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Editorial

RESOUNDING VICTORY!

Bankers have successfully clinched their wage revision. The wage revision could be wrapped up due to consolidation in the bank employees' movement with the pivotal role being played by AIBOC. This may be the first time in the history of wage negotiation, that the power that be realised the strength and reach of the bank employees' movement and didn't waste time in instructing IBA to arrive at a negotiated settlement avoiding industrial strife as the nation shifts its gear to election mode.

Only in the banking industry wage revision for officers is agreed upon through a negotiation culminating in a Joint Note between the Indian Banks Association and 4 officers' organisations. The United Forum of Bank Unions which is an umbrella body of workmen unions and officers associations coordinates the process.

The United Forum of Bank Unions has five workmen unions and four officers' associations in its fold. Even small unions and associations are part of the United Forum which is a unique model and which has sustained for a long time, weathering many storms thanks to the maturity of their leaders.

Even during the process this time there was almost a breakdown, but with the firm stand taken by the All India Bank Officers Confederation which has around 90% officers in its fold, the unity could be sustained.

This 12th Bipartite Settlement and 9th Joint Note where the MOU has been signed in the shortest time after the due date, which was 1.11.2022. This is probably the first settlement reached without going on strike and losing wages. Every settlement has had its uniqueness. Getting a second option for pension, getting two Saturdays off, getting a pension for all bank employees, and getting similar other benefits have happened earlier.

This settlement has its uniqueness. One, this is the highest increase with a 17% salary increase. This settlement has put the demand for updating the pension on the table of the negotiation and achieved nominal improvement in the pension of retirees after 36 barren years.

The positive development is that this process has begun. The IBA and Govt. have been saying that the bankers have no right to claim updation. But, now the anomaly has been accepted and it is expected that a government genuinely concerned about the welfare of the employees will give its approval to this pending issue along with the legitimate demand for 5 day work-week.

As impressed upon by AIBOC, in front of the Management Executives, the wage load towards basic pay is 3% which is not up to satisfaction but the offer of improvement in pension for the elders is welcome and as a team member of UFBU he has signed the settlement. Delaying

A JUG FILLS DROP BY DROP

further would not have achieved anything as we are on the verge of elections and the new government will take its own time.

The greatest expectation of the youth in the Banking Industry - the five-day week, is going to come true, despite opposition from the Industry Associations. During the 10th Bipartite/8th Joint Note most of the leaders felt that this would not be achieved but due to the strong position taken by the All India Bank Officers Confederation, it is now a part of the 9th Joint Note.

The signing of the 9th Joint Note has added another golden feather to the cap of the Confederation. We observed earlier that this could be possible due to a high degree of unity amongst the leadership with a clear vision. In other words, though the eve of the leadership is looking at the sky, their feet are firmly entrenched on the ground.

New challenges will come before the membership after the formation of the new government. Our experience shows that whoever is in the

ruling party has a belief that privatization of the precious nationalized assets is the only solution for uplifting the economic development of the country to an acceptable level.

New studies by international economic think tanks have confirmed that the inequality in Indian society is integral and only a handful of persons or groups have cornered the major part of national wealth, leaving millions of countrymen to live on the brink of disaster.

They have anticipated that this growing economic inequality will put a death knell on the very functioning of democratic institutions and may ultimately convert Indian democracy to a new plutocracy which will be a deadly threat to the trade union movement.

Let us celebrate the emergence of spring with the arrears being paid but let us also keep our seat belts tightly fastened as we could anticipate an emergent turbulence.

March on comrades,
NationAgainstPrivatisation
BankBachaoDeshBachao

Circular

AIBOC Circular No.2024/06 dated 08th March, 2024 on the 9th JOINT NOTE ON OFFICERS' WAGE REVISION

Dear Comrades,

9TH JOINT NOTE ON OFFICERS' WAGE REVISION

WAGE SETTLEMENT FOR OFFICERS OF THE BANKING INDUSTRY

We are pleased to announce the successful conclusion of negotiations between the Indian Banks Association' and the All India Bank Officers' Confederation culminating into signing of the 9th Joint Note on 8th March, 2024.

