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BANKING OMBUDSMAN-

The Reserve Bank of India has appointed Ombudsman under the Banking Ombudsman Scheme, 1995 for redressal of grievances of the members of the public against banks relating to deficiency in banking services and other related matters. Thereafter, the scheme was amended in the year 2006, and now, it is known as Banking Ombudsman Scheme, 2006 which came in to force with effect from 1st January, 2006. The new scheme is applicable to all Commercial Banks, Regional Rural Banks and Scheduled Primary Co-operative Banks.

APPOINTMENT OF OMBUDSMAN-

The Ombudsman is appointed by the R.B.I. at such places as may be specified by it. The R.B.I. has appointed Banking Ombudsman at Mumbai, New Delhi, Patna, Gauhati, Chandigarh, Jaipur, Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Chennai, Hyderabad, Kanpur, Kolkata and Thiruvananthapuram. The Ombudsmen are likely to be appointed shortly at all the places where the offices of the R.B.I. are situated. The person who is of high standing in the Legal, Banking, Financial Services or Public Administration can be appointed as Banking Ombudsman. He will be appointed for a period not exceeding three years and be eligible for extension for a further period not exceeding two years subject to upper age limit of 65 years. The remuneration and other perquisites payable to the Banking Ombudsman are determined by the R.B.I. from time to time and is borne by the banks in such proportion and in such manner as may be determined by the R.B.I.

JURISDICTION, POWERS AND DUTIES OF OMBUDSMAN -

The Ombudsman will be empowered to receive complaints against the Commercial Banks and Scheduled Co-operative Banks relating to deficiency in banking services and loans and advances. The scheme has specified the nature of complaints which can be entertained by the Banking Ombudsman. The Ombudsman will entertain all complaints concerning deficiency in banking services such as: (i) non-payment/inordinate delay in the payment or collection of cheques, drafts/bills etc.; (ii) non-issue of drafts to customers and others; (iii) complaints pertaining to refusal to open deposit accounts without any valid reason; and (iv) non- acceptance of application for loans without furnishing valid reasons to the applicant. The Ombudsman may also entertain such other complaints, as may be specified by the R.B.I. from time to time in this behalf.

PROCEDURE FOR REDRESSAL -

Any person who has a grievance against a banker may himself or through authorised representative make a complaint in writing to the Ombudsman within whose jurisdiction the Branch or Office of the Bank complained against is located. No complaint to the Ombudsman shall lie unless: (i) The complainant had before making a complaint to the Ombudsman made a written representation to the concerned bank and either the bank had rejected the complaint or the complainant had not received any reply within a period of one month after the bank concerned received his representation or the complainant is not satisfied with the reply given to him by the bank; (ii) The complaint is made not later than one year after the bank had rejected the representation or sent its final reply on the representation of the complainant; (iii) The complaint is not in respect of the same subject matter which was settled through the office of the Ombudsman in any previous proceeding; (iv) The complaint is not the same subject-matter, for which any proceedings before any Court, Tribunal or arbitrator or any other forum is pending

or a decree or award or order of dismissal has already been passed by any such Court, Tribunal, arbitration or forum; (v) The complaint is not of little importance.

CALLING FOR INFORMATION FROM THE BANKS -

On receiving a complaint against a bank, the Ombudsman may require the bank to provide any information. If the bank fails to provide information, the Ombudsman, may draw the inference that the information, if provided would be unfavorable to the bank.

REDRESSAL OF COMPLAINT BY OMBUDSMAN -

As the Ombudsman has not been constituted under any statute, it has no legal authority to compel a person to obey its judgement or order. The Banking Ombudsman Scheme, 1995 has been notified by the R.B.I. under Section 35-A of the BANKING REGULATION ACT, 1949. Section 35-A of the Act empowers the R.B.I. to issue directions to the banks. Therefore, the banks are bound to comply with the provisions of the Scheme, but the members of the public cannot be compelled to comply with or obey the award of the Ombudsman. The scheme has provided three methods of settlement of the complaint against the banks.

(i) Settlement of complaint by Agreement- On receipt of the complaint against the bank, the Ombudsman shall send the copy of the complaint to the bank and it shall endeavour to promote a settlement of the complaint by agreement between the complainant and the bank through conciliation or mediation. (ii) Recommendation for settlement- If a complaint is not settled within a period of one month from the date of receipt of the complaint or such further period as he may consider necessary, the Ombudsman may make a recommendation. The copies of the recommendation shall be sent to the complainant and the bank concerned. The recommendation made by the Banking Ombudsman is not mandatory and has to be accepted by the complainant and the concerned bank. The bank is at liberty to accept or reject the recommendations. If the bank decides to accept the

recommendations, it shall comply with the terms of the recommendations immediately and inform the Ombudsman. (iii) Award- If the complaint is not settled by agreement or recommendations, the Ombudsman shall inform the parties of his intention to pass an award. The complainant and the bank may submit any further representation or evidence in support of their case within a period of 15 days from the date of notice from Ombudsman about his intention to pass an award. The Ombudsman shall pass an award after giving to the parties reasonable opportunity to present their case. An award shall be in writing and shall state the directions if any to the bank for specific performance of the obligations and the amount awarded to the complainant by way of compensation for the loss suffered by him along with a summary of the reasons for making the award.

ACCEPTANCE OF AWARD BY COMPLAINANT-

The award made by the Ombudsman will not be binding on the bank, unless the complainant furnished to it, within a period of one month from the date of award, a letter of acceptance of the award in full and final settlement of his claim. If the complainant accepts the award, the bank shall comply with the award within fifteen days from the date of receipt by it of the acceptance of the award by the complainant. If the bank doesn't comply with the award, the Ombudsman shall report to the R.B.I. the non-compliance of such award, which becomes binding on it. The bank customers would also be able to appeal to R.B.I. against the awards given by the Banking Ombudsman.

REJECTION OF COMPLAINT BY OMBUDSMAN-

The Ombudsman may reject the complaint at any stage, if it appears that the complaint is made without any sufficient cause or that it is not pursued by the complainant with reasonable diligence.

ANNUAL REPORT ON FUNCTIONING AND WORKING OF OMBUDSMAN-

The Ombudsman shall send to the Governor of R.B.I., in May every year, a report containing a general review of the activities of the of the Ombudsman during the preceding financial year. The office of Ombudsman is another channel for redressal of complaints of the public against the banks. But the Ombudsman is not so effective in effecting redressal of complaints, as it is not vested with the powers of the Courts to call for information, summon any person to give evidence and produce material before it and enforce it's judgement or order. The office of Ombudsman is an institution which makes efforts to get the complaint settled by the consent of the parties and any party to the complaint may not agree for settlement. The recommendations and award of the Ombudsmen are subject to the acceptance by both parties. After rejecting the recommendations or award, the complainant may file an appeal to R.B.I. against the awards given by the Banking Ombudsman. However, if the complainant and the bank accept the recommendations/award, further appeal can not be filed before the Reserve Bank of India, as the complainant submits in writing that he has accepted the recommendations/award in full and final settlement of his claim against the bank. If the Ombudsman would have been constituted under a statute like the Consumer Forum, with full powers of the courts, the office of Ombudsman would have been more effective in redressal of the complaints. (Tannan's Banking Law and Practice in India by M.L. Tannan)