



SYNDICATE BANK PENSIONERS & RETIREES ASSOCIATION(REGD.)

(Affiliated to AIBPARC a wing of AIBOC)

CENTRAL OFFICE

203, Glendale Residency, King Koti Road, Abids, Hyderabad - 500001



Circular No. 8/2013

(PLEASE CIRCULATE TO ALL MEMBERS)

Date: 21.09.2013.

Dear comrades,

**SUPREME COURT JUDGEMENT
ON WITHHOLDING PENSION/GRATUITY**

The recent Judgement of Hon'ble Supreme Court in the matter of withholding pension or gratuity has brought a lot of cheer to the retirees. We furnish hereunder the extracts/impact of the case as received from AIBPRC.

The Supreme Court held that: *"It hardly needs to be emphasized that the executive instructions are not having statutory character and, therefore, cannot be termed as "law" within the meaning of aforesaid Article 300A. On the basis of such a circular, which is not having force of law, the appellant cannot withhold - even a part of pension or gratuity. As we noticed above, so far as statutory rules are concerned, there is no provision for withholding pension or gratuity in the given situation. Had there been any such provision in these rules, the position would have been different."*

IMPACT OF THIS JUDGEMENT:

1. The employees / officers whose pension, gratuity , PF have been ordered to be withheld by Administrative Circular or Order, pending departmental enquiries or judicial proceedings, the same are unlawful. The employees' pension cannot be withheld , if there is no enabling Rule or Provision in the Pension Rules.
2. Public Sector Bank's (Employees') Pension Regulations 1995 Chapter IX (General Conditions) Regulation Nos. 42 to 45 deal with withholding or withdrawal of pension. These regulations are similar to the Regulations of State Govt. as have been discussed in the Judgment. The withholding or withdrawal of pension is permitted under these Regulations ONLY when enquiry or proceedings are concluded and this is recorded that employee had committed grave misconduct in the discharge of his duty while in his office.
3. The benefit of this Judgment will certainly be available to the hundreds of the retired employees, whose pension has been withheld or withdrawn without completion of departmental enquiry or judicial proceeding. The judgements of the Hon'ble Supreme Court deciding any policy issue become and take the form of law. The Government is duty bound to comply with the directions of the Hon'ble Supreme Court if not suo- moto, on representation made by the concerned persons. The Representation to the all Govt. of India undertakings and departments may be made to ensure compliance of the guidelines given in this judgement dated 14.08.2013.

With greetings,
Yours comradely

C Gangadhar Yadav
GENERAL SECRETARY

**SBPRA - ZINDABAD
AIBPARC – ZINDABAD
AIBOC – ZINDABAD**

A copy of letter written by AIBOC to the Chairman of IBA requesting for issuance of suitable guidelines to the banks in the matter is appended below.

ALL INDIA BANK OFFICERS' CONFEDERATION

Ref. No.: 2013/IBA/10

DATED: 23/08/2013

The Chairman,
Indian Banks Association
MUMBAI.

Dear Sir,

**RE: WITHHOLDING OF RETIREMENT BENEFITS OF THE EMPLOYEES PENDING ENQUIRY - UNLAWFUL
REQUEST: FOR ISSUANCE OF NECESSARY GUIDELINES TO THE BANKS IN THE LIGHT OF LATEST SUPREME COURT JUDGEMENT DATED 14TH AUGUST 2013**

Respectfully, in above reference, we would like to draw your kind attention to the latest Judgment delivered by the Hon'ble Supreme Court of India, in an appeal in the case of State of Jharkhand Vs. Jitendra Kumar Srivastava. A copy of the judgment along with gist of the same is annexed with this letter.

2. The Hon'ble Supreme Court has upheld that Pension, Leave Encashment, Gratuity and other benefits on superannuation are to be considered and treated as right to property, vested in the hands of retirees. The employer cannot withhold or withdraw (stop or reduce) the pension or deny the full gratuity, leave encashment etc. on the basis of administrative instructions pending the departmental enquiry or criminal proceedings against the employee concerned. Such administrative circulars /guidelines/orders cannot override the Rules and the law.

3. We may inform that in several cases, Banks have ordered to withhold the pension, gratuity or other terminal benefits on the basis of administrative orders, pending enquiries or judicial proceedings against the concerned staff. In the light of the above mentioned judgment, we request you to issue necessary instructions to all the Banks to implement and comply with the observations made in the above said judgment immediately and to issue orders for release of superannuation benefits in such cases. Please treat the matter as urgent.

Thanking you,

Yours faithfully,

Sd/-

(HARVINDER SINGH)
GENERAL SECRETARY