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Registration Number 01/01/01/33020/17		
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ABRWS/2018/90-G

Bhopal 08-9-2018

The Respected Leaders of All India Level of Pensioner's Associations of Banks

Dear Friends,

SERVICE GRATUITY ALSO REDEFINED BY HIGH COURT

We have by our letter No ABRWS/2018/81-G dated 21-07-2018 informed the developments in the matter of Service Gratuity payable to officers of the Banks. By the orders of DLC. Hyderabad, RLC Ranchi and RLC Silchar; against three RRBs, the Pay for calculations of Service Gratuity was considered to be inclusive of DA and the calculations of month's beyond 30 years of service were ordered to be taken at the rate of one and a half per year, & not half month per year.

Further the RLC Silchar has calculated the Gratuity amount in more beneficial way. For calculation of amount of Gratuity in this order, one month has been taken as per Gratuity Act i.e. equal to 30/26, which improved the multiplying number (Factor) to be taken to multiply with amount of Monthly Salary to calculate the amount of Gratuity. Thus by the formula for one month is improved to 30/26 and one & a half month as 45/30. The Salary of retired officer was Basic Pay at of 32400/- but was taken inclusive of DA as Rs.67975.26 by RLC and calculations of gratuity amount are as under in the order by RLC-

for service length of 33 years by no stretch of imagination can be accepted and thus rejected Actual Entitlement amount would be:-

$$(a) \frac{67975.26 \times 30 \times 15}{26} = \text{Rs.}11,76,490/-$$

$$(b) \frac{67975.26 \times 45 \times 03}{26} = \text{Rs.}3,52,947/-$$

$$\text{TOTAL: } (a) + (b) = 11,76,490 + 3,52,947 = \text{Rs.}15,29,439/-$$

In this way the more beneficial interpretations have come to our knowledge.

By our letter dated 21-7-2018, we had suggested for filing some limited number of cases before RLC, of selected four centers with a view to start the process of bringing in the benefit to retired officers of Public Sector Banks. As has been the history that the Banks do not pass on the benefit even to petitioners easily, and drag the matter in judiciary up to level of Supreme Court, the important role of Associations was suggested as necessary by becoming intervener when the any case reaches to High Court Level, with a view that the favorable order will bring benefit to the members of associations and thus to all similarly placed retired officers.

Now an important development has taken place. The High Court of Madhya-Pradesh at Jabalpur, very recently a day before i.e on 6th September 2018 decided the WP No. 9182 of 2017, in favor of All India Gramin Bank Pensioners Organization Unit Rewa against Madhyanchal Gramin Bank in the same matter of Service Gratuity payable to retired officers. Judgment is enclosed for kind study.

Here the Pensioners Organization by filing WP directly in High Court, had claimed for inclusion of DA for calculations of amount payable as Service Gratuity. There was no claim for counting eligibility beyond 30 years at the rate of one & half month per year. Accordingly by the judgment the benefit of adding DA had been ordered by single judge of High Court but interest for delay on due amount has not been allowed.

By this order of High Court at Jabalpur, we could get the knowledge that WP in the matter of difference of Gratuity can also be filed directly in High Court & it is not necessary to start claim from RLC level, as is provided in Gratuity Act -1972. But where in claims before RLC, the order for interest is certain as per Gratuity Act, the order for interest by High Court may appear doubtful in the light of judgment of High Court Madhya Pradesh at Jabalpur. The order by High Court Jabalpur to the extent of not allowing interest is erroneous, if it was claimed by the petitioners supported by the case laws in the matter.

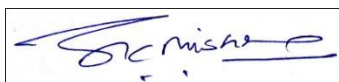
In this context, it has become necessary to bring it to knowledge of all, that we have Six SLPs pending in Supreme Court against Allahabad Bank for claim of interest on delayed payment of Gratuity and the judgment will benefit to around 500 pensioners of Bank. We have backed our claim by three different judgments on delayed payment of Gratuity, where although there was some fault even on the part of the retirees, but payment of interest was allowed by the Hon'ble Supreme Court. The present matter we are with, the retirees are clean thus the order for payment of interest as per rate prescribed in Gratuity Act-1972 cannot be disallowed in the light of the existing other judgments of Hon'ble Supreme Court.

Although there are orders against RRBs but the Officers Service Regulations are pari-materia in all RRB and also in Public Sector Banks. The provisions for Service Gratuity & the definition of Pay, Salary & Emoluments are worded similarly in all these Officers Service Regulation. Therefore it is urgently warranted wise step that the Associations of Pensioners & Retirees with two -three retired officers, file WP in High Court, backed by the orders of DLC, RLC to get the Pay & Month's eligibility, redefined for calculation of Service Gratuity and also for claim of payment of difference of gratuity and interest thereon for delay.

The WP filed by Association will bring benefit to all similarly placed retired officers. It is certain that the Banks will persuade the matter up to the level of Supreme Court because the orders will put the Banks into liability of thousands of crores of rupees. The joint united efforts under the banner of Associations of Pensioners & Retirees can only sustain the stress & costs of the inevitable long route of judiciary, for achieving the benefit because no Bank is going to accept the redefined Pay and Month's eligibility above 30 years of service.

It is therefore requested that we must work on this line for the benefits of large number of pensioners and retirees.

Sincerely yours



(S.K.Mishra)
Secretary

Attached – Judgment dated 6-9-2018 by High Court of M.P. at Jabalpur in WP No. 9182 of 2017