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ROLE OF BANKING OMBUDSMAN AS A GRIEVANCE REDRESSAL FORUM: AN OVERVIEW

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ABSTRACT

Banking Sector in India has a huge role to play for the country's economy and the banking activities all over the country has also been increasing year by year. In the course of this increase in the banking activities, no. of customers involved are also increasing. Is there potential mechanism to address their grievances, if any? Does any Law in the country provide for the speedy disposal of banking services related grievances? This article tries to give a brief idea as to what are the laws available for the redressal of banking related grievances, how to get the grievances redressed and attempts to analyse the position of banking ombudsman as a grievance resolution forum with the help of the secondary data available.

Key words: Banking Ombudsman, Reserve Bank of India, Consumer Protection.

I. INTRODUCTION

In India, banking sector is one of the fastest growing sectors for our Indian economy and customers involved in the banking sector in India are more. Banking sector is one sector which involves huge inflow and outflow of money and therefore, grievances are most common for customers, thus to address the grievances of customers, Reserve Bank of India, in pursuance of section 35A of Banking Regulation act, 1949, brought in Banking Ombudsman Scheme 1995 was brought in and revised in 2002. Presently, Banking Ombudsman Scheme 2006 is in operation, whereby Banking Ombudsman, a quasi-judicial authority has been set up with an objective of providing a forum for bank customers for easy, timely and inexpensive settlement of disputes in case if there are any. This banking ombudsman Scheme is applicable all over the country and all types of banks such as scheduled banks, co-operative banks, commercial banks, etc are covered

under the scheme.

The banking industry provides opportunities for investors and directs available resources towards the improvement and sustainability of trade, commerce, and industry.

Consequently, an systematic and structural system in the banking field is essential for the development of the economy at a national level . To achieve this, it is crucial to introduce checks and balances within the system to reduce drawbacks and improve administration. Additionally, the quality of a bank's services is directly linked to customer satisfaction, which, in turn, influences the bank's reputation and growth. Since banking is considered a public utility service, there has been a decline in the quality of services provided to the public, leading to grievances that often go unresolved. Recognizing this issue, a separate forum was deemed necessary to address and resolve such complaints, despite the existence of the Consumer Protection Act of 1986 and the court system. However, these forums are currently overwhelmed with an increasing number of cases.

In the banking sector, customers have various grievances. The Reserve Bank of India (RBI) receives a flood of complaints and forwards them to the relevant banks. Banks are required to respond and confirm the resolution of customer grievances, even if only on paper. Despite the implementation of numerous recommendations by committees, commissions, and working groups since 1972, the quality of customer service in banks has not significantly improved. Criticism from the media, the public, and parliamentary committees continues.

The Committee under the chairmanship of 'Narasimham', has focused sectoral reforms in sectors such as Banking and finance and scrutinized these crucial domains and proposed the incorporation of the "Banking Ombudsman Scheme 1995" within the ambit of the Financial Sector Policy and Systems Reforms spanning from 1991-92 to 1995-96. These recommendations were pivotal, especially considering the evolving customer needs and the ongoing liberalization of banking and financial sectors. Responding to these recommendations, the RBI endorsed the suggestion, and on June 14, 1995, Dr. C. Rangarajan, the Governor, made public the inception of the "Banking Ombudsman Scheme." This initiative was implemented in accordance with the provisions outlined in the Banking Regulation Act of 1949, encompassing all Scheduled Commercial Banks and Scheduled Primary Co-operative Banks operating in India. It has been

functional since June 1995.

At an initial phase, Ombudsman positions were established on a full-time basis in 3 centers: 'Mumbai', 'New Delhi', and 'Bhopal'. However, the scope of their operations has since widened. The primary objective of the ombudsman framework is to offer a prompt and economical avenue for resolving customer grievances arising from deficient banking services. Subsequently, the banking ombudsman is tasked with addressing public complaints related to inadequacies in various banking services, encompassing the handling of deposit accounts and loans and advances.

1.1 Hypothesis

The Banking Ombudsman scheme has provided for an effective grievance redressal mechanism for the disposal of Banking Related Grievances.

1.2 Literature Review

In their research, "P. Suganya and R. Eswaran" pose fundamental questions regarding the recourse available to individuals in India for addressing grievances with banks. The query revolves around whether individuals can seek redress from the Banking Ombudsman when confronted with issues related to banking services.

Indeed, the adjudicatory mechanism, Banking Ombudsman is an institution established by the Apex Bank of India (RBI) to address and resolve grievances/complaints pertaining to banking matters. To illustrate this, consider a scenario: when attempting to withdraw Rs. 500 from an ATM, a transaction failure occurs, resulting in a debit of Rs.500 from the account. Such a situation can be exasperating and vexing. Individuals often report this problem to their bank, expecting a prompt resolution. However, despite assurances from the bank that the money will be refunded, weeks pass by without any action. This frustrating cycle continues for six months, during which numerous attempts are made to rectify the issue, but there is no responsive action from the bank.

