayak Committee in 2007. In fact, a committee headed by Shri Rajan made a similar recommendation earlier. However, what is rather striking is their use of strongest words for the bureaucrats at the Finance Ministry particularly the DFS that oversees all state-owned financial institutions. They asserted that the bureaucrat oversees the public sector banks and seek to affect bank regulation by the RBI Board seat carved out for the DFS Secretary in 2012. A key marker of whether PSB Boards have sufficient independence is whether the department is eliminated and its official redeployed more productively elsewhere.

Before we react to this report in the concluding paragraph of the editorial, let us have a close look on the factors that are affecting and will affect banking in the unlock phase. Pandemic and resultant lock down has seriously impacted Indian economy with GDP growth contracted by whooping 23.5%. A contraction in GDP growth will lead to another contraction in the demand for credit. This will result in excess liquidity. Such excess liquidity will trigger inflationary impact which we are already experiencing. Once the inflation breaks the boundary set by the RBI, the elbow room available to Monetary Policy Committee for reduction in interest rate will simply disappear. Rather RBI will have to reverse the gear and go for upward revision in interest rate to contain inflation. We like to make it clear that we do not subscribe to the notion that reduction in interest rate has a one to one correspondence with an uptick in credit demand.

Along with the excess liquidity created due to a subdued credit demand, RBI seeks to inject more liquidity into the system through Monetary Policy measures. Unfortunately, when there is no taker, the decision of the RBI and the government will further complicate the liquidity management and will put further pressure for upward interest rate revision. There is further apprehension that such enhancement of limit without assessing credit requirement will have a negative impact on asset quality. The contraction in GDP will impair the asset quality and such enhancement of limit in the name of boosting of economy will collectively ensure that there is a real time quantitative jump in NPA requiring provision and consequential impact on net profit.

RBI is trying to address the situation by resorting to restructuring/reclassification of accounts and a committee formed for this purpose under the Chairmanship of Shri K. V. Kamath had submitted its report. Banks have started issuing their COVID guideline and this may defer the NPA creation for the time being. Data suggests that in August 2020, the total credit growth in August is ₹ 59 thousand crore while the emergency credit limit sanction under ECLGS is ₹ 1.15 lakh crore. This clearly indicates that either due to procedural bottle neck or due to contraction in demand, the credit off take is not picking up.

Banking is going to play an important role in the revival of the economy as announced by the Hon'ble Finance Minister in her economic stimulus package. Unfortunately, the problem of contraction in GDP and emergence of recessionary tendencies sought to be tackled by supply side management in total disregard of the fall in aggregate demand due to loss of job, cut in salaries and consequential loss of purchasing capacity. The very word prosperity is made up of "pro" in Latin, meaning going well for us, and "speres", in accordance with our expectations. A time of widespread pestilence reminds us that future notions of prosperity and welfare will need to embed inclusivity, equality and sustainability. Materialism, wanton consumption and untempered resource usage may have to be consigned to the rejection pile of history. Notwithstanding the simplicity of the GDP measure, we will have to add nuance to it in order to more accurately measure the welfare of individuals and communities. "The welfare of a nation can scarcely be inferred from a measurement of national income as defined by the GDP," said Simon Kuznets.

So, the bankers have to be gear themselves up to join the next phase of decisive battle for defeating the overt and covert move to privatize the public sector banking space. The power that be should also understand that in Indian context the economy cannot move and come out of the present phase of downturn unless the potential of the public sector banking is fully explored. Need of the hour is (1) immediate recruitment and adequate staffing in all the branches, (2) standardization of systems and procedures (3) freeing the bankers from the clutches of CVC and CBI (4) Stop mis-selling of all commission linked insurance and other products (5) an immediate halt of misbehavior by the controllers and (6) freedom from political interference.

We have to keep in mind that through all of these, the very backbone of the financial sector in general and that of Indian banking in particular has been severely compromised. We agree with Prof. Rajan and Prof. Acharya when they suggested the winding up of DFS to end a long trail of political intrusion in Indian banking and advocated autonomy and independence for bank boards. But in our own humble way we disagree with their policy prescription for privatization of the public sector banking with a one liner: NO SIR, THAT IS A RECEIPE FOR DISASTER. STAY SAFE STAY HEALTHY. BEST WISHES FROM THE EDITORIAL BOARD FOR NAVARATRI, DURGA PUJA AND OTHER ENSUING FESTIVALS.

IN THE SKY THERE IS NO DISTINCTION OF EAST AND WEST

WAGE REVISION TALKS

We are reproducing the joint communication dated 21.09.2020 by the four officers' organisations on the current status of the wage revision talks.

Dear Comrade,

WAGE NEGOTIATION TALKS : CURRENT STATUS

We reproduce below text of the joint communication dated 21.09.2020 on the captioned subject.