The new wage settlement entails several benefits

aimed at enhancing the overall compensation package for our officers. We believe these provisions not only acknowledge the hard work and dedication of our officers but also serve as a means to attract and retain top talent within the banking industry.

The salient features of the wage negotiations i.e. the 9th Joint Note are as under:

1. **Paving the way for 5-day work week – The Joint Note recognizes all Saturdays as holidays, pending government notification. The revised working hours will be effective after notification by the government.**

IN THE SKY THERE IS NO DISTINCTION OF EAST AND WEST

2. Substantial Increase in Salary - The total quantum of wage revision increase (Payslip component) is more than ₹ 8284 crores being the 17% of the cost of Payslip component of establishment expenses of Public Sector Banks.
3. The new pay scales have been constructed, after merging Dearness Allowance corresponding to 8088 points and additional load thereon.
4. With the applicable load of 3.22% the effective load on the basic pay post-merger of dearness allowance @ 30.38% is 4.20%.
5. **The long-drawn aspiration of the officers' community for two additional increments for CAIIB (CAIIB Part-II) is achieved.**
6. Officers who have completed CAIIB (CAIIB Part-II) shall be eligible for two increments w.e.f 01.11.2022.
7. Officers shall be eligible for three PQPs instead of two PQPs hitherto. PQP-I - ₹ 1370/- , PQP-II ₹ 3425/- and PQP III- ₹ 5480/-
8. The effective load for officers completing CAIIB shall be increased substantially.
9. Inter se anomaly on account of additional increment for CAIIB is taken care of.
10. Inter se anomaly on account of sanction of PQP has also been taken into account.
11. The new scales of pay ranges from ₹ 48480/- to ₹173860/- covering all the scales from Scale I to VII, with effect from 01.11.2022.
12. Reworking of the Dearness allowance formula: The conversion factor on account of merger of Dearness Allowances worked out at 0.0549. Instead of being rounded off to 0.05, it is raised to 0.06 extending benefit to serving and retired officers.
13. The index for dearness allowance is shifted from 1960=100 series to 2016=100 series resulting into shifting the conversion factor from 0.06 to 0.99 as per 2016=100 series benefitting the officers with enhanced dearness allowance.
14. **The factor of 0.99 as per 2016=100 series is converted to 1.00 improving the dearness allowance further.**
15. Thus, there will be additional benefit in percentage terms in dearness allowance as per the agreed changes negotiated above.
16. The Dearness Allowance shall be payable as 1.00 % of 'pay' per percentage point of Index. The DA in the above manner shall be paid for every variation of rise or fall over 123.03 points in the quarterly average of the All India Consumer Price Index for Industrial Workers Base 2016=100. 0.01% change in DA on 'pay' for change in every second decimal place of CPI 2016 over 123.03 points.
17. Dearness Relief on pension in the above manner shall be paid half yearly for every variation of rise or fall over 123.03 points in the quarterly average of the All-India Consumer Price Index for Industrial Workers Base 2016=100.
18. Officers in **JM Grade Scale I** who have moved to scale of pay for MMG Scale II after reaching maximum of the higher scale are presently eligible for five stagnation increments. With effect from 1st November, 2022, these officers shall be eligible for **seven stagnation increments** with frequency of two years each, of which first two shall be ₹ 2680/- each and next five shall be ₹ 2980/- each.
19. Officers in **MMG Scale II** who have moved to Scale of Pay for MMG Scale III after reaching maximum of higher scale are presently eligible for five stagnation increments. With effect from 1st November,