The intriguing aspect here is whether one can envision receiving compensation of Rs. 16,200 due to the bank's failure to adhere to RBI's regulations. It may seem implausible, but it is a possibility that has materialized. This article explores the authority vested in the Banking Ombudsman and the efficacy of Ombudsman officers in addressing complaints.

Singh Rajdeep (2016) conducted a study that uncovered a noteworthy distinction between the behaviour of the rural sector compared to urban and semi-urban sectors regarding banking complaints. The primary reasons behind this divergence are the rural population's lack of awareness and proficiency in initiating complaints against banking malpractices. Additionally, Singh's research revealed that complaints against public banks are more prevalent. However, there has been an improvement in the grievance resolution rate, which rose from 94% to 96% between 2010-11 and 2014-15.

1.3 Objectives

- To know about the Banking Ombudsman Scheme
- To have a brief idea as to the kind of complaints/grievances received by the ombudsman
- To analyse the role of banking ombudsman

1.4 Research Methodology

This is research undertaken to impart a brief idea about the redressal forum, banking ombudsman and to analyse the role of the banking ombudsman and therefore this research includes the primary data such as the laws relating to the Banking Ombudsman and the secondary data such as the statistics available with regard to the banking ombudsman for the analysis of the role.

II. BANKING OMBUDSMAN

Under the Banking Ombudsman Scheme, 2006 (hereinafter referred to as Scheme/The Scheme) An officer in the rank not less than Chief General Manager or General manager will be appointed as ombudsman by The RBI with defined territorial jurisdiction to receive and adjudicate the complaints.

2.1 Jurisdiction of Ombudsman¹

The territorial jurisdiction of the banking ombudsman will be prescribed by Reserve Bank of India, i.e., the territorial limits within which the ombudsman shall exercise his authority will be prescribed by the Reserve Bank of India. Further, the office of the forum, banking ombudsman shall be at such place as the Apex Bank specifies.

¹ Banking Ombudsman Scheme, 2006, Clause 7

The Pecuniary Jurisdiction: The Forum, Banking Ombudsman has the jurisdiction to exercise the powers matter irrespective of the monetary value involved in it. However, Banking Ombudsman does not have authority to pass awards over the Two million rupees. Additionally, he cannot pass the award for more than the amount of loss suffered by the customer/complainant.

2.2 Tenure of Ombudsman²

The Banking Ombudsman appointed will have a tenure of 3 years from the date of appointment.

2.3 Matters which the Banking Ombudsman can take cognizance of

There are broad categories of matters that the Banking Ombudsman can take cognizance of which are as follows

A. In relation to services rendered by the bank

- i. Delays in Credit Proceeds: Customers may complain about delays in the processing and crediting of funds to their savings or current accounts.
- ii. Refusal to Open Deposit Accounts: Complaints may arise when a bank refuses to open a deposit account by providing no valid justification for the refusal.
- iii. Unauthorized or Fraudulent Withdrawals: Customers may file complaints when they experience unauthorized or fraudulent withdrawals from their deposit accounts or fraudulent encashment of a check.
- iv. Refusing the Acceptance of Small Denomination Notes: Customers may face difficulties if a bank refuses to accept small denomination notes without a valid cause.
- v. Non-Payment or Delay in Payment/Collection of Checks: Complaints can be filed when a bank fails to pay or collect checks, drafts, or bills on time or does not make the payment at all.
- vi. Levying of Charges without Adequate Notice: Customers may object to banks imposing charges by not providing adequate prior notice.

B. Complaints related to Loans and Advances:

- i. Delay in Loan Processing: Customers may complain about delays in the sanction and disbursement of loans, especially when it exceeds the prescribed time frame.
- ii. Non-Sanctioning of Loans without Reason: Banks should provide valid reasons in writing

² Banking Ombudsman Scheme, 2006, Clause 4.

when they refuse to sanction loans, and customers can complain if this is not done.

- iii. **Non-Compliance with RBI Interest Rate Directives:** Complaints may be filed if a bank does not adhere to RBI's directives regarding interest rates on loans.

C. Complaints related to Online Banking and Debit/Prepaid Cards:

- i. **Account Debited, Cash Not Dispensed at ATM:** Customers may complain if their account is debited, but they do not receive the cash they attempted to withdraw from an ATM.
- ii. **Multiple Debits for One Transaction:** If a customer's account is debited more than once for a single withdrawal at an ATM or a point of sale (POS) transaction, they can file a complaint.
- iii. **Incorrect ATM Cash Dispensation:** Complaints can be made if ATMs dispense an incorrect amount of cash, either less or more than the requested amount.
- iv. **Unauthorized Debit Transactions:** Customers may complain if their account is debited without their card being used or without their card details being involved in the transaction.
- v. **Use of Stolen/Cloned Cards:** Complaints can be filed if a customer's card is stolen or cloned and used for unauthorized transactions.

- D. Non-Compliance with RBI Directions:** Customers can complain if the bank fails to comply with any directives issued by the RBI related to banking services, loans, or card transactions.

Customers can typically file these complaints through various methods provided by the bank, including in-person visits, phone calls, written letters, or online complaint portals. The bank is obligated to address these complaints and provide resolutions in a timely manner, ensuring that customer rights are protected.