With greetings,
Sd/-
(Soumya Datta)
General Secretary

ALL INDIA BANK OFFICERS' CONFEDERATION (AIBOC)
ALL INDIA BANK OFFICERS' ASSOCIATION (AIBOA)
INDIAN NATIONAL BANK OFFICERS' CONGRESS (INBOC)
NATIONAL ORGANIZATION OF BANK OFFICERS (NOBO)

TO ALL AFFILIATED UNITS OF AIBOC/
AIBOA/INBOC/NOBO AND OFFICERS

21st Sept 2020

Comrades,

CURRENT WAGE REVISION TALKS: UPDATES

Consequent upon signing the MOU on 22nd July 2020, after a day-long discussion, there were two rounds of discussions held by IBA with the four officers' organisations on 24th August and 10th September 2020. The working group core team was led by Shri. Alok Kumar Choudhary, Dy.Managing Director(HR & CDO), SBI, Shri Gopal Murli Bhagat Deputy Chief Executive, IBA, Shri.S.K.Kakkar, Senior Advisor (HR and IR), IBA and Shri B.N.Sahoo, Advisor (HR and IR), IBA and the four General Secretaries of the organisations participated in the discussions.

2. In the first round of discussions, while initiating the discussions Shri Alok Kumar Choudhary, Chairman of the Working Group for officers, expressed that the scope of the meeting was mainly for working out the exercise for allocation of remaining 12.5% out of the 15% and the maximum members should get the maximum benefits. Representing the four organisations, Com. Soumya Datta expressed the happiness for the meaningful exercise and categorically made it clear that there was an imperative need to provide the four organisations with the clarifications about the following issues:

a) The quantum of ₹ 1155 crore for allocation of construction of new pay scales with 2.5% loading after merging 6352 points of D.A. which is inadequate for working out the new pay scales;

b) PLI should be w.e.f. 31/03/2020 instead of 31/03/2021.

c) The introduction of 5 Day week

d) Updation of pension

e) Exclusive discussions on Non-Financial Demands

THERE HAS TO BE EVIL SO THAT GOOD CAN PROVE ITS PURITY ABOVE IT

f) COVID-19 related issues – Enhanced Insurance Coverage, Hospitalisation expenses reimbursement, fast-tracking the compassionate appointments in banks

g) Restoration of mandates of Laxmi Vilas Bank and Catholic Syrian Bank.

We further insisted that IBA should first provide their proposal for construction of new pay scales.

3. As the first step, this time our four organisations have submitted the suggestions of new wage proposal to IBA duly acknowledging the suggestion of the Chairman of the Working Group for officers to distribute the 12.5% of the allocated amount to ensure that maximum benefits should accrue to maximum officers. Our proposal therefore, focused on maximising the special allowance with marginal improvement in other areas within the overall cost ceiling of ₹ 4513 crore. In the second round of discussions, there was a passing reference of internal relativity made by IBA and we categorically made it clear that we cannot accept the concept and stressed that in the area of allocation of the amount should be entirely left to the four officers organisations'. The Chairman, while concluding the discussion proposed that IBA will forward two proposals consisting of two suggestions viz. creation of Locational Allowance and Professional Development Allowance and other suggestions regarding the existing allowances. He further assured that the IBA will convene a meeting with us to discuss on Non-Financial demands parallelly.

4. The proposals received from the IBA have since been rejected assigning cogent and convincing reasons recently. We are expecting to receive the information from IBA regarding the next round of discussions.
We shall keep the developments posted for the benefit of the units and all officers.
Stay safe stay healthy.

With greetings

Sd/-	**Sd/-**	**Sd/-**	**Sd/-**
(Soumya Datta)	**(Nagarajan S)**	**(Prem Kumar Makker)**	**(Viraj Tikekar)**
General Secretary	**General Secretary**	**General Secretary**	**General Secretary**
AIBOC	**AIBOA**	**INBOC**	**NOBO**

ECONOMY & BANKING

1. Banks sanction loans worth ₹ 1.77 trn to 4.4 mn MSMEs under ECLGS scheme : The Finance Ministry on Thursday said banks have sanctioned loans of about ₹ 1.77 lakh crore to 44.2 lakh business units under the ₹ 3-lakh crore Emergency Credit Line Guarantee Scheme (ECLGS) for the MSME sector reeling under the slowdown caused by the coronavirus pandemic. However, disbursement against the sanctioned amount stood at ₹ 1,25,425 crore to ₹ 25.74 lakh MSME units till September 21. The scheme is the biggest fiscal component of the ₹ 20-lakh crore Aatmanirbhar Bharat Abhiyan package announced by Finance Minister Nirmala Sitharaman in May to mitigate the distress caused by the lockdown due to COVID-19 by providing credit to different sectors, especially micro, small and medium enterprises (MSMEs). The latest numbers on ECLGS, as released by the Finance Ministry, comprise disbursements by all 12 public sector banks (PSBs), 24 private sector banks and 31 non-banking financial companies (NBFCs). "As of 21 Sept 2020, the total amount sanctioned under the 100% Emergency Credit Line Guarantee Scheme by #PSBs and private banks to #MSMEs and individuals stands at ₹ 1,77,353 crore, of which ₹ 1,25,425 crore has already been disbursed," the finance minister said in a tweet. -

2. RBI releases technology vision for cyber security for urban co-op banks : The Reserve Bank of India came out with a Technology Vision for Cyber Security for Urban Co-operative Banks for 2020-23 listing action points for these lenders. "The number, frequency and impact of cyber incidents and attacks have increased manifold in the recent past, more so in the case of financial sector including Urban Co-operative Banks (UCBs). It has, therefore, become

OVERCOME ANGER BY LOVE, EVIL BY GOOD

essential to enhance the security posture of UCBs so as to prevent, detect, respond to and recover from cyber-attacks," the RBI said.

3. **Shift towards digital banking is permanent: SBI Chairman, Rajnish Kumar :** State Bank of India Chairman Rajnish Kumar said the number of consumers moving away from branch level transactions and adopting digital modes is increasing, and this change is going to be permanent. He said currently only seven out of 100 transactions are taking place at SBI branches as against 20 out of 100 transactions three years ago. "Progressively, we are seeing that there has been a shift away from branches and even from ATMs. The number of transactions on ATMs have come down from 55 to 29 per 100. On the other hand, the digital transactions, which are on mobile and internet banking, have gone to 55 out of 100 transactions," Kumar said at the Global Business Summit.

4. **HDFC Bank sets minimum outstanding at ₹25,000 for restructuring retail loans :** The country's largest private sector lender HDFC Bank has set out a minimum outstanding of ₹25,000 for restructuring of retail loans. "Minimum outstanding balance required to convert the card or loan outstanding is ₹25,000," the lender has answered in the frequently asked questions (FAQs) on loan restructuring. "The reduction of income and its financial impact on the customer will be reviewed by the bank basis the documents or information provided which does show the drop in cash flow due to the Covid-19 impact. The bank will assess the viability of the customer to pay the restructured EMIs basis the documents provided, before granting the restructuring," it further said, adding that the repayment track record of the customer, and the responses given by the customer while claiming moratorium earlier will also be factored in the restructuring decision.

5. **RBI levies ₹5 lakh penalty on Shriram City Union Finance :** The Reserve Bank of India has imposed a monetary penalty of ₹5 lakh on Chennai-based Shriram City Union Finance for non-compliance with its directions on verification of the ownership of gold jewellery contained in NBFC - Systemically Important Non-Deposit taking Company and Deposit taking Company (Reserve Bank) Directions, 2016 and on reporting of frauds contained in Monitoring of Frauds in NBFCs (Reserve Bank) Directions, 2016. "This action is based on deficiencies in regulatory compliance and is not intended to pronounce upon the validity of any transaction or agreement entered into by the company with its customers," the RBI said in a statement.

6. **Banks working to speed up ICA process for resolution of stressed loans: IBA :** Banks are working together in removing hurdles and speeding up the process of execution of inter-creditor agreement (ICA) in order to ensure faster resolution of bad assets amid Covid-19 pandemic, Indian Banks' Association chief executive Sunil Mehta said. He said a draft on the same has been already given to banks for their suggestions. As per the RBI, in cases where a resolution has to be implemented, all lenders will have to enter ICA within a review period. The ICA shall provide that any decision agreed by lenders representing 75 per cent by value of total outstanding credit facilities (fund-based as well as non-fund based) and 60 per cent of lenders by number shall be binding upon all the lenders. "The point is we want to go for a system where bottlenecks in execution of the ICA are removed. The moment threshold levels reached 60 per cent by number and 75 per cent by value, as per the RBI regulatory guidelines, the ICA can be executed immediately, maybe, within a few weeks. The outer limit is one month," Mehta said during a virtual event organised by Dun and Bradstreet.

7. **DHFL FD holders move NCLT for clearing dues :** Holders of Dewan Housing Finance Corporation (DHFL)'s fixed deposits (FDs) have filed a fresh petition at the National Company Law Tribunal (NCLT), Mumbai, seeking repayment of matured FDs held by senior citizens and critically ill people. Depositors moved NCLT after the committee of creditors (CoC) refused any immediate relief to them. The Supreme Court had earlier directed deposit holders to seek relief from CoC for their dues. FD holders have admitted claims of ₹ 5,375 crore from DHFL. NCLT is set to hear petition on September 25. Vaibhav Guliani, a practicing advocate in Supreme Court, who is representing FD holders in the matter, said that payment to fixed deposits shall be considered as a regular course of business by financial service provider.

8. **RBI announces special OMOs of simultaneous sale, purchase of G-Secs worth ₹ 10,000 crore each :** The Reserve Bank of India (RBI) on Thursday

THREE THINGS CANNOT BE LONG HIDDEN: THE SUN, THE MOON AND THE TRUTH

announced it will conduct simultaneous purchase and sale of government securities under open market operation (OMO) for an aggregate amount of ₹ 10,000 crore each on October 1. "On a review of the current liquidity and financial conditions, the Reserve Bank has decided to conduct simultaneous purchase and sale of government securities under open market operation (OMO) for an aggregate amount of ₹ 10,000 crore each on October 1, 2020," it said in a statement. The RBI further said it will continue to monitor evolving liquidity and market conditions and take measures as appropriate to ensure orderly functioning of financial markets. On October 1, the RBI would purchase three securities totalling ₹ 10,000 crore and selling two securities of the same amount. The result of the auctions will be announced on the same day.

9. Citi appoints Arjun Chowdhry as acting head of consumer banking biz in India : Citigroup has appointed Arjun Chowdhry as the acting head of its consumer banking business in India, officials said on Thursday. Chowdhry, who has been with Citi for 25 years, currently serves as the head of credit cards, payments and unsecured lending for the American bank in India.

10. IBC suspension gets 3 months' extension : The Centre has extended by three months the suspension of insolvency proceedings initiation against the corporate debtor for defaults arising post March 25, when the Covid-19-induced lockdown was announced. It may be recalled that in response to the pandemic, the government had, on June 5, come out with an ordinance to prohibit the initiation of insolvency proceedings for defaults arising during the six months from March 25, 2020 (extendable up to one year).

11. Personal Guarantors: IBBI, government to defend legal validity of IBC provisions : Insolvency regulator IBBI and the government are expected to go all out to defend the legal validity of the IBC provisions on personal insolvency against personal guarantors to corporate debtors, when the current matters on legal challenges come next before the Delhi High Court on October 6. Some personal guarantors who are in the dock are now claiming that enforcing certain IBC provisions in relation to personal guarantors to corporate debtors amounted to an unconstitutional usurpation of legislative power by the executive and they are challenging the provisions as "wholly impermissible in law", sources said.

12. IL&FS fiasco: SEBI hikes penalty on CARE, ICRA to ₹1 crore each : SEBI has hiked its penalty to ₹ 1 crore from the earlier ₹ 25 lakh on credit rating agencies ICRA and CARE for their lapses in assigning ratings to the non-convertible debentures of IL&FS, which later defaulted in payments. The IL&FS fiasco came to light in 2018 after which SEBI undertook an examination of the rating agencies. SEBI said it had examined the order passed by its Adjudicating Officer (AO) and observed that the penalty levied was "erroneous and not commensurate with the overall impact these violations had on the market".

13. India Ratings maintains negative outlook on NBFCs, HFCs for H2 FY21 : Domestic rating agency India Ratings and Research on Thursday said it has maintained a negative outlook on non-banking financial companies (NBFCs) and housing finance companies (HFCs) for the second half of 2020-21. It said growth in assets under management would be flattish for NBFCs as against its earlier estimate of 8-10 per cent y-o-y, and in lower single digits for HFCs in 2020-21.

(Acknowledgement Shri Madan Jain)

CIRCULARS

59 dated 15th September, 2020: Text of Circular by UFBU dated 13.09.2020 on the sad demise of Comrade Subhash Sawant, General Secretary INBEF

60 dated 21st September, 2020: Text of Circular issued by 4 Officer's Organisations, i.e., AIBOC, AIBOA, INBOC and NOBO dated 21.09.2020 on Wage Negotiation Talks : Current Status

61 dated 23rd September, 2020: Text of Circular by UFBU dated 23.09.2020 on Medical Insurance Policy For In-Service Employees/Officers w.e.f.01.10.2020

BETTER THAN A HUNDRED YEARS OF IDLENESS IS ONE DAY SPENT IN DETERMINATION

JUDICIAL VERDICT

IN THE HIGH COURT OF JUDICATURE AT BOMBAY, NAGPUR BENCH, NAGPUR
LD-VC-CW-665 OF 2020
Shri Naini Gopal S/o Dhirendra Mohan Roy,
Aged About 85 Years,
Occupation – Pensioner,
R/o F-37/B, Central Railway Colony,
Ajni, Nagpur-440 003. ... APPELLANTS
VERSUS

1. The Union of India, Ministry of Defence, Through its Secretary, New Delhi.

2. The Principal Controller of Defence Accounts (Pension), Office of Principal Controller of Defence Accounts, Allahabad, Uttar Pradesh-211 014.

3. The General Manager, State Bank of India,Centralized Pension Processing Centre, 5th Floor, Premises No.T-651 and T-751, I.T.C. Belapur, CBD Belapur Railway Station Complex, Navi Mumbai-400 0614.

4. The General Manager, Ordnance Factory, Bhandara.... Respondents

Shri S.S. Sharma, Advocate for Petitioner.
Smt. Sushma, Advocate for Respondent Nos.1, 2 and 4.
Shri M. Anilkumar, Advocate for Respondent No.3.
CORAM : R.K. DESHPANDE & N.B. SURYAWANSHI, JJ.
Date of Reserving the Judgment : 13th August, 2020
Date of Pronouncing the Judgment : 20th August, 2020

JUDGMENT (Per R.K. DESHPANDE, J.):

1. Notice for final disposal of the matter was issued by this Court on 30-7-20208 and the parties were heard finally by consent. Hence, Rule. The petition is being disposed of finally.

2. The petitioner Naini Gopal S/o Dhirendra Mohan Roy is retired as an Assistant Foreman from the Ordnance Factory at Bhandara with effect from 1-10-1994. The last drawn basic salary of the petitioner was ₹ 2,675/- and the basic pension was fixed at ₹ 1,334/- as on 1-10-1994. Consequent upon increase in the pension and the dearness allowance as per the recommendations of the 5th, 6th and 7th Pay Commissions, the basic pension of ₹ 25,634/- was fixed, for which the petitioner was entitled to and accordingly he was paid.

3. In the month of August 2019, the basic pension amount of the petitioner was reduced from ₹ 25,634/- to ₹ 25,250/- with effect from 1-1-2016 and accordingly, the respondent No.3- the Centralized Pension Processing Centre of the State Bank of India, directed recovery of an amount of ₹ 3,69,035/- from the pension payable to the petitioner in the installments of ₹ 11,400/-, i.e. 1/3rd of the monthly pension with effect from 1-8-2019. The deduction of pension was without the consent or knowledge of the petitioner and, therefore, the petitioner filed an application under the Right to Information Act, 2005 on 1-9-2019 to know the reason for deduction and details as to the revision of pension during the period 2015-16 and 2016-17. In response to this application, the petitioner received the reply on 20-9-2019 from the respondent No.3 informing that there was excess payment of pension of ₹ 3,69,035/- to the petitioner, which was discovered after making the revised calculations.

YOU WILL NOT BE PUNISHED FOR YOUR ANGER, YOU WILL BE PUNISHED BY YOUR ANGER

4. The petitioner has, therefore, approached this Court challenging such action and seeking further direction to the respondents to restore the position in respect of payment of pension, prevailing prior to the deduction which commenced from 1-8-2019. Reliance is placed upon the communication dated 4-12-2019 at Annexure-Q to the petition, issued by the Accounts Officer of the employer stating that the pension at the rate of ₹ 26,000/- was correctly notified vide 7th CPC PPO No.401199400151 (0101).

5. Initially, we heard the matter on 30-7-2020, when the following order was passed :

1)" Hearing was conducted through Video Conferencing and the learned Counsel for the parties agreed that the audio and visual quality was proper.

2) Issue notice for final disposal of the matter, returnable on 10/8/2020.

3) Smt. Sushma, learned Counsel waives service of notice for respondent nos.1, 2 and 4.

4) We have seen the impugned order dated 14/11/2019 issued by the State Bank of India. We are anxious to know as to whether the State Bank of India has acted on its own or on the basis of instructions issued by any other respondent in the matter. If we find that the action of the Bank is without any authority, we will have to impose heavy costs upon the Bank. Apart from this, if the amount is lying with the personal account of the petitioner, we are also surprised to note as to how the Bank is preventing or not permitting the petitioner to withdraw the amount. If any recovery is to be made, it will be open for the employer to make the same in accordance with law.

5) This order be communicated to the learned Counsel appearing for the parties, either on the e-mail address or on WhatsApp or by such other mode, as is permissible in law."

6. We were under an impression that the respondent No.3- State Bank of India, Medical College Area, Branch Nagpur, where the petitioner holds the pension account No.10387387888, must have acted on the basis of the instructions issued by the employer of the petitioner. Therefore, we passed an order stating that we are anxious to know as to whether the State Bank of India has acted on its own or on the basis of the instructions issued by the other respondents in the matter. Obviously, the employer is the party-respondent in this petition. We further made it clear that if we find that the action of the Bank is without any authority, we will have to impose heavy costs upon the Bank. It was also expressed that if the amount is lying with in personal account of the petitioner, how the Bank is preventing or not permitting the petitioner to withdraw the amount. If the recovery is to be made, it is open for the employer to make the same in accordance with law.

7. In response to this petition, the employer, who is the respondent No.4- the General Manager, Ordnance Factory, Bhandara, has filed an affidavit taking the stand in Paras 1 to 5 as under :

"1. It is humbly submitted that the details of the Petitioner regarding service particulars, retirement date (as stated in the W.P.) are correct as per record.

2. It is humbly submitted that the Respondent No.02 i.e. the PCDA(P), Allahabad has issued revised PPO No.401199400151 (PPO Suffix 0199) (Copy enclosed as Annexure-R/1) dated 08/01/2018 in respect of the Petitioner, Ex Asstt. Foreman, O.F. Bhandara. Revised pension under the said PPO was ₹ 25250/-(w.e.f. 01/01/2016) per month.

3. It is humbly submitted that the Respondent No.02 has Suo-moto revised the above said PPO vide PPO No.401199400151 (PPO Suffix 0101) (Copy enclosed as Annexure-R/2) on the basis of Circular No.C-202 dated 06/08/2019 (Copy enclosed as Annexure-R/3) and the pension was fixed to ₹ 26,000/- (w.e.f. 01/01/2016).

4. It is humbly submitted that the PPOs are being sent by the Respondent No.02 to Respondent No.03 directly through email.

5. It is humbly submitted that the Respondent No.04 has not issued any order for recovery of any amount from the pension of the Petitioner."

We have also perused Annexure-Q, which is the communication dated 4-12-2019 by the Accounts Officer from the office of the respondent No.4-

THE FOOL WHO KNOWS HE IS A FOOL IS MUCH WISER THAN THE FOOL WHO THINKS HE IS WISE

employer stating that the pension at the rate of ₹ 26,000/- has been correctly notified.

8. We now turn to the reply filed by the respondent No.3- State Bank of India and Paras 4 to 8 being relevant, are reproduced below :

"4. That the Petitioner submits that The pension was further revised from ₹ 4,027.00 to ₹ 9,102.00 as per the 6th C.P.C. This was payable to the Petitioner as he was a Civil Pensioner, however the respondent bank calculated the same as a Personnel Below Officer Rank (PBOR) and started paying him ₹ 9974.00 thus an excess of ₹ 872.00 per month from Oct. 2007 erroneously which was due to technical error in the system. It is submitted that there was an corrigendum No.PPO No.C/Corr/6th CPC/04635/2012 and Circular No.102 which was not taken into consideration while making the payments and the bank continued to pay ₹ 9974.00 till the subsequent revision. The Copy7 of the Pay Fixation by the Respondent No.2 is filed as Annexure R-1.

5.That the Pension was further revised from ₹ 9,102.00 to ₹ 25,634.00 as per the 7th CPC which is payable till date. That the Petitioner submits that the basic was ₹ 9,102.00 however the Bank paid ₹ 9974.00 erroneously and further made enhancement of the Pension on the said erroneously calculated pension which comes to ₹ 25,634.00 which was being paid and on having noticed this fact, the Bank has fixed the Pension at ₹ 25,250.00 which is as per the guidelines of the respondent No.2 and 4.

6.The respondent has not received any Memo from the respondent No.2 and 4 for enhance of pension to ₹ 26,000/- as filed at Page No.92 by the Respondent No.4 and on receipt of the copy of the Petition, the respondent has already taken up the matter with the respondent No.2 on 7.8.2020 vide complaint No.52973 and on receipt of the clarification and appropriate PPO the increased pension if any shall be released as may be advised by the Respondent No.2 and 4.

7. That the Petitioner submits that due to oversight an amount of ₹ 3,69,035/- is paid in excess by the answering respondent during the aforesaid period which is being recovered. It is submitted that the respondent No.5 has recovered the said amount over a huge period of time, which can be seen from the fact that the aforesaid recoveries have started from Jan. 2006 and till date only Bank has partly recovered the amount and the Bank is yet to recover an amount of ₹ 42,042.00 till date and nominal interest thereon.

8. That the respondent submits that in view of the representations made the Bank has not recovered any amount from Dec. 2019 as the Petitioner has informed that he is entitled to ₹ 26,000.00 as pension and he is likely to receive sizeable arrears and the remaining amount can be recovered from the said amount, for which bank has sent him various letters however the Petitioner only made correspondences and never met the bank officials for the amicable resolution."

It is the stand taken by the respondent- Bank that an amount of ₹ 872/- per month was erroneously paid in excess to the petitioner from the October 2007 due to technical error in the system.

9.Reliance is placed upon the Reserve Bank of India Circular No.RBI/2015-16/340-DGBA.GAD.No.2960/ 45.01.001/2015-16 dated 17-3-2016, containing clause (c), which is reproduced below :

"c) In case the pensioner expresses his inability to pay the amount, the same may be adjusted from the future pension payments to be made to the pensioners. For recovering the over-payment made to pensioner from his future pension payment in instalments 1/3rd of net (pension + relief) payable each month may be recovered unless the pensioner concerned gives consent in writing to pay a higher installment amount."

On the basis of the aforesaid clause, the Bank claims to have an authority to recover the excess payment made to the pensioner. It is the further stand taken in Para 6 of the reply filed by the Bank that it has not received any Memo from the respondent Nos.2 and 4 for enhancement of pension from ₹ 26,000/-, which is referred to as Annexure R-2 in the reply filed by the employer and it is stated that the Bank has already taken up the matter with the respondent No.2 on 7-8-2020 vide complaint No.52973 and on receipt of the clarification and appropriate PRO, the increased pension if any shall be released as may be advised by the respondent Nos.2 and 4.

10. What we find in the present case is that the stand

taken by the employer, the competent authority, is very clear and unequivocal in stating that the fixation of pension of the petitioner was correct and proper. The employer has supported the claim of the petitioner and has no role to play in the matter of reduction of pension or its recovery. The letter dated 4-12-2019 addressed to the petitioner by the employer states that the pension at the rate of ₹ 26,000/- has been correctly notified vide 7th CPC PPO No.401199400151 (0101). We are, therefore, satisfied that the entitlement of the petitioner to the pension was correctly fixed by the competent authority.

11. It is the stand taken by the Bank that the revised pension of ₹ 9,102/- was payable to the petitioner as a civil pensioner, but the Bank calculated it as ₹ 9,974/- as a personnel below officer rank (PBOR) and thus paid an amount of ₹ 872/- per month in excess from October, 2007. Though we passed an order on 30-7-2020, reproduced earlier, to know the authority of the Bank to question this, we do not find any response to it in the reply filed, particularly when the Bank was knowing the stand of the employer supporting the claim of the petitioner for pension. We are of the view that it is not the authority of the Bank to fix the entitlement of the pension amount of the employees other than the employees of the respondent- Bank. We, therefore, hold that the action of the Bank to reduce the pension of the petitioner is unauthorized and illegal. Furthermore, the Bank has failed to demonstrate any technical error in the calculations.

12. The Bank has placed reliance upon the Reserve Bank of India Circular No.RBI/2015-16/340-DGBA.GAD.No.2960/45.01.001/2015-16 dated 17-3-2016 to urge that the authority to recover the excess payment is conferred upon it by the Reserve Bank of India. In Para 14 of the reply, the reliance is also placed upon the undertaking, said to have been given by the petitioner to the Bank, permitting the deduction of all such excess amounts, if so credited in his account due to oversight. The decision of the Apex Court in the case of High Court of Punjab and Haryana and others v. Jagdev Singh, reported in (2016) 14 SCC 267, has been relied upon. In our view, once we hold that in fact there was no excess payment made to the petitioner, the question of applicability of the instructions issued by the Reserve Bank of India or the undertaking given by the petitioner does not arise. Consequently, the decision of the Apex Court in the aforesaid case would also not apply to the facts of the present case.

13. If the Bank had any doubt about the correctness of fixation of pension, it should have carried the correspondence with the employer and got the clarification. At least, an explanation in respect of the proposed deduction with retrospective effect from October, 2007 should have been called from the petitioner. This is the bare minimum requirement of the principles of natural justice. No enquiry or investigation is made before taking the action impugned by the Bank. It is for the first time on 7-8-2020, i.e. after issuance of notice by this Court in the present petition, that the Bank started making enquiries and seeking clarifications from the employer of the petitioner in respect of pension and an assurance is given in the reply that the restoration of pension shall be done, as may be advised by the respondent Nos.2 and 4, the employers. This exercise, in our view, should have been carried out prior to effecting the deductions from the pension payable to the petitioner. The entire action of the Bank, in our view, is arbitrary, unreasonable, unauthorized and in flagrant violation of the principles of natural justice and cannot be sustained.

14. The Bank is a trustee of the account of the pensioners, like the petitioner, and has no authority in the eyes of law to dispute the entitlement of the pension payable to the employees, other than those in the employment of the Bank. To tamper with such account and effect the recovery of pension without any authority, is nothing but a breach of trust of the petitioner by the Bank. We should not be understood to have said that even where there is technical error in calculation, other than of entitlement, is committed resulting in excess payment, the Bank cannot recover it. We have already held that no such case is made out here. The petitioner is of 85 years of age and in Para 5 of the petition, it is the claim that he bears a great liability of mentally disabled daughter, aged about 45 years, who has to be looked after mentally and physically, and the costly medical treatment is required to be administered. Instead of showing sensitivity to the problems of senior citizens, the Bank has shown the arrogance and the petitioner was driven from pillar to post to know the reason for deduction of amount from the pension payable to

HE WHO SEEKS HAPPINESS BY HURTING WILL NEVER FIND IT

him. Though we issued notice for final disposal of the matter, keeping in view that the petitioner is a senior citizen and requires immediate attention to his problem, the respondent- Bank has chosen to file only interim submissions on affidavit sworn-in by the Manager, State Bank of India, Medical College Area, Branch Nagpur.

15. The Bank has reduced the pension payable to the petitioner from ₹ 9,974/- to ₹ 9,102/- per month and the amount of ₹ 872/- per month is said to have been paid in excess to the petitioner, which is being recovered. In fact, an amount of ₹ 3,26,045/- has already been recovered and the recovery of the balance amount of ₹ 42,042/- is proposed to be made. We, therefore, need to direct the Bank to refund the amount of ₹ 3,26,045/- to the petitioner by crediting it in his pension account with interest at the rate of 18% per annum from the date of deduction till the date of crediting such amount in the account of the petitioner. We have to restrain the Bank from recovering the balance amount of ₹ 42,042/- from the pension account of the petitioner. The Bank is required to be directed to pay the costs of ₹ 50,000/- to the petitioner towards the expenses of this petition, mental agony and harassment, within a period of eight days from today; failing which, the further costs of ₹ 1,000/- for each day's delay shall have to be imposed.

16. Before parting with this Judgment, we need to remind the Bank that the pension payable to the employees upon superannuation is a 'property' under Article 300-A of the Constitution of India and it constitutes a fundamental right to livelihood under Article 21 of the Constitution of India. The deprivation, even a part of this amount, cannot be accepted, except in accordance with and authority of law. Article 41 of the Constitution of India in the Part IV of Directive Principles of State Policy has created an obligation upon the State to recognize a right of public assistance in the case of old age, sickness and disablement. Article 46 therein requires the State to promote with special care the economic interests of the weaker sections of the people. In short, the aforesaid provisions of the directive principles of State policy create an obligation upon the State to enact suitable laws, making the provisions to recognize a right of public assistance, to promote economic interests, to protect the life and property of senior citizens, to treat them with respect and dignity and to give wide publicity to it.

17. Unfortunately, the time has come to tell the Bank that the aging is natural process, which leads to weakening of the body and mind. The productivity, working ability and mobility decreases or paralyzes with growing age. The traditional norms, values and culture in the Indian Society demand to treat the senior citizens with respect, dignity and lay stress on providing security, care and assistance to them. It becomes a part of the human right of the senior citizens. The senior citizens are the persons who had shouldered the responsibility of building a nation in general and society or community in particular, while in service. Utilizing their experience in the life and working, the strong shoulders are created of young persons to substitute and rest the responsibility upon them, while demitting the office. The bank officials must realize that tomorrow it may be their turn, upon superannuation, to fight for the pension or post-retiral benefits. The thought process, therefore, to be adopted should be of a person in a situation like the petitioner. The respect, dignity, care, sensitivity, assistance and security would automatically follow.

18. We have, however, seen and can take judicial note of the fact that the security of the senior citizens always remain in peril. We have seen the senior citizens anxiously waiting for credit of the pension amount in their account and standing in a queue for withdrawal. Once the amount is withdrawn personally either from the Bank or from the ATM, a serious threat starts posing to the life from the watchdogs roaming around involved in pick-pocketing and stealing. We have actually seen the old aged persons – men and women, counting the currency with cramping hands and trying to secure the amount at some hidden place in the body. It is then after waiting in the premises of the Bank and taking stock of the situation and the atmosphere with scared mind and the feeling of insecurity, the escape route and time is chosen to reach to their destination safely. It is a high time for the Banks to create a separate cell and to device a method to provide personal service through the men of confidence, at the door-step to the old aged, disabled and sick persons who are the senior citizens. They have to be treated with respect and dignity. The sensitivity to the problems of the senior citizens need to be addressed. The mechanism for immediate redressal of grievance needs to be provided. The officers having a degree or master's degree in Social Work or Psychology, who can be in personal touch with and genuinely understand and redress the

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grievances or complaints of the senior citizens, can be appointed.

19. In the result, this petition is allowed and the following order is passed :

(1) The action of the respondent No.3- Bank in deducting an amount of ₹ 11,040/- per month with effect from October, 2019 is hereby quashed and set aside.

(2) We direct the respondent No.3- Bank to immediately credit an amount of ₹ 3,27,045/-, recovered from the pension account of the petitioner, along with interest at the rate of 18% per annum from the date of recovery of each of the installments, till the date of credit of this amount in the pension account of the petitioner.

(3) The respondent No.3- Bank is restrained from recovering any amount from the pension payable to the petitioner on the basis of the action, which we have quashed and set aside.

(4) We direct the respondent No.3- Bank to pay the compensation of ₹ 50,000/- to the petitioner and credit the said amount in the pension account of the petitioner within a period of eight days from today, failing which the additional costs of ₹ 1,000/- for each day's delay will have to be paid.

(5) We direct the Registry of this Court to forward the copies of this Judgment to the Centralized Processing Pension Centres of all the Nationalized Banks and also to the Reserve Bank of India and the Chief Secretary, Government of Maharashtra, to consider the question of constitution of separate cell and release of appropriate guidelines so as to attain the constitutional goal of providing respect, dignity, care, sensitivity, assistance and security to all the pension account holders in the Banks.

(6) This Judgment be uploaded under the digital signature of the Private Secretary.

20. Rule is made absolute in the aforesaid terms. No order as to further costs.

(N.B. SURYAWANSHI, J.) (R.K. DESHPANDE, J.)

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