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

- 2022 these officers shall be eligible for **seven stagnation increments** with frequency of two years each, of ₹ 2980/- each.
20. Officers in substantive **MMG Scale III** i.e. those who are recruited in or promoted to MMG Scale III are presently eligible for six stagnation increments after reaching maximum of the scale. With effect from 1st November, 2022, these officers shall be eligible for **eight stagnation increments**, with frequency of two years each, of which first four shall be ₹ 2980/- each and next four shall be of ₹3360/- each.
 21. Officers in **SMG Scale IV** are presently eligible for two stagnation increments. With effect from 1st November, 2022, these officers shall be eligible for **five stagnation increments** after reaching maximum of the scale, with frequency of two years each, of which the first stagnation increment shall be ₹ 3360/- and next four shall be of ₹ 3680/- each.
 22. Officers in **SMG Scale V** are presently eligible for one stagnation increment. With effect from 1st November, 2022, these officers shall be eligible for **four stagnation increments** after reaching maximum of the scale, with frequency of two years each of ₹ 4000/- each.
 23. Officers in **TEG Scale VI** shall be eligible for **three Stagnation Increments** after reaching maximum of scale, with frequency of two years each, out of which first two shall be of ₹ 4000/- each and the third stagnation shall be of ₹ 4340/-.
 24. Officers in **TEG Scale VII** shall be eligible for **three Stagnation Increments** of ₹ 4340/- each, with frequency of two years each after reaching maximum of scale.
 25. **Fitment on Promotion - Every Officer on promotion shall be fitted in a higher stage in the new scale of pay with a protection of a minimum differential of one increment in Pay drawn by him/her in the pre-promoted cadre or scale, removing the anomaly in fitment.**
 26. The Special Allowance, as percentage of basic pay, carrying the applicable DA thereon, with effect from 01.11.2022 for JMGS I is 26.50%.
 27. Disintegration of scales for payment led to higher payment of Special allowance to MMGS II and MMGS III. The Special Allowance, as percentage of basic pay, carrying the applicable DA thereon, with effect from 01.11.2022, for MMGS II and MMGS III is 28.30%.
 28. The Special Allowance, as percentage of basic pay, carrying the applicable DA thereon, with effect from 01.11.2022 for SMGS IV and SMGS V is 30.50%.
 29. The Special Allowance, as percentage of basic pay, carrying the applicable DA thereon, with effect from 01.11.2022 for Scale VI and Scale VII is 31.50%
 30. Fixed Personal Pay has been proportionately increased with applicable DA thereon.
 31. House Rent allowance has been increased to 8%, 9% and 10% of pay, in respect to the area of posting.
 32. Capital cost on account of HRA increased to 12%, 13.5% and 15%, respectively.
 33. The city compensatory allowance (CCA) has been increased to ₹ 1900/- per month and ₹ 2300/- per month based on place of posting.

34. Location Allowance – W.e.f. 01.11.2022 a fixed allowance of ₹ 1200/- p.m. is payable to all Officers posted in areas other than the areas that are eligible for CCA.
35. Deputation allowance - An Officer deputed to serve outside the bank to an organization in a different place other than the present place of posting will be paid deputation allowance @ 7.75% of Pay with a maximum of ₹ 7500/- per month
36. An Officer deputed to another organization at the same place or to the training establishment not owned by the Bank will be paid deputation allowance @ 4% of Pay with a maximum of ₹ 3750/- per month.
37. Upon deputation of an Officer to another office / branch within the same municipal limits/ urban agglomeration, in Metro / Major 'A' Class cities where the distance of such deputation is 20 km and more from the parent branch / office, halting allowance shall be payable.
38. Hill and Fuel allowance for Places with an altitude of 1000 meters and above but less than 1500 meters will be paid @ 2% of Pay subject to a maximum of ₹ 1450 per month.
39. Hill and Fuel allowance for Places with an altitude of 1500 meters and above but less than 3000 meters will be paid @ 2.5% of Pay subject to a maximum of ₹ 1900/- per month
40. Hill and Fuel allowance for Places with an altitude of 3000 meters and above will be paid @ 5% of Pay subject to a maximum of ₹ 3750/- per month
41. Special area allowance is revised as extended to central government employees.
42. Learning allowance has been increased to ₹ 850/- per month plus applicable DA thereon.
43. **Officiating Pay - On and from 01.04.2024, an Officer who is required to officiate in a post in a higher scale for a continuous period of not less than 4 days at a time OR an aggregate of 4 days during a calendar month, shall receive an officiating pay equal to 15% of the Basic pay of the person officiating.**
44. **Officiating pay will be eligible not only for Superannuation benefits, but also for Dearness allowance and House rent allowance.**
45. Mid Academic Transfer allowance has been increased from ₹ 1650/- to ₹ 2500 p.m. per child.
46. Closing allowance has been increased to ₹ 1500 per quarter.
47. Halting allowance has been increased by 50% across the board.
48. For scale I to Scale III, the halting allowance will range from ₹ 1800/- to ₹ 2925/- per day.
49. For scale IV and V, the halting allowance will range from ₹ 2150/- to ₹ 3375/- per day.
50. For scale VI and Scale VII, the halting allowance will range from ₹ 2150/- to ₹ 4050/- per day.
51. Lumpsum compensation on transfer has been increased to ₹ 40000 for Scale I to Scale III.
52. Lumpsum compensation on transfer has been increased to ₹ 50000 for Scale IV and above.
53. Upon transfer, either 15 days lodging & boarding charges or 15 days Halting Allowance shall be paid to all officers, from the date of joining at new place.

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

54. On and from 1st November, 2022, reimbursement of medical expenses shall be ₹ 13000/- p.a. for Officers in JMG & MMG (Other than SBI). sanctioned and when advance booking of train tickets is not possible, tickets purchased under Tatkal/Premium tatkal will be reimbursed.
55. Reimbursement of medical expenses shall be ₹ 15400/- p.a. for Officers in SMG & TEG Scales. (Other than SBI). 64. GST Charges levied on Train Fare shall be over and above the entitlement.
56. Definition of Family: The income criterion for the term wholly dependent family member has been increased to ₹ 18,000/- (improved from 12000/-). 65. In view of prevailing dynamic fare system, the cost of train tickets charged on the date of booking will be reimbursed.
57. Physically and mentally challenged children, irrespective of age, shall be construed as dependents even after their marriage, subject to income criteria 66. LTC / HTC can be availed independently where both husband and wife are working in the same Bank.
58. Officers can now have any two of the parents or parents-in-law as dependents. The employee will have the choice to substitute either of the dependents or both once in a calendar year. 67. **Air travel eligibility for travel beyond 500 Kms (reduced from 1000 kms).**
59. Entitlement distance increased to 5500 kms (one way) for officers in JMG-Scale-I, MMG – Scale II & III. For scale IV and above the same will be for 6500 Km (one way). 68. Additional reimbursement under LFC for officers working in areas not connected by train.
60. An officer in Junior Management Grade will be entitled to travel by AC 1st class by any train including Premium Trains like Rajdhani/ Shatabdi/ Tejas/ Vande Bharat/ Amrit Bharat, etc. (except luxury trains). 69. LTC facility shall be allowed for an escort who accompanies an Officer with benchmark disabilities on the journey, subject to certain conditions.
61. Reimbursement of fare by premium trains as mentioned above (except luxury trains) shall be allowed to all officers. 70. A provision will be put in place to record the reason for refusal or postponement of leave by the management.
62. Where an officer has applied for LTC/Leave in advance and has also booked the tickets and the LFC is declined or deferred by the management, the cancellation charges will be reimbursed by the Bank 71. A single male parent can avail sick leave for the sickness of his child of 8 years and below.
63. Where an officer has applied for LFC/leave as per stipulated time and the same is 72. Employees can avail sick leave for the sickness of their Special Child of 15 years and below for a maximum period of 10 days in a calendar year.
73. **All Women employees shall be allowed to take one day Sick Leave per month without production of medical certificate.**
74. In case of employees of the age of 58 years and above, sick leave may be granted towards hospitalization of the spouse at a

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

- centre other than the place of work and for a maximum period of 30 days in a calendar year.
75. An employee shall be granted sick leave at the rate of one month for each year of service subject to a maximum of 720 days during the entire service.
76. In partial modification of Leave Rules, Annexure VI clause 3 of Joint Note dated 11th November, 2020, the following shall be added as Note 3 - "In case of delivery of more than two children in one single delivery, Maternity Leave shall be granted upto 12 months.
77. Employees shall be granted Bereavement Leave on the demise of the family members (spouse, children, parents and parent-in-law) and number of days of such leave shall be decided by each Bank at their level.
78. Officers who are Defence Representatives in departmental enquiries will be granted one day special leave for preparing defence submissions, subject to maximum 10 such leaves.
79. Maternity Leave shall be granted once to a female employee for a maximum period of 9 months, for legally adopting a child who is below one year of age, all other conditions remaining the same.
80. Maternity Leave may be granted for In vitro fertility (IVF) treatment subject to production of medical certificate, within the overall limit of 12 months.
81. **Four Half Day Casual Leaves have been introduced for all employees.**
82. A total of two days of Casual leave may be availed for half a day on 4 occasions in a year out of which 2 occasions would be in the morning and 2 occasions in the afternoon.
83. Casual Leave under the above category can be availed after applying 24 hours in advance.
84. Special maternity leave upto 60 days shall be granted in case of still born or death of the infant within 28 days of birth.
85. **Accumulated privilege leave may be encashed upto 255 days at the time of retirement/upon death of an employee while in service.**
86. **Leave Bank Scheme** - A staff welfare scheme under which provision would be made for voluntary encashment of Privilege Leave by the employees and the monetized value of such leave would be pooled under a Leave Bank system, out of which, special leave would be sanctioned to the employees affected by contingencies who have exhausted all their leaves.
87. All the Banks to evolve and implement a scheme for periodical health checkup of all employees wherever it is not available.
88. All employees shall be allowed reimbursement of ₹ 500 per year towards annual eye check-up
89. A Committee will be formed to review other provisions of NPS in line with Central Government employees viz. regarding the Choice of Fund Schemes and Fund Managers.
90. **An additional amount will be paid as Ex-Gratia per month to all Pensioners.**
91. Monthly ex-gratia amount shall be paid in addition to the pension/family pension paid by the public sector Banks including SBI, to pensioners and family pensioners, who became eligible to draw pension on or before 31st October, 2022 including those who retired on 31.10.2022.

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

92. Such fixed monthly ex-gratia shall be payable for the month of November, 2022 and onwards during the period 01-11-2022 to 31-10-2027.
93. It has been agreed and already extended the benefit of 100% DA neutralisation for Pre-November 2002 pensioners.
94. Disciplinary & Appeal Regulations and procedure thereof - Comprehensive Guidelines on Discipline & Appeal Regulations will be brought out after mutual discussion within 3 months from the signing of this joint Note.
95. Special compensatory provisions in respect of State Bank of India for certain benefits as mentioned in the joint note, will be reviewed and settled at bank level.
96. LTC Monetisation Scheme covering air fare on the lines of some other Banks in the Industry, will be evolved for all Banks after further deliberations.

Comrades, these are some benefits listed herein. The Joint Note addressed many anomalies with respect to salaries, fitments across the scales, aiming to restore the dignity of officers.

Any achievements or the benefits in the joint note are not only attributable to present negotiations but is also a testament of years of hard work and struggles of AIBOC and its members. We congratulate and thank all our affiliates, past and

present leaders, all state units, the AIBOC secretariat team and all the members for having unflinching trust in AIBOC, and for staying united, disciplined and resolute during this entire wage revision exercise. We, thus, dedicate all the achievements of this Joint Note to our dedicated members across the fraternity.

There are certain issues which could not be taken to a logical conclusion in the current exercise till the signing of the joint note, and which have been minutised as residual issues with IBA. These will be further discussed and deliberated upon, for them to become a reality in the days to come.

AIBOC is always determined to achieve the maximum benefits for its members, and we will continue to strive for more. This Joint Note surely heralds a new chapter in our journey, promising a future replete with opportunities for growth, wellbeing, and professional fulfilment. Let us embrace these changes with open arms and continue to strive for excellence in all our endeavours.

More challenges await us as we move forward, yet we are confident that our collective efforts would always lead us to right path.

Our Unity Zindabad!

Comradely yours,
Sd/-
Rupam Roy
General Secretary

CIRCULARS

- 04 dated 02nd March, 2024 :** Tax on Perquisite Value U/s 17(2) of Income Tax Act, 1961 as amended by Finance Act, 2007 - AIBOC appeal in Supreme Court of India - Stay on deduction of income tax in the above case will remain effective for the FY 2022-23.
- 05 dated 08th March, 2024:** International Women's Day – 8th March, 2024.
- 06 dated 08th March, 2024:** 9th Joint Note on Officers' Wage Revision – Wage Settlement for Officers of the Banking Industry

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

NEWS

Common Bond welcomes the new Chairman and Managing Committee Members of the Indian Bank Association and trusts that 2 major issues, i.e., 5 day work-week and updating of pension will be resolved during their tenure. – Editorial Board.



PRESS RELEASE

Election of Chairman and other Office Bearers of Indian Banks' Association for the year 2023-24.

The Managing Committee of IBA at its meeting held on 21st March 2024 elected **Shri M.V.Rao, Managing Director & CEO, Central Bank of India** as the Chairman, Indian Banks' Association for the term 2023-24.

Three Deputy Chairmen:

1. **Shri Dinesh Kumar Khara, Chairman, State Bank of India,**
2. **Shri S.L. Jain-MD & CEO, Indian Bank**
3. **Dr. N.Kamakodi –Managing Director & CEO, City Union Bank**

Honorary Secretary of the Association.

1. **Shri Madhav Nair-Country Head & CEO, Bank of Bahrain and Kuwait**

We are delighted to share that The Government of India vide its Gazette Notification No. 190 dated 20th March, 2024 has consented to amendment in the SBI Employees' Pension Fund Regulation providing for a uniform rate of pension for all classes of employees ending the decade-old system of differential pension @ 40 percent and 50 percent creating wedge amongst the employees and officer pensioners. Common Bond congratulates AISBOF for this momentous achievement and trusts other residual issues that affect the serving and retired employees will be resolved. – Editorial Board.

JUDICIAL

[2024 (180) FLR 1]
(SUPREME COURT)

ABHAY'S. OKA and SANJAY KAROL, JJ.
Civil Appeal No. 4619 of 2010 and Connected Appeal
November 7, 2023

Between
THANKAMMA BABY
and

REGIONAL PROVIDENT FUND COMMISSIONER, KOCHI, KERALA

Employees' Provident Funds and Miscellaneous Provisions Act, 1952-Sections 1 (3) (b), 7-A and 16-Applicability of the Act-Appellant was engaged in manufacturing assembling and selling umbrellas-Notice issued under section 7-A of the Act due to default in contribution-He challenged the order but failed upto Division Bench

EVERY HUMAN BEING IS THE AUTHOR OF HIS OWN HEALTH OR DISEASE

of High Court-Hence instant appeal-Held, contention of appellant that a notification could not be issued under section 1 (3) (b) regarding a factory engaging in an industry not covered by Schedule I could not be accepted-Establishment of the appellant was a commercial establishment-Business would fall within trading and commercial establishments-No interference warranted-Appeal dismissed.[Paras 6 to 10]

JUDGMENT

FACTUAL ASPECT

ABHAY S. OKA, J.-The issue involved in these appeals is of interpretation of clause (b) of sub-section (3) of Section 1 of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (for short, 'the 1952 Act'). In order to understand the controversy, the facts must be briefly stated.

2. The appellant is engaged in manufacturing, assembling, and selling umbrellas. The respondent (the Regional Provident Fund Commissioner) issued a notice dated 30th December 1997 to the appellant, alleging that the 1952 Act was applicable to the appellant. It was alleged in the notice that the business of the appellant fell under the category of 'trading and commercial establishments' notified under the notification dated 7th March 1962, issued by the Central Government in the exercise of powers under clause (b) of sub-section (3) of Section 1 of the 1952 Act. The respondent made an Inquiry under Section 7A of the 1952 Act. The respondent held that the case of the appellant was covered by the notification dated 7th March 1962. A Review Petition was filed by the appellant, which was rejected by the respondent. An appeal preferred by the appellant to the Appellate Authority against the decision of the respondent was dismissed. Being aggrieved by the said orders, a Writ Petition was filed by the appellant. The learned Single Judge dismissed the Writ Petition, and the order of the learned Single Judge has been confirmed by the impugned judgment by a Division Bench of the Kerala High Court in a Writ Appeal filed by the respondent.

SUBMISSIONS

3. The learned counsel appearing for the appellant submitted that establishments covered by clause (a) of sub-section (3) of Section 1 are factories engaged in industries specified in Schedule I of the 1952 Act. His submission is that clause (a) is applicable to the factories engaged in the industries specified in Schedule I. Therefore, those factories not specified

in Schedule I cannot be covered by clause (b) of sub-section (3) of Section 1 of the 1952 Act. He submits that clause (b) of sub-section (3) does not refer to the factories. Thus, from the intention of the Legislature, it is very clear that 'any other establishment' mentioned in clause (b) of sub-section (3) will not include any factory. His submission is that, in fact, the counter filed by the respondent before the learned Single Judge contains an admission that the umbrella-making unit of the appellant is not an industry included in Schedule I. He relied upon a decision of the Apex Court in the case of Regional Provident Fund Commissioner v. Shibn Metal Works. He submitted that by no stretch of the imagination, the appellant's establishment can be called a trading and commercial establishment covered by the notification dated 7th March 1962.

4. Learned counsel appearing for the respondent urged that the respondent, the appellate authority, the learned Single Judge and the learned Division Bench have concurrently held against the appellant. His submission is that the business of the appellant is admittedly not only of assembling or manufacturing the umbrellas but also of selling the same. He would, therefore, submit that the appellant will be covered by the category of trading and commercial establishments incorporated in the aforesaid notification.

CONSIDERATION OF SUBMISSIONS

5. Section 1 of the 1952 Act reads thus:

"1. Short title, extent and application.-[(1) This Act may be called the Employees' Provident Fund and Miscellaneous Provisions Act, 1952.]

(2) It extends to the whole of India.

[(3) Subject to the provisions contained in section 16, it applies-

- (a) to every establishment which is a factory engaged in any industry specified in Schedule I and in which [twenty] or more persons are employed, and
- (b) to any other establishment employing [twenty] or more persons or class of such establishments which the Central Government may, by notification in the Official Gazette, specify in this behalf:

HE WHO SEEKS HAPPINESS BY HURTING WILL NEVER FIND IT

Provided that the Central Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any establishment employing such number of persons less than [twenty] as may be specified in the notification.]

[(4) Notwithstanding anything contained in sub-section (3) of this section or sub-section (1) of section 16, where it appears to the Central Provident Fund Commissioner, whether on an application made to him in this behalf or otherwise, that the employer and the majority of employees in relation to any establishment have agreed that the provisions of this Act should be made applicable to the establishment, he may, by notification in the Official Gazette, apply the provisions of this Act to that establishment on and from the date of such agreement or from any subsequent date specified in such agreement.]

[(5) An establishment to which this Act applies shall continue to be governed by this Act notwithstanding that the number of persons employed therein at any time falls below twenty.]"

Clause (a) of sub-section (3) as well as clause (b) of sub-section (3) are applicable to establishments. Clause (a) covers those establishments which are factories engaged in any industry specified in Schedule I to the 1952 Act where twenty or more than twenty persons are employed. Clause (a) of sub-section (3) proceeds on the footing that factories are establishments. There is no dispute that the appellant's establishment is not covered by clause (a) as it is not a factory engaged in any industry specified in Schedule I.

6. Before we deal with the contentions raised by the appellant, we must note here that the Constitution Bench of this Court, in the case of *Mohmedalli and others v. Union of India* and another, has dealt with the issue of interpretation of the provisions of the 1952 Act and in particular sub-section (3) of Section 1 of the 1952 Act. The Constitution Bench held that:

a) The 1952 Act was made to institute provident funds for the benefit of the employees in factories and other establishments;

b) The provisions of the 1952 Act constitute social justice measures; and

c) The underlying idea behind the provisions of the 1952 Act is to bring all kinds of employees within its fold as and when the Central Government might think it fit after reviewing each class of establishments.

After considering clause (a) of sub-section (3) of Section 1, the Constitution Bench held that, in so far as establishments which do not come within the description of the factories engaged in industries enumerated in schedule I are concerned, the Central Government has been vested with the power of specifying such establishments or class of establishments as it might determine to be brought within the purview of the 1952 Act.

7. Clause (a) of sub-section (3) is applicable only to those factories engaged in any industry specified in Schedule I. Clause (b) of sub-section (3) is applicable to all other establishments which are not covered by clause (a) of sub-section (3) provided such establishments are notified by a notification issued by the Central Government which is published in the official Gazette. Clause (b) of sub-section (3) takes within its fold all establishments which are not covered by clause (a). Therefore, a notification under clause (b) can be issued in respect of factories engaged in any industry which is not specified in Schedule I. Hence, the argument that a notification cannot be issued under clause (b) of sub-section (3) regarding a factory engaged in an industry not covered by Schedule I cannot be accepted. We are dealing with a social welfare legislation described by the Constitution Bench as a measure of social justice. Therefore, to give effect to the legislature's intention, the Court will have to adopt a purposive interpretation. We, therefore, reject the contention that all factories which are not covered by industries in Schedule I are out of the coverage of clause (b).

8. We may note here that it is not the case of the appellant that her establishment has been exempted under Section 16 of the 1952 Act. Under the notification dated 7th March 1962, there is a category of 'trading and commercial establishments'. Admittedly, the appellant is carrying on the business of assembling/manufacturing umbrellas and selling

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the same. The respondent has recorded a finding of fact that the business of establishment of the appellant was of assembling umbrellas and selling the same in her own outlet. Thus, the establishment of the appellant is a commercial establishment. It is an establishment predominantly carrying on commercial activity. Therefore, it cannot be denied that the business of the appellant will fall in the category of 'trading and commercial establishments'. In the circumstances, the case of the appellant will be governed by the said notification issued under clause (b) of sub-section (3) of Section 1. The decision of this Court in the case of Regional Provident Funds Commissioner. v. Shibn Metal Works (supra) does not deal with clause (b) of sub-section (3) of Section 1.

9. We, therefore, find absolutely no error in the view taken by the learned Single Judge and Division Bench of Kerala High Court. Accordingly, we dismiss the appeals with no order as to costs.

10. If there is any monetary liability incurred by the appellant pursuant to the orders of the respondent confirmed by the High Court, considering the fact that the present appeals are of the year 2010, we grant time of three months to the appellant to pay the necessary amount.

Appeals Dismissed.

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