2.4 How to File a Complaint³

Any person, having a grievance, can make a complaint to the Banking Ombudsman exercising the territorial Jurisdiction, by filling the form which shall contain the following details:

- i. "the name and the address of the complainant,"
- ii. "the name and address of the branch or office of the bank against which the complaint

³ Banking Ombudsman Scheme, 2006, Clause 9.

is made,”

iii. “the facts giving rise to the complaint,”

iv. “the nature and extent of the loss caused to the complainant,” and

v. “the relief sought for⁴.”

The Complaints may be filed through online mode as well, which shall be accepted by the Banking Ombudsman.

2.5 Comparison of Banking Ombudsman Schemes of 1995 & 2006

Regarding bank coverage, the 1995 Scheme primarily encompassed commercial banks and Scheduled Primary Co-operative Banks physically present in India. However, the 2002 Scheme broadened its reach by including entities such as Regional Rural Banks, the State Bank of India, and 'subsidiary banks' defined in Part I of the Banking Regulation Act, 1949. Additionally, even Scheduled Commercial banks fall within the ambit of the latest 2006 scheme.

The Ombudsman Scheme lays out specific criteria for accepting complaints. Over time, there has been a consistent trend of broadening the Ombudsman's authority. The RBI has expanded the banking ombudsman's duties to cover issues related to credit cards, service deficiencies pledged by bank sales representatives, unnotified service charge impositions, and non-compliance with banks' fair practices code.

To bolster the scheme's effectiveness, the RBI has taken on the roles of recruitment and funding. It now permits complainants to submit their grievances electronically and appeal to the RBI regarding decisions made by the banking ombudsman. Initially introduced by the RBI on June 14, 1995, under Section 35A of the Banking Regulation Act, 1949 (10 of 1949), the Banking Ombudsman Scheme aimed to establish a swift and economical method for addressing customer complaints. It was revised twice in 2002 and 2006 and is currently governed by Banking Ombudsmen appointed by the Reserve Bank in 15 locations across the country.

Hence, considering the aforementioned comparisons, it can be deduced that there has been a significant shift in the Banking Ombudsman Scheme 2006 concerning scope and jurisdiction.

⁴ Banking Ombudsman Scheme, 2006, Clause 9.

2.6 Overview of Mechanisms Available in Other Countries

Ombudsman for Banking Services and Investments (OBSI): Established in 1996 in Canada under the name Canadian Banking Ombudsman, OBSI was created to address complaints from small businesses against chartered banks⁵. At present, OBSI boasts over 600 member firms within the banking services and investment sectors. Any regulated firm engaged in banking services or investment activities can join OBSI. Its main function involves mediating conflicts between these participating firms and their customers when they're unable to resolve these disputes on their own.⁶

Swiss Banking Ombudsman: The Swiss Banking Ombudsman, established in April 1993, manages particular grievances against Swiss-based banks. With the backing of the Swiss Banking Ombudsman Foundation, formed by the Swiss Bankers Association, it has been addressing an increasing volume of inquiries, reaching an average of about 1,400 each year. According to its 2011 annual report, the Swiss Banking Ombudsman received a total of 1,889 cases, a slight decrease compared to 2010⁷.

Financial Ombudsman Service: This UK-based institution specializes in addressing consumer complaints related to banking services. It handles financial disputes encompassing banking, insurance, pensions, loans, stocks, shares, and more. In the annual report issued for the financial year, 2010-11, it was observed that the no. of banking complaints had decreased by 9%⁸.

Office of the Comptroller of the Currency (OCC): The OCC, operating in the United States, holds the responsibility of chartering, regulating, and overseeing all national banks, federal savings associations, as well as supervising the Federal branches and agencies of international banks. Through onsite evaluations and continual oversight, the OCC ensures the proper functioning of national banks and federal savings associations. Among its regulatory powers are the examination of banks and thrifts, approval or denial of proposals for new charters, branches, capital, and changes in corporate or banking structures, as well as taking supervisory actions when necessary⁹.

⁵ OBSI, "<http://www.obsi.ca/en/about-us/history>" last accessed 28-09-2023 at 04: 05 pm

⁶ "OBSI, <http://www.obsi.ca/en/about-us> Last accessed on 28-09-2023" at 5:37 Pm

⁷ Swiss Banking Ombudsman, <http://www.bankingombudsman.ch/en> last accessed on 28-09-2023 at 6: 47 Pm

⁸ Financial Ombudsman Service, <http://www.financial-ombudsman.org.uk/about/ind> Last Accessed on 28-09- 2023 at 6: 57 pm

⁹ "Comptroller of the Currency (OCC)", "<http://www.helpwithmybank.gov/about/index-about.html>," last

3 THE INTERRELATION BETWEEN BANKING OMUBUDSMAN SCHEME AND THE CONSUMER PROTECTION ACT,2019

The COPRA, 2019, mainly aims at protecting interests of Consumers and for the resolution of consumer disputes. Section 2 (42) of the Consumer Protection Act¹⁰ provides for the definition of “Service” which includes Banking Services as well. Along Side, definition “Deficiency” provