

COMMITTEE ON SUBORDINATE LEGISLATION
(2018-2019)

(SIXTEENTH LOK SABHA)

FORTY SECOND REPORT

**[ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS/
OBSERVATIONS CONTAINED IN THE TWENTIETH REPORT OF THE COMMITTEE ON
SUBORDINATE LEGISLATION (SIXTEENTH LOK SABHA) ON THE RBI PENSION
REGULATIONS, 1990]**



सत्यमेव जयते

**LOK SABHA SECRETARIAT
NEW DELHI**

January, 2018/Pausa, 1940 (Saka)

COSL No.

PRICE: Rs

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Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Fourteenth Edition) and printed by the Manager, Government of India Press, Minto Road, New Delhi.

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COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION (16th LOK SABHA)
(2018-2019)

Shri Dilipkumar Mansukhlal Gandhi

Chairperson

Members

2. Shri Idris Ali

3. Shri Birendra Kumar Chaudhary

4. Shri S. P. Muddahanume Gowda

5. Shri Shyama Charan Gupta

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12. Adv. Narendra Keshav Sawalkar

13. Shri V. Panneer Selvam

14. Shri Ram Kumar Sharma

15. Shri Nandi Yellalah

SECRETARIAT

1. Shri Ravindra Garimella - Joint Secretary

2. Shri Ajay Kumar Garg - Director

3. Smt Jagriti Tewatia - Deputy Secretary

(iii)

INTRODUCTION

I, the Chairperson, Committee on Subordinate Legislation having been authorised by the Committee to submit the report on their behalf, present this Forty Second Action Taken Report.

2. This Report relates to the action taken on the recommendations of the Committee contained in the Twentieth Report (2016-2017) (Sixteenth Lok Sabha) which was presented to Lok Sabha on 10.8.2017.

3. The Committee considered and adopted this Report at their sitting held on 20.12.2018.

4. Extracts from the Minutes of Third Sitting of the Committee (2018-19) held on 20.12.2018 relevant to this Report are included in Appendix-I of the Report.

5. An Analysis of the Action Taken by Government on the recommendations/ observations contained in the Twentieth Report of the Committee on Subordinate Legislation (Sixteenth Lok Sabha) is given in Appendix II.

**New Delhi;
December, 2018
Agrahayana, 1940 (Saka)**

**DILIPKUMAR MANSUKHLAL GANDHI
Chairperson,
Committee on Subordinate Legislation**

REPORT

This Report of the Committee on Subordinate Legislation (2017-18) deals with the action taken by the Government on the recommendations contained in their Twentieth Report (Sixteenth Lok Sabha) which was presented to Lok Sabha on 10.8.2017.

2. The Twentieth Report contained recommendations on the RBI (Pension) Regulations, 1990 and framing of RBI (Staff) Regulations, 1948 under section 7 of the RBI Act, 1934.

3. Action taken replies in respect of all the observations/recommendations contained in Paras 24 to 32 of the Report have been received from the Ministry of Finance (Department of Financial Services).

4. Replies to the observations/recommendations contained in the Report have been categorized as follows:

- | | | |
|-------|--|-----------------------------|
| (i) | Observations/Recommendations which have been accepted by the Government | |
| | Sl. No. Nil | Total No. Nil Chapter II |
| (ii) | Observations/Recommendations which the Committee do not desire to pursue in view of the Government's reply. | |
| | Sl. Nos. 29 to 32 | Total No. 4 Chapter III |
| (iii) | Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration | |
| | Sl. Nos. 24 to 28 | Total Nos. 5 Chapter IV |
| (iv) | Observations/Recommendations in respect of which final replies of the Government are still awaited | |

5. The Committee will now deal with the action taken by the Government on some of their observations/recommendations that require reiteration or merit comments.

The Reserve Bank of India Pension Regulations, 1990

(Recommendation (Paras 24 to 28))

6. The Committee in their original Report had noted that the RBI in the year 1990 had notified RBI Pension Regulations, 1990 in exercise of powers conferred on them under Section 58(2)(j) of the RBI Act, 1934. This pension scheme of 1990 was made applicable to all the employees of the RBI including those who were in the service of RBI as on 1 January, 1986 but retired later on with the stipulation that they had to surrender their CPF payment alongwith 6 percent interest. Except 3 to 4 thousand employees, all employees of RBI switched over to the new pension scheme of 1990. Thereafter significant and substantive improvements were introduced in the RBI Pension Scheme from time to time and in view of this, the employees continuing under CPF were again given the opportunity to opt for the Pension Scheme in the years 1992, 1995 and again in the year 2000. However, subsequently the Government of India vide their letter dated 4 February, 2002 advised RBI, not to give any fresh options to the left over employees in future to switch over from the CPF to the RBI Pension Scheme. The Committee observed that though the Central Government are vested with the powers to give directions to the RBI under Section 7 of the RBI Act, 1934 but the direction given to RBI vide letter dated 4.2.2002 did not fall under the nature of directions given by the Central Government under Section 7 of the RBI Act, 1934. Keeping in view this substantive amendment in the RBI Pension Scheme, the Committee noted that the RBI again requested the Ministry of Finance to give one more opportunity to the CPF optees for switching over to the pension scheme. However, the same was not agreed to by the Ministry on the ground that already four options in the years 1990,1992,1995 and 2000 were given to the RBI employees and giving another option for

pension scheme would make more employees eligible for pension besides entailing long term financial costs and far reaching repercussion in the banking industry. Moreover, if fresh option is given to the RBI employees, there would be similar demands from the other banks also.

7. While not agreeing with the above contention of the Government, the Committee noted that the earlier options given to the employees under CPF were based on account of substantial improvements and revisions in the pension scheme of 1990. Secondly, RBI is the Central Bank of the country and it would not be appropriate to compare the stature and status of RBI with the other nationalised banks in the country who are governed by their own set of rules/regulations, while RBI is governed by the RBI Act, 1934 and its mandate is entirely different from the other nationalised banks. Also the options given to the RBI employees were restricted during a short period of 1992 to the year 2000 whereas the last such option given to the employees of the nationalised banks was in the year 2010. The Committee also did not agree with the stand of the Government that after coming into force of the New Pension Scheme (NPS) introduced in RBI w.e.f. 1.1.2012, giving another option for pension shall be detrimental to those covered under NPS. The Committee had failed to understand this logic as NPS is in no way concerned with the pension affairs of either employees continuing under CPF or all other employees already covered under the pension scheme of 1990. The Committee had also observed that the number of CPF optees which was 2568 after the last option given in December, 2000, has continued to remain same-counting both retired and continuing employees under this category. As regards, the financial implications likely to arise if a fresh option is given to left over CPF optee employees, the Committee had noted that there is a separate RBI pension corpus fund for this purpose. Secondly, the employees opting for pension scheme have to return to the RBI their entire PF contribution accrued to them alongwith 6% interest thereon during their entire tenure under CPF. Thus, the number of employees opting for RBI pension scheme would be much less than 2568. The Committee, therefore, were of the considered opinion that no serious financial implications are likely to occur on account of giving one last time option to the left over employees under CPF. Moreover, to meet the principles of natural justice and keeping in mind the concept of Welfare

State, the Committee had strongly urged the Government to allow RBI to give one last option to its left over employees from switching over from the CPF to the RBI pension scheme covering even those employees who retired after 1 December, 2000 while making it clear that this one is the last and final such opportunity.

(Paras 25 to 28)

8. The Ministry of Finance (Department of Financial Services) in their action taken reply dated 27.11.2017 submitted as follows:-

"RBI Pension Regulations have been framed under Section 58 of the RBI Act. Section 58 (i) provides prior approval of the Central Government for making the Regulations. Accordingly, provisions amending the RBI Pension Regulations also require prior approval of the Central Government.

In terms of Regulation 3 of RBI Pension Regulations, 1990, the employees who joined on or after 1.1.1990 or were retirees prior to 1.1.1990 and have exercised their option not to be governed by the RBI Pension Regulation, 1990 within the period prescribed by the Bank will not be covered by these Regulations by virtue of the statutory nature of their option exercised at the material time.

However, RBI has given four Pension options to its PF Optees to switch to Pension Scheme as under:

- First pension option was given at the time of introduction of Pension Scheme in RBI from 1-11-1990 to 31-1-1991.
- Second pension option was given after amendment to Pension Regulations from 7-2-1992 to 15-4-1992.
- Third pension option was given after conclusion of wage revision from 14-10-1995 to 30-11-1995.
- Fourth Pension option was given after conclusion of wage revision from 14-9-2000 to 15-11-2000.

PF Optees have already been given four options till 2002 to switch to Pension Scheme and they had wilfully decided to stay out of Pension System at that stage. Accordingly, GOI vide letter dated 4.2.2002 informed to RBI that no fresh option be given in future even after conclusion of the fresh wage settlement.

Giving another option of pension would make more employees eligible for pension, who had already opted out of such scheme. The pension scheme entails long-term financial cost and it shall have far reaching repercussions in the Banking industry and financial sector.

To limit the Pension liability, Government had introduced New Pension System (NPS) in 2004 and RBI has introduced NPS in RBI w.e.f. 1.1.2012. Therefore, opening another option for pension under defined benefit scheme at this stage shall be detrimental to those covered under NPS, as the old Pension scheme for which fresh option is being sought is very liberal as compared to New Pension Scheme.

The above matter was again examined recently in the Department in consultation with the Department of Expenditure (DoE). DoE noted that they are receiving number of proposals on similar matter, and considering long-term financial cost, these have not been agreed to."

9. The Committee note that the main recommendation made by the Committee in Para 28 of the Report have not been accepted by the Ministry of Finance (Department of Financial Services). The Committee also note from the action taken replies furnished by the Department of Financial Services that the Ministry in consultation with Department of Expenditure have again examined the matter. Hence, the Committee sought further clarifications on the issue from the Ministry of Finance (Department of Financial Services and Department of Expenditure). The replies from both the Departments of the Ministry of Finance viz. Department of Expenditure and Department of Financial Services have been received.

10. When clarification was sought about how giving a last option to CPF optees of RBI for pension will have detrimental effect on NPS subscribers, in response the Department of Expenditure submitted as follows:-

"Though the basis on which the Department of Financial services have mentioned that opening another option for pension under defined benefit scheme at this stage shall be detrimental to those covered under NPS, is not known to Department of Expenditure, the point made by DFS is not without merit. NPS is a defined contribution based pension system and the Contributory Provident Fund is also a defined contribution based social security system. Both are principally different from the defined-benefit

based pension scheme as applicable to Central Government employees appointed prior to 1.1.2004 and also to pension scheme under the RBI Pension Regulations, 1990. As the Government has decided to replace the defined-benefit based pension scheme by the defined contribution based pension system of NPS in respect of employees joining on or after 1.1.2004 with a view to avoiding the long-term financial impact on yearly basis on the Consolidated Fund of India, any decision in the present policy framework to allow defined benefit pension scheme in case of employees who are on Contributory Provident Fund, will not be a desirable policy signal, as this would create a sense of discrimination in the minds of employees under NPS. Incidentally, some staff associations have been raising voice against NPS and for reverting back to the defined-benefit based pension. In such a climate, therefore, the point made by DFS is appropriate.

The Department further submitted that when the Department of Financial Services consulted the Department of Expenditure in January, 2016 on the issue, *inter-alia*, of opening of option in this case for the 5th time, the Department of Expenditure had advised DFS as under:-

"It is also seen that option for coming over to pension from CPF was given on four previous occasions and at that time no consultation was made with this Department. DFS has not been able to agree to the 5th option based on concerns taken into account by them. This Department is receiving a number of proposals from a number of autonomous organizations for allowing the employees to opt for pension-cum-GPF scheme from CPF. DOE has not been agreeing to this because pension scheme entails long-term financial cost without any fund backing. Accordingly, DFS may like to take an appropriate view on this proposal, based on all such factors including the concerns already felt by them. Thus, the Department of Expenditure mentioned about autonomous organizations from where proposal had been received for opting to switch over to pension scheme from CPF"

11. When asked about the names of the Organization/Institutions/Public Sector Banks/Financial Institutions etc., from whom proposals have been received for giving its employees a final chance for opting for pension scheme, in response the Department of Financial Services submitted as follows:-

"Employees of Public Sector Insurance Companies, IDBI Bank, and NABARD and SIDBI from among Financial Institutions have demanded that they be given one more option for the old/defined-benefit pension scheme"

The Department of Financial Services further submitted as follows:-

"Last option for pension to CPF optees of RBI was given in 2000. For Public Sector Banks, Bank Employees' Pension Regulations were framed in the year 1995. No record of similar demands from employees of PSBs from 1995 to 2001 is available in the Department. However, in 2002 and 2009, there were demands from unions/associations of employees of Public Sector Bank (PSBs) for one more pension option. In 2010, Public Sector Banks gave a second option for pension to their employees, and at that times a large number of employees of PSBs opted for the same. However, information on the exact number of optees is not available with the Department"

As regards option given to employees of the Public Sector Banks the Department of Expenditure submitted as follows:-

"In the last few years, the Department of Expenditure has received proposals from a number of autonomous organizations for opting to switch over to pension scheme from CPF. The long standing policy of the Department of Expenditure as contained in the DO letter of 16.3.2000 is that the autonomous bodies continue under CPF scheme and if they so desire, may work out an annuity scheme through the LIC, based on voluntary contribution by the employees. In view of this, the Department of Expenditure has not been agreeing to the proposals received from autonomous bodies from switching over to pension scheme from CPF. A few examples are the cases of (i) Navodya Vidyalaya Samiti, (ii) Aeronautical Development Agency, (iii) Delhi University, (iv) Central Pollution Control Board, (v) North Eastern Regional Institute of Science & Technology, (vi) Delhi Urban Arts Commission, (vii) Indian Institute of Mass Communication, (viii) Indian Statistical Institute, (ix) Film and Television Institute of India, etc.

In some cases, the concerned employees of the autonomous bodies have also taken the judicial route to be allowed to come over to pension scheme. The Government has been opposing such petitions/applications and at present cases are pending in Appellate Courts in case of Delhi Urban Arts Commission, Central Pollution Control Board and Indian Institute of Mass Communications.

In the case of Delhi University, at present an SLP is pending in the Hon'ble Supreme Court. In case of Delhi University, the order of Delhi High Court dated 24.8.2016 is for allowing employees of Delhi University (518 in all), who were in service as on 1.1.1986 to come over to the Government pension from the CPF. This order covered two types of employees.

- (i) Those who did not give any specific option to come over to pension scheme, but who did not object to their CPF contribution.
- (ii) Those employees who specifically chose CPF.

However, while considering the above order of the Hon'ble Delhi High Court, the Government has decided to implement the order of Delhi High Court in case of those who were in service as on 1.1.1986 and who had not given any specific option to stay with CPF. In respect of others, the Ministry of HRD was advised to file an appeal. That is, those who specifically chose CPF to stay out of pension scheme, are not be allowed pension scheme.

Thus, in case of Delhi University, if an employee specifically chose to stay with CPF, the stand of the Government has been not to allow pension scheme."

12. When pointed out that RBI is an autonomous Organization and it doesn't have any objection in giving the PF optees among RBI employees an option for pension then why does the Department of Financial Services or Department of Expenditure have objection to the same. In response the Department of Financial Services submitted as follows:-

"....giving another option of pension would make those employees eligible for pension, who had voluntarily chosen to stay out of the pension system, and that since the pension scheme entails long-term financial cost doing so, shall have far-reaching repercussions in the banking industry and financial sector....."

The Department further submitted that:-

"Government takes a holistic view while considering issues that have broader impact on a sector, and in doing so, also considers the changes in one organization are expected to have contagion effect in terms of triggering demands from others. In this connection, it may also be noted that PSBs and financial institutions are currently experiencing financial difficulties. The Department of Expenditure too have noted that they are receiving number of proposals on similar matter, and considering long-term financial cost, these have not been agreed to."

Whereas Department of Expenditure submitted as follows:-

"This point has to be considered by the Department of Financial Services and the Department of Expenditure will be in a position to offer comments only after an examination by DFS"

13. The Department of Financial Services or Department of Expenditure were enquired as to whether the Departments have estimated the long term financial cost with respect to any organization especially RBI from where proposal for giving an option have been received. In response the Department of Financial Services submitted as follows:-

"As per Government decision, defined benefit pension scheme has been continued after introduction of defined contributory pension scheme (NPS) and, as such, no estimates of long-term financial costs for giving option for defined benefit pension scheme are available with the Department. In so far as RBI is concerned, RBI has informed that as per actuarial assessment, after factoring in reduction in employers' PF contribution, the liability on account of giving option for pension is estimated to be Rs. 90.24 crore per annum."

The Department of Expenditure submitted as follows:-

"An exercise in this behalf is to be made by DFS as the Department of Expenditure is not in position to make such an analysis"

14. On being asked if the Centre had approved for seeking options by RBI employees in 1990, 1992, 1995 and 2000 also. To this the Department of Financial Services submitted that:-

"RBI introduced pension scheme with effect from 1 November, 1990, with the prior approval of the Central Government in terms of Section 58 of RBI Act, 1934. As regards options given in the years 1992, 1995 and 2000, RBI has informed that no correspondence was made with the Government of India while giving these pension options to RBI employees. As regards Government of India's letter dated 4.2.2002, the Department had called for details in the matter from RBI, whereupon RBI apprised that they had given pension options to its employees in 1992, 1995 and 2000. Thus, Government was made aware of the options already given by RBI in the said years. In 2002, Department of Financial Services advised RBI that since four options to employees/pensioners have already been given after the option initially given in 1990, no fresh option be given in future"

Department of Expenditure submitted as follows:-

"As per the records available in the Department of Expenditure, no consultation was made with Department of Expenditure at the time of previous options. As such, no comments could be offered in this regard"

15. The Committee in their original Report on the RBI Pension Regulations 1990 had noted that these Regulations were notified in the year 1990 and were made applicable to all the employees of the RBI including those who were in the service of the RBI as on 1 January, 1986 but retired later on with the stipulation that they had to surrender their CPF payment alongwith 6% interest. Thereafter as significant and substantive improvements were made in the RBI Pension Scheme in the years 1992, 1995 and 2000, further opportunities to opt for the Pension Scheme were again given to employees of RBI continuing under CPF. Subsequently, the Government of India vide their letter dated 4 February, 2002 advised RBI not to give any fresh option to left over employees to switch over from CPF to the RBI Pension Scheme on the ground that already four options in the years 1990, 1992, 1995 and 2000 were given to the RBI employees and giving another option for pension scheme would make more employees eligible for pension besides entailing long term financial costs and for reaching repercussion in the banking industry. Also, if fresh option is given to the RBI employees, there would be similar demands from the other banks also. The Government also stated that after introduction of the New Pension Scheme (NPS) by the Government in 2004 and in RBI w.e.f 1.1.2012, giving another option for pension shall be detrimental to those covered under NPS.

16. While not agreeing with the above contention of the Ministry, the Committee had noted that RBI is a Central Bank of the country and it would not be appropriate to compare the stature and status of RBI with the other nationalized banks in the country who are governed by their own set of rules/regulations and also that the options given to the RBI employees were restricted during a short period of 8 years i.e. w.e.f 1992 to 2000 whereas the last such option given to the employees of the nationalized banks was in the year 2010. The Committee had also noted that NPS is in no way concerned with Pension affairs of employees covered under Pension scheme of 1990 as the number of CPF optees which was 2568 after the last option given in December, 2000 has continued to remain the same. The Committee were

also of the opinion that no serious financial implications are likely to occur as there is separate RBI Pension corpus fund and the optees will also return to RBI their entire PF contribution alongwith 6% interest. The Committee had thus urged the Government to allow RBI to give one last option to its leftover employees while making it clear that this one is the last and final such opportunity.

17. The Ministry of Finance (Department of Financial Services) however, in their action taken reply while reiterating their earlier submissions, also submitted that the matter was again examined recently in the Department in consultation with the Department of Expenditure (DOE) and DOE noted that they are receiving number of proposals on similar matter and considering long-term financial cost, these have not been agreed to.

Regarding proposals being received from other PSBs/organizations/financial institutions etc., the Committee note from the subsequent replies furnished by the Department of Financial Services and Department of Expenditure, that employees of public sector insurance companies, IDBI Bank and NABARD and SIDBI from among financial institutions have demanded that they be given one more option for old pension benefit scheme. Further, as per Department of Expenditure, they have received proposals for switching over to pension scheme from CPF from autonomous bodies such as Navodya Vidyalaya Samiti, Delhi University, Central Pollution Control Board, Aeronautical Development Agency, Delhi Urban Arts Commission, Indian Institute of Mass Communication, Film and Television Institute of India etc., which has not been agreed to. However, in case of Delhi University, subsequent to the order of Delhi High Court dated 24.8.2016 employees who were in service as on 1.1.1986 and who had not given any specific option to stay with CPF the Government has decided to implement the order of Delhi High Court and for employees who had specifically chosen CPF, the Ministry of HRD was advised to file an appeal. In this context the Committee find it pertinent to observe that they fail to understand the parallels drawn by the Department of Financial Services amongst the

employees of the public sector banks, autonomous bodies/financial institutions etc. vis-a-vis RBI, as the pension scheme for both i.e. RBI and other employees are governed by different set of rules/regulations and further more that RBI and other entities are very different in their nature of work. Hence the Committee would like to construe that drawing any similarities among the employees is not rational.

18. The Committee are also surprised to observe from the sequence of events as furnished by Department of Financial Services that RBI employees were given 4 options for Pension and the last option for pension to CPF optees of RBI was given in 2000. The Pension Regulations were framed for Public Sector Bank (PSBs) in the year 1995 and there is no record available in the Department of similar demands from employees of PSBs from 1995 to 2001. However, in 2002 and 2009 there were demands from Unions/associations of employees of PSBs for one more pension option and in 2010 they got second option for pension. The Committee feel that the logic of already giving four Pension options to RBI employees by the Ministry is not tenable as these were restricted to very short duration of 8 years i.e. w.e.f 1992-2000. The Committee are thus of the view that, instead of counting the total number of times the option was given to RBI employees or PSBs/Financial Institutions etc., the Government should have adopted a realistic approach towards the overall changes that happened in Pay scales, Pension etc. upto the year 2000 i.e. when last option was given to RBI employees vis-a-vis the year 2010 i.e. when last option was given to PSBs and only thereafter should have taken the final decision of giving or not giving one last final option to RBI employees also.

19. The Committee are also perplexed to note that on the one hand the Government had curtly refused RBI in the year 2002 for giving another pension option to its employees on the other than the Government gave another option to PSBs in 2010 as there were demands from their Unions/Associations. While doing so, the Government ignored the fact that there was similar demand pending from RBI employees also. The Committee thus, express their concern over such restraining of

RBI by the Ministry and feel that the Ministry should have given the RBI employees a last chance to switch from PF to pension scheme in 2010 itself alongwith the public sector banks employees so that the fear of public sector banks employees demanding a switch from PF to pension scheme and the false alarm regarding the NPS subscribers demanding inclusion in defined pension scheme would not have arisen.

20. The other grounds given by the Ministry for restraining RBI for giving another option are such as introduction of NPS, expected contagion effect in terms of triggering demands from others causing long term financial cost and far reaching repercussions in the banking industry and financial sector etc. The Committee are dismayed to note that the Government has not taken into consideration the same logic in case of PSBs/other Financial Institutions because NPS was implemented by the Government in 2004 and the Government gave second option to PSBs in 2010 and to some Delhi University employees as late as in 2016 on behest of Delhi High Court.

21. The Committee also note with concern that the Government is not having any authentic data pertaining to long term financial cost to be accrued for giving another pension option to RBI employees & is solely relying on the information provided by RBI itself and also to its benefit, the Government has on the other hand ignored the submission of RBI that, they have a separate RBI pension corpus for this purpose and also the employees opting for pension scheme have to return to RBI their entire PF contribution alongwith 6% interest thereon during their entire tenure under CPF. Moreover, the scope of financial liability is very limited as it is confined only to the 2568 leftover employees of the RBI most of whom have already retired or are on the verge of retirement and are also required to return their PF contribution for the entire period alongwith the interest. The Committee thus feel that the argument of the Ministry regarding financial burden also does not hold any water.

22. In view of the foregoing, the Committee, find no merit in the arguments given by the Ministry for refusal of giving one more option to RBI employees on the grounds viz. already exercising of 4 options by RBI employees, introduction of NPS, long term financial cost, repercussions in banking industry and financial sector, etc. In order to meet the principles of natural justice, the Committee strongly reiterate their earlier recommendations and urge the Government to allow RBI to give one last option to its left over employees for switching over from the CPF to the RBI Pension Scheme while making it clear that this one is the last and final such opportunity. The Committee would like to be apprised of the action taken in this regard.

CHAPTER III

RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE GOVERNMENT'S REPLIES

RBI (Staff) Regulations, 1948

29. The matters relating to recruitment and other service conditions of the employees of RBI are regulated by RBI (Staff) Regulations, 1948 which have been framed by the Central Board of the Bank.

30. The Committee note that in terms of Section 7 of the RBI Act, 1934, Central Board of RBI has been vested with powers regarding general superintendence and direction of the affairs and business of the Bank. The Government does not interfere in the working of RBI except as provided under RBI Act e.g. Section 58 of RBI Act under which the RBI can frame regulations for its employees with the previous approval of the Central Government.

31. The Committee further note that the RBI (Staff) Regulations, 1948 have been framed under Section 7 of the Act. However, RBI has been requested to frame RBI (Staff) Regulations under Section 58 of the RBI Act, 1934.

32. The Committee while recognizing the RBI as a premier institution of the country regulating the functioning of banking system including all the public/private sector banks, find the autonomy and independence of the institution as imperative and integral part of any Central Bank of a Nation which in opinion of the Committee should not be compromised at any cost. especially, in matters relating to the service conditions of the employees viz recruitment, pay, pensions, etc. The institution of the stature of RBI requires freedom to take decisions in order to facilitate the smooth functioning of the institution. The Committee strongly feel that the independence of institution like RBI is vital and the decision making in the service matters of the Bank etc. should exclusively fall within the domain of the RBI. In this regard, the Committee fully agree with the submission made by the representatives from the RBI before the Committee that, 'it is not feasible to statutorize the staff regulations purely because for the reason that the RBI is a Central Bank and it has to change its policies relating to staff very frequently in order to react to market conditions'. The Committee also fully endorse that RBI should always have the freedom to attract the best talent to the institution according to its needs enabling it to perform its role as financial regulator in an effective manner. The Committee, therefore, feel that statutorising the service Regulations under section 58 of the RBI Act instead of allowing them to continue under Section 7 is likely to have an adverse impact on the overall freedom available to RBI besides causing procedural delays and urge the Government that the RBI (Staff) Regulations, 1948 may continued to be framed under Section 7 of the RBI Act, 1934.

(Paras 29 to 32 of the 20th Report)

Reply of the Government

Regulations under Section 58 of RBI Act, 1934 requires previous approval of the Central Government. This provision provides a means of check and balance and allows the Central Government to maintain a balance between service conditions of the Staff of RBI and Staff of other PSBs as Unions/ Associations of PSBs look up to RBI to benchmark the service conditions of Staff of PSBs. Framing of staff regulations for legislative scrutiny is unlikely to change the functional autonomy of RBI on issues related to recruitment etc. Leaving the matter with RBI may lead to a situation of incongruence between the wages fixed by the RBI and the PSBs given the sound financial health of RBI.

Section 7(2) of the RBI Act, 1934 states about certain directions, which may not be treated equivalent to Regulations. Directions always contain instructions therein while regulations are authority. Directions are in general while regulations may be particular or general. Directions and regulations are not interchangeable. It is clear that Section 7 of the Act empowers only for issuing directions and not for framing of regulations.

Section 7(2) of the RBI Act does not empower the RBI to frame Regulations. The power to make Regulations is contained specifically in Section 58 of the RBI Act. Such Regulations would have to be made with the previous sanction of the Central Government and would have to be notified in the Official Gazette. Besides, under Section 58(4), these would have to be laid before each House of Parliament.

As such, there is no mention under Section 7 for making Staff Regulations, publishing gazette notification, laying before the both the Houses of Parliament whereas, Regulations made under Section 58 would be in the nature of subordinate legislation and therefore would be on a strong legal footing and help safeguard the interests of employees.

The Committee on Subordinate Legislation, Rajya Sabha, recommended in June, 1984 and September, 1989 that RBI may be impressed upon to frame the Regulations under Section 58 of the RBI Act so that Parliamentary scrutiny and control for such Regulations could be exercised. Thereafter, RBI has been requested to frame RBI Staff Regulations under Section 58(1) of the RBI Act, 1934 so that these can be laid on the Table of both Houses of Parliament as per provisions of Section 58(4) of the RBI Act, 1934.

Accordingly, in 2013, RBI provided draft Staff Regulations to be notified under Section 58 of the RBI Act, 1934. The same were duly examined in the Department in consultation with Ministry of Law & Justice. The draft Staff Regulations vetted by that Ministry have been sent to RBI for comments/clarifications. The response of RBI is awaited. Once, the staff regulations are duly notified, the same shall be laid before both the Houses of Parliament under the provisions of Section 58(4) of the RBI Act, 1934.

[Ministry of Finance (Department of Financial Services) OM No. 7/4/1/2016-IR]

CHAPTER IV

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED

Observations/Recommendations

24. The Committee note that The Reserve Bank of India (RBI) is the Central Bank of the country which was established on 1 April, 1935 in accordance with the provisions of the Reserve Bank of India Act, 1934, in terms of Section 7 of the RBI Act, 1934 Central Board of RBI has been vested with powers regarding general superintendence & direction of the affairs & business of the Bank. The matters relating to recruitment & other service conditions of the employees of RBI are regulated by RBI (Staff) Regulations, 1948 which have been framed by the Central Board of the Bank.

The Reserve Bank of India Pension Regulations 1990

25. The Committee note that the RBI in the year 1990 notified RBI Pension Regulations, 1990 in exercise of powers conferred on them under Section 58(2)(j) of the RBI Act 1934 laying down the eligibility criteria and general conditions pertaining to pension of RBI Employees after their retirement. Prior to that, the retirement benefit available to the RBI Employees was Central Provident Fund (CPF). This pension scheme of 1990 was made applicable to all the employees of the RBI including those who were in the service of RBI as on 1 January, 1986 but retired later on with the stipulation that they had to surrender their CPF payment alongwith 6 percent interest. Also all such employees joining the Bank service after 1 November, 1990 were to be governed by the RBI Pension Regulations, 1990 only as the scheme of Contributory Provident Fund (CPF) was not to be made applicable to them. At the same time, the existing employees of RBI were given the option to continue under the earlier CPF Scheme instead of the RBI Pension Scheme of 1990 if they so desired. In this regard, the Committee note that as on 1 January, 1986 there were 17314 employees in the RBI. Except 3 to 4 thousand employees, all employees of RBI switched over to the new pension scheme of 1990. Thereafter significant and substantive improvements were introduced in the RBI Pension Scheme from time to time and in view of this, the employees continuing under CPF were again given the opportunity to opt for the Pension Scheme in the years 1992, 1995 and again in the year 2000. However, subsequently the Government of India vide their letter dated 4 February, 2002 advised RBI, not to give any fresh options to the left over employees in future to switch over from the CPF to the RBI Pension Scheme.

26. The Committee express their concern over such abrupt restraining of RBI by the Ministry from giving any further option to the employees of the RBI for opting for pension through a letter which in the opinion of the Committee did not have any legal standing. In this regard, the Committee observe that though the Central Government are vested with the powers to give directions to the RBI under Section 7 of the RBI Act, 1934 but the

direction given to RBI vide letter dated 4.2.2002 did not fall under the nature of directions given by the Central Government under Section 7 of the RBI Act, 1934. Apparently, keeping in with the propriety and to avoid any confrontation with Central Government, the RBI have followed the directions of Central Government given in the letter dated 4 February, 2002 despite the fact that the directions in no way were of binding nature. The Committee appreciate the restraint exercised by RBI in abiding by the directions of the Central Government despite it being not legally binding on them.

27. The Committee further note that as on 1 December, 2000 when last such option was given to RBI employees, there were 2568 serving employees who were continuing under CPF. During the intervening period between 1 December, 2000 and January 2017, about 1408 such employees ceased to be in bank employment because of retirement/resignation/death etc. and as on January, 2017, about 1160 serving employees are still there who are covered under the CPF Scheme and want to switch over to the RBI Pension Scheme but not able to do so on account of the Government of India letter dated 4 February, 2002 refraining the RBI to offer any fresh options in future. Again in the year 2012, another important amendment was carried out in the RBI Pension Regulations wherein the pensionable service to qualify for full pension benefits was reduced from 33 years to 20 years. Keeping in view this substantive amendment in the RBI Pension Scheme, the Committee note that the RBI again requested the Ministry of Finance to give one more opportunity to the CPF optees for switching over to the pension scheme. However, the same was not agreed to by the Ministry on the ground that already four options in the years 1990, 1992, 1995 and 2000 were given to the RBI employees and giving another option for pension scheme would make more employees eligible for pension besides entailing long term financial costs and far reaching repercussion in the banking industry. Moreover, if fresh option is given to the RBI employees, there would be similar demands from the other banks also.

28. The Committee do not agree with the above contention of the Government. The Committee note that the earlier options given to the employees under CPF were based on account of substantial improvements and revisions in the pension scheme of 1990. Secondly RBI is the Central Bank of the country and it would not be appropriate to compare the stature and status of RBI with the other nationalised banks in the country who are governed by their own set of rules/ regulations while RBI is governed by the RBI Act, 1934 and its mandate is entirely different from the other nationalised banks. Also the options given to the RBI employees were restricted during a short period of 1992 to the year 2000 whereas the last such option given to the employees of the nationalised banks was in the year 2010. The Committee also do not agree with the stand of the Government that after coming into force of the New Pension Scheme (NPS) introduced in RBI w.e.f. 1.1.2012, giving another option for pension shall be detrimental to those covered under NPS. The Committee fail to understand this logic as NPS is in no way concerned with the pension affairs of either employees continuing under CPF or all other employees already covered under the pension scheme of 1990. The Committee also observe that the number of CPF optees which was 2568 after the last option given in December, 2000 has continued to remain same counting both retired and continuing employees under this category. As

regards, the financial implications likely to arise if a fresh option is given to left over CPF optee employees, the Committee note that there is a separate RBI pension corpus fund for this purpose. Secondly, the employees opting for pension scheme have to return to the RBI their entire PF contribution accrued to them alongwith 6% interest thereon during their entire tenure under CPF. It may also be kept in mind that not all those employees retired after 1 December, 2000, will be willing to opt for the RBI pension scheme as the employees will have to return their entire PF contribution accrued to them alongwith 6% interest thereon during their entire tenure under CPF. Therefore number of employees opting for RBI pension scheme will be much less than 2568. The Committee, therefore, are of the considered opinion that no serious financial implications are likely to occur on account of giving one last time option to the left over employees under CPF. Moreover, to meet the principles of natural justice and keeping in mind the concept of welfare state, the Committee strongly urge the Government to allow RBI to give one last option to its left over employees from switching over from the CPF to the RBI pension scheme covering even those employees who retired after 1 December, 2000 while making it clear that this one is the last and final such opportunity.

(Paras 24 to 28 of the 20th Report)

Reply of the Government

RBI Pension Regulations have been framed under Section 58 of the RBI Act. Section 58 (i) provides prior approval of the Central Government for making the Regulations. Accordingly, provisions amending the RBI Pension Regulations also require prior approval of the Central Government.

In terms of Regulation 3 of RBI Pension Regulations, 1990, the employees who joined on or after 1.1.1990 or were retires prior to 1.1.1990 and have exercised their option not to be governed by the RBI Pension Regulation, 1990 within the period prescribed by the Bank will not be covered by these Regulations by virtue of the statutory nature of their option exercised at the material time.

However, RBI has given four Pension options to its PF Optees to switch to Pension Scheme as under:

- First pension option was given at the time of introduction of Pension Scheme in RBI from 1-11-1990 to 31-1-1991.
- Second pension option was given after amendment to Pension Regulations from 7-2-1992 to 15-4-1992.
- Third pension option was given after conclusion of wage revision from 14-10-1995 to 30-11-1995.

