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*Editorial*

## **EMERGING ECONOMIC CHALLENGES!**

The New Year 2024 began with an unexpected backdrop of the economic outcome of the recently ended year. Some of the major endings in 2023 that went against the tide of initial focus are the steep decline in inflation across continents. The forecast of the impending recession was also avoided despite the massive increase in interest rates and tighter monetary policy pursued by different central banks. India could also beat the forecasted growth rate in GDP at 6.4 percent by RBI and clocked a growth rate of 7.3 percent. Inflation is also within the target with just 10 basis points more than the initial prediction.

But there are precious uncertainties that could aggravate or fresh ones may flair up this year. The higher interest rate charged by the banks would start biting consumers and companies. Political tension and conflict could escalate across the region and climate-related threats to output and trade may intensify. These impulses will then

be transmitted to the Indian economy through trade and financial linkages increasing instability risks. The impact will also be felt through the confidence channel which influences the domestic consumer sentiment. Therefore, maintaining the sentiment of the domestic consumer will provide the main growth impulse for the Indian economy in the year 2024. The sentiment will also swing depending upon the outcome of the national election which will influence the future course of government spending and the policies that will be pursued in the following 5 years.

By far the most disturbing is the rapid descent in growth in private final consumer expenditure which slowed to almost half its rate of growth last year and a third of that in the first year of recovery after the pandemic. Moreover, its addition to overall GDP growth in 2023-24 also slipped below its historical trend contribution. This downside in consumer spending becomes a real concern for the growth trajectory ahead. Consumption constitutes more

**A JUG FILLS DROP BY DROP**

than half of India's domestic demand base and if this declining trend persists, it will affect business investment adversely at a time when the banks are healthy and ready for credit expansion.

The Oxfam report on inequality pointed out how the corporate powers are fuelling inequality rewarding the wealthy and not the workers, dodging the taxes, privatizing public sector and public services, and driving climate breakdown. The report says that we are witnessing the beginning of a decade of division, with billions of people shouldering the economic shock waves of the pandemic, inflation, and war while billionaires' fortune boom. This inequality is no accident; the billionaire class is ensuring that privately held corporations/companies deliver more wealth at the expense of everyone else.

How these drivers unfold and progress in the coming months has a significant bearing on the economic outlook for the current year. It is noteworthy that quite like last year; this one too starts in a growingly endangered context – a mix of political and economic threats – both national and international - with a debt overhang and a slim fiscal space which suggest a sobering rather than an economic upswing.

The cyclical movement in the macro-economic front

will have its impact on the banking sector and may finally transmit in putting undue pressure on the officers disturbing the work-life balance further.

A good wage settlement or an increase in weekly off may not be sufficient in offsetting the ever-increase in unrealistic pressures and continuous resorting to miss-selling with a catastrophic HR impact.

Let us not forget that public power can reign in runaway corporate power and inequality shaping the market to be fairer and free from billionaire control. The government must be compelled to intervene to break up oligopolies to tax this massive corporate profit and crucially invest in a new era of public goods and services while strengthening existing public sector enterprises including banks.

With the successful conclusion of the wage settlement, the gunpowder should now be kept dry for unleashing a relentless struggle to reclaim the lost world for the workers and to usher in a more equal India in 2024.

# *March on comrades,*

# *NationAgainstPrivatisation*

# *BankBachaoDeshBachao*

IN THE SKY THERE IS NO DISTINCTION OF EAST AND WEST

## SHARED ARTICLE

We are reproducing an article published in the Hindu Business line of December 04, 2023.... by Shri Shishir Sinha.

### INDIAN BANKS WRITE OFF Rs. 10.6 LAKH CRORE IN 5 YEARS, 50% LINKED TO LARGE FIRMS

The government informed the Lok Sabha that all Scheduled Commercial Banks have written off ₹ 10.6 lakh crore in the last 5 years, out of which nearly 50 percent belong to large industrial houses. It also said that nearly 2300 borrowers, each having a loan amount of ₹ 5 crore or more, wilfully defaulted around ₹ 2 lakh crore.

As per the Reserve Bank of India (RBI) guidelines and policy approved by bank boards, NPAs, including those in respect of which full provisioning has been made on completion of four years, are removed from the balance-sheet of the bank concerned by way of write-off.

***“Such write-offs do not result in waiver of liabilities of borrowers to repay,”*** Minister of State in the Finance Ministry Bhagwat Karad said in written response. The process of recovery of dues from the borrower in written-off loan accounts continues, write-off does not benefit the borrower.

Further, Banks continue to pursue recovery actions initiated in written-off accounts through various recovery mechanisms. These mechanisms include filing of civil suits or in Debts Recovery Tribunals, action under the Securitisation and Reconstruction

of Financial Assets and Enforcement of Security Interest Act, 2002, filing of cases in the National Company Law Tribunal under the Insolvency and Bankruptcy Code, 2016, through negotiated settlement/compromise, and sale of non-performing assets. ***“Government does not spend any amount on write-offs of corporate loans.”***

The Minister did not name individual borrowers whose accounts have been written off citing the RBI Act. Quoting RBI, he said that all Scheduled Commercial Banks (SCBs) have collected an aggregate amount of ₹ 5,309.80 crore as penal charges, including penalty charges against delay in payment of loans, during the financial year 2022-23.

#### WILFUL DEFAULTER

In response to another question, Karad said that Scheduled Commercial Banks (SCBs) and All India Financial Institutions report certain credit information of all borrowers having aggregate exposure of ₹ 5 crore and above to the Central Repository of Information on Large Credits (CRILC). “As reported in CRILC database, as on 31.3.2023, total 2,623 unique borrowers were classified as wilful defaulters, with aggregate

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

outstanding of over ₹ 1.96 lakh crore by SCBs.”

Further, he said that banks initiate/continue with action against wilful defaulters under the various recovery mechanisms available, such as filing a suit in civil courts. Banks can also negotiate settlements or, compromise or even sell nonperforming assets. Further, as per the RBI's Framework for Compromise Settlements and Technical Write-offs on June 8 2023, compromise settlements are undertaken by lenders in respect of wilful defaulters without prejudice to the criminal proceedings underway against such

debtors.

The Minister also clarified that the primary regulatory objective behind allowing wilful defaulters to enter into compromise settlement is to enable multiple avenues for lenders to recover the money in default without much delay. Apart from the time value loss, inordinate delays result in asset value deterioration, hampers ultimate recoveries.

**We are reproducing the full text of RBI Circular on Regulatory measures towards consumer credit and bank credit to NBFCs.**

## **REGULATORY MEASURES TOWARDS CONSUMER CREDIT AND BANK CREDIT TO NBFCs**

RBI/2023-24/85

November 16, 2023

DOR.STR.REC.57/21.06.001/2023-24

**Commercial Banks (including Small Finance Banks,  
Local Area Banks and Regional Rural Banks)  
Non-Banking Financial Companies (including HFCs)**

Madam/Dear Sir,

### **Regulatory measures towards consumer credit and bank credit to NBFCs**

Please refer to Governor's Statement dated October 6, 2023 flagging the high growth in certain components of consumer credit and advising banks and non-banking financial companies (NBFCs) to strengthen their internal surveillance

mechanisms, address the build-up of risks, if any, and institute suitable safeguards, in their own interest. The high growth seen in consumer credit and increasing dependency of NBFCs on bank borrowings were also highlighted by Governor in

OVERCOME ANGER BY LOVE, EVIL BY GOOD

the interactions with MD/CEOs of major banks and large NBFCs in July and August 2023, respectively.

2. In this context, it has been decided to effect the following measures as under:

### **A. Consumer credit exposure**

#### **[a] Consumer credit exposure of commercial banks**

As per extant instructions applicable to commercial banks<sup>1</sup>, consumer credit attracts a risk weight of 100%. On a review, it has been decided to increase the risk weights in respect of consumer credit exposure of commercial banks (outstanding as well as new), including personal loans, but excluding housing loans, education loans, vehicle loans and loans secured by gold and gold jewellery, by 25 percentage points to 125%.

#### **[b] Consumer credit exposure of NBFCs**

In terms of extant norms, NBFCs' loan exposures generally attract a risk weight of 100%<sup>2</sup>. On a review, it has been decided that the consumer credit exposure of NBFCs (outstanding as well as new) categorised as retail loans, excluding housing loans, educational loans, vehicle loans, loans against gold jewellery and microfinance/SHG loans, shall attract a risk weight of 125%.

#### **[c] Credit card receivables**

As per extant instructions, credit card receivables

of scheduled commercial banks (SCBs) attract a risk weight of 125%<sup>3</sup> while that of NBFCs attract a risk weight of 100%<sup>4</sup>. On a review, it has been decided to increase the risk weights on such exposures by 25 percentage points to 150% and 125% for SCBs and NBFCs respectively.

### **B. Bank credit to NBFCs**

In terms of extant norms, exposures of SCBs to NBFCs, excluding core investment companies, are risk weighted as per the ratings assigned by accredited external credit assessment institutions (ECAI)<sup>5</sup>. On a review, it has been decided to increase the risk weights on such exposures of SCBs by 25 percentage points (over and above the risk weight associated with the given external rating) in all cases where the extant risk weight as per external rating of NBFCs is below 100%. For this purpose, loans to HFCs, and loans to NBFCs which are eligible for classification as priority sector in terms of the extant instructions shall be excluded.

### **C. Strengthening credit standards**

(a) The REs shall review their extant sectoral exposure limits for consumer credit and put in place, if not already there, Board approved limits in respect of various sub-segments under consumer credit as may be considered necessary by the Boards as part of prudent risk management. In particular, limits shall be prescribed for all unsecured consumer credit exposures. The limits so fixed shall be strictly adhered to and monitored on an ongoing basis by the Risk Management Committee.

(b) All top-up loans extended by REs against movable assets which are inherently depreciating in nature, such as vehicles, shall be treated as unsecured loans for credit appraisal, prudential limits and exposure purposes.

3. The above instructions have been issued in exercise of the powers conferred by the Sections 21 and 35A of the Banking Regulation Act, 1949; Chapter IIIB of the Reserve Bank of India Act, 1934 and Sections 30A, 32 and 33 of the National

Housing Bank Act, 1987.

4. The above instructions, other than paragraph 2C(a), shall come into force with immediate effect. All REs shall endeavour to comply with the provisions at paragraph 2C(a) at the earliest, but in any case shall implement them by no later than February 29, 2024.

Yours faithfully,

(Vaibhav Chaturvedi)  
Chief General Manager

## CIRCULARS

01 Dated 01st January, 2024 : New Year 2024 – In Unity we Bank, with solidarity we progress

## JUDICIAL

**2023 LLR 1299**  
**SUPREME COURT OF INDIA**  
**Hon'ble Mr. Aniruddha Bose, J.**  
**Hon'ble Mr. Sanjay Kumar, J.**  
**Hon'ble Mr. S.V. N. Bhatti, J.**  
**CAJCA No. 5010/2023, Dt/- 17-8-2023**

**Dr. KAVITA YADAV**

**v.**

**The Secretary, Ministry of Health and Family Welfare Dept. & Ors.**

*MATERNITY BENEFIT ACT, 1961 – Scope of- Section 5 – Temporary employee applied for maternity benefits – She was allowed only 11 days of maternity benefits since her temporary services would come to an end after 11 days – Appellant challenged the action of employee in Central Administrative Tribunal but failed – She subsequently failed in the High Court also – She filed civil appeal challenging*

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

***orders of lower courts – Held, contention of appellant is that once she fulfilled the pre-requisite for availing maternity benefits, as contemplated in section 5(2) of the Act even as a contractual employee, she would be entitled to full benefits as envisaged therein – Provisions of section 12(2)(a) of the Act contemplates entitlement to the benefits under the Act even for an employee who is dismissed or discharged at any time during her pregnancy if the woman, but for discharge or dismissal, would have been entitled to maternity benefits or medical bonus – Continuation of maternity benefits is in-built in the statute itself, where the benefits would survive and continue despite the cessation of employment – Thus as per statute entitlement to maternity benefits accrues on fulfillment of the conditions specified in section 5(2) of the Act and such benefits can travel beyond the term of employment also – Act not only provides maternity benefits to those who are regular employees but also to those engaged on casual basis or on muster roll on daily\*wage basis – Proviso to section 5(3) of the Act makes the benefits applicable even in case where the employee dies after delivery of child, for the entire period – By virtue of operation of section 27, the Act overrides any agreement or contract of service found inconsistent with the Act – In view of combined provisions of different provisions of the Act once the appellant has fulfilled the entitlement criteria specified in section 5(2) of the Act, she would be eligible for full maternity benefits even if such benefits exceed the duration of her contract – Any attempt to enforce the contract duration term within such period by the employer would constitute “discharge” and attract the embargo specified in section 12(2)(a) of the Act – Law creates a fiction in such a case by treating her to be in employment for the sole purpose of availing maternity benefits under the Act – Accordingly, impugned and order are set aside – Appeal is allowed – Employer is directed to extend maternity benefits to appellant in terms of section 5 and 8 pf the Act within three months.***

## **IMPORTANT POINTS**

- ☛ As per combined provisions of the Act, once the appellant has fulfilled the entitlement criteria specified in section 5(2) of the Maternity Benefits Act, 1961, employees would be eligible for full maternity benefits even if such benefits exceed the duration of her contract.
- ☛ Any attempt to enforce the contract duration term of maternity period by the employer would constitute “discharge” and attract the embargo specified in section 12(2)(a) of the Act.
- ☛ Law creates a fiction in such a case by treating the employee to be in employment for the sole purpose of availing maternity benefits under the Act.
- ☛ Maternity benefits, as contemplated in section 5(2) of the Act are available even to a contractual employee, is she is entitled otherwise.

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



- ☛ Provisions of section 12(2)(a) of the
- ☛ Act contemplates entitlement to the benefits under the
- ☛ Act even for an employee who is dismissed or discharged at any time during her pregnancy if she is otherwise entitled to maternity benefits or medical bonus.
- ☛ Continuation of maternity benefits is in-built in the statute itself, where the benefits would survive and continue despite the cessation of employment.
- ☛ The Maternity Benefits Act, 1961 not only provides maternity benefits to those who are regular employees but also to those engaged on casual basis or on muster roll on daily-wage basis.
- ☛ Proviso to section 5(3) of the Act makes the benefits applicable even in a case where the employee dies after delivery of child, for the entire period.
- ☛ By virtue of operation of section 27, the Act overrides any agreement or contract of service found inconsistent with the Act.

## **JUDGMENT**

1. The appellant, a pathology doctor, was appointed as Senior Resident (Pathology) in Janakpuri Super Speciality Hospital, an autonomous institute under the Government of N.C.T. of Delhi, on 6th June 2004. Her appointment letter specified that it was purely temporary and as per the residency scheme, such appointment was initially to be for a period of one year, extendable on yearly basis upto a maximum of three years. Her date of joining was 12th June 2014. Her services were extended twice, for one year period each, on 12th June 2015 and 12th June 2016. Her last extension was for the period of one year from 12th June 2016 to 11th June 2017. On 24th May 2017, she had applied for maternity benefits from 1st June 2017, in terms of Section 5 of the Maternity Benefit Act, 1961 ("the 1961 Act"). The employer, however, informed her that only 11 days of maternity benefits could be granted since, as per the residency scheme, her tenure came to an end on 11th June 2017 and no further extension was allowed/permissible under the applicable rules.

2. The appellant unsuccessfully challenged the said action before the Central Administrative Tribunal, Principal Bench, New Delhi, and subsequently failed in the High Court also, on the very same reasoning based on which the employer had rejected her claim of maternity benefits for a total of 26 weeks in terms of the 1961 Act.

XXXXX

3. It is this judgment which is assailed before us. For effective adjudication of this appeal, we reproduce below the following provisions of the 1961 Act:—

"5. Right to payment of maternity benefit.—  
(1) Subject to the provisions of this Act, every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage



for the period of her actual absence, that is to say, the period immediately preceding the day of her delivery, the actual day of her delivery and any period immediately following that day.

XXXXX

8. Payment of medical bonus.-(1) Every woman entitled to maternity benefit under this Act shall also be entitled to receive from her employer a medical bonus of one thousand rupees, if no pre-natal confinement and post-natal care is provided for by the employer free of charge.

(2) The Central Government may before every three years, by notification in the Official Gazette, increase the amount of medical bonus subject to the maximum of twenty thousand rupees.]

12. Dismissal during absence of pregnancy.—

(1) Where a woman absents herself from work in accordance with the provisions of this Act, it shall be unlawful for her employer to discharge or dismiss her during or on account of such absence or to give notice of discharge or dismissal on such a day that the notice will expire during such absence, or to vary to her disadvantage any of the conditions of her service.

(2)(a) The discharge or dismissal of a woman at any time during her pregnancy, if the woman but for such discharge or dismissal would have been entitled to maternity benefit or medical bonus referred to in section 8, shall not have

the effect of depriving her of the maternity benefit or medical bonus:

Provided that where the dismissal is for any prescribed gross misconduct the employer may, by order in writing communicated to the woman, deprive her of the maternity benefit or medical bonus or both.

(b) Any woman deprived of maternity benefit or medical bonus or both, or discharged or dismissed during or on account of her absents from work in accordance with the provisions of this Act, may, within sixty days from the date on which the order of such deprivation or discharge or dismissal is communicated to her, appeal to such authority as may be prescribed, and the decision of that authority on such appeal, whether the woman should or should not be deprived of maternity benefit or medical bonus, or both, or discharged or dismissed shall be final.

(c) Nothing contained in this sub-section shall affect the provisions contained in subsection (1).

XXXXX

4. XXXXX

5. The main question which falls for determination in this appeal is as to whether the maternity benefits, as contemplated in the 1961 Act, would apply to a lady employee appointed on contract if the period for which she claims such benefits overshoots the contractual period. Ms. Rachita

Garg, learned counsel appearing for the respondent-employer, sought to defend the reasoning given in the judgment under appeal. Her main argument is that once the term or tenure of the contract ends, there cannot be a notional extension of the same by giving the employee the benefits of the 1961 Act in full, as contemplated in Section 5(2) thereof. It is her submission that any benefits that the appellant would be entitled to ought to be within the contractual period.

6. We have reproduced earlier in this judgment the provisions of Section 12(2)(a) of the 1961 Act. The aforesaid provision contemplates entitlement to the benefits under the 1961 Act even for an employee who is dismissed or discharged at any time during her pregnancy if the woman, but for such discharge or dismissal, would have been entitled to maternity benefits or medical bonus. Thus, continuation of maternity benefits is in-built in the statute itself, where the benefits would survive and continue despite the cessation of employment. In our opinion, what this legislation envisages is entitlement to maternity benefits, which accrues on fulfillment of the conditions specified in Section 5(2) thereof, and such benefits can travel beyond the term of employment also. It is not co-terminus with the employment tenure. A two Judge Bench of this Court in the case of *Municipal Corporation of Delhi v. Female Workers (Muster Roll)* [(2000) 3 SCC 224], while dealing with a similar claim by female muster roll workers who were employed on daily wages, opined that the provisions relating to maternity benefits in the 1961 Act would be applicable in their cases as well. That dispute had reached this Court through the Industrial Tribunal and the High

Court. Before both these fora, the Union espousing the cause of the female workers was successful. In that case, point of discrimination was highlighted as regular women employees were extended the benefits of the said Act but not those who were employed on casual basis or on muster roll on daily wage basis. This Court observed, in paragraph 27 of the said judgment:—

“27. The provisions of the Act which have been set out above would indicate that they are wholly in consonance with the Directive Principles of State Policy, as set out in Article 39 and in other articles, specially Article 42. A woman employee, at the time of advanced pregnancy cannot be compelled to undertake hard labour as it would be detrimental to her health and also to the health of the foetus. It is for this reason that it is provided in the Act that she would be entitled to maternity leave for certain periods prior to and after delivery. We have scanned the different provisions of the Act, but we do not find anything contained in the Act which entitles only regular women employees to the benefit of maternity leave and not to those who are engaged on casual basis or on muster roll on daily-wage basis.”

7. Broadly, a similar view is reflected in a more recent judgment of this Court in the case of *Deepika Singh v. Central Administrative Tribunal* [(2022) 7 SCR 557]. Though this decision dealt with Central Civil Services (Leave) Rules, 1972, in relation to maternity leave and the 1961 Act was not directly applicable in that case, this Court analysed certain provisions of this Act to derive some guidance on a cognate legislation. This

Court observed in the case of Deepika Singh (supra):—

“19. Sub-section (1) of Section 5 confers an entitlement on a woman to the payment of maternity benefits at a stipulated rate for the period of her actual absence beginning from the period immediately preceding the day of her delivery, the actual day of her delivery and any period immediately following that day. Sub-section (3) specifies the maximum period for which any woman shall be entitled to maternity benefit. These provisions have been made by Parliament to ensure that the absence of a woman away from the place of work occasioned by the delivery of a child does not hinder her entitlement to receive wages for that period or for that matter for the period during which she should be granted leave in order to look after her child after the birth takes place.

20. The Act of 1961 was enacted to secure women's right to pregnancy and maternity leave and to afford women with as much flexibility as possible to live an autonomous life, both as a mother and as a worker, if they so desire.

XXXXX

8. XXXXX.

9. The respondents sought to distinguish the present dispute from the case of Female Workers (Muster Roll) (supra) on the ground that the said case arose from an award of the Industrial Tribunal and that there was a finding by the Tribunal that the muster roll lady workers were working for a

long period of time. But the fact remains that in law, daily-wage workers cannot be said to have continuity of service for an unlimited period. The effect of that judgment was that their tenure also stood notionally extended so far as application of maternity benefits under the 1961 Act was concerned.

10. Our independent analysis of the provisions of the 1961 Act does not lead to an interpretation that the maternity benefits cannot survive or go beyond the duration of employment of the applicant thereof. The expression employed in the legislation is maternity benefits [in Section 2(h)] and not leave. Section 5(2) of the statute, which we have quoted above, stipulates the conditions on the fulfilment of which such benefits would accrue. Section 5(3) lays down the maximum period for which such benefits could be granted. The last proviso to Section 5(3) makes the benefits applicable even in a case where the applicant woman dies after delivery of the child, for the entire period she would have been otherwise entitled to. Further, there is an embargo on the employer from dismissing or discharging a woman who absents herself from work in accordance with the provisions of the Act during her absence. This embargo has been imposed under Section 12(2)(a) of the Act. The expression “discharge” is of wide import, and it would include “discharge on conclusion of the contractual period”. Further, by virtue of operation of Section 27, the Act overrides any agreement or contract of service found inconsistent with the 1961 Act.

11. In our opinion, a combined reading of these provisions in the factual context of this case would

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lead to the conclusion that once the appellant fulfilled the entitlement criteria specified in Section 5(2) of the Act, she would be eligible for full maternity benefits even if such benefits exceed the duration of her contract. Any attempt to enforce the contract duration term within such period by the employer would constitute "discharge" and attract the embargo specified in Section 12(2)(a) of the 1961 Act. The law creates a fiction in such a case by treating her to be in employment for the sole purpose of availing maternity benefits under the 1961 Act.

12. We, accordingly, set aside the judgment and order of the High Court and as a consequence thereof, the Tribunal's decision shall also stand invalidated. We allow this appeal and direct the employer to extend maternity benefits as would

have been available to the appellant in terms of Sections 5 and 8 of the 1961 Act, after deducting therefrom any sum that may already have been paid to the appellant under the same head or for such purpose. Such benefits, as may be quantified in monetary units, shall be extended to her within a period of three months from the date of communication of this judgment. The orders of the employer rejecting the appellant's claim on this count shall stand quashed.

13. The present appeal is, accordingly, allowed in the above terms.

14. Pending application(s), if any, shall stand disposed of.

15. There shall be no order as to costs. ■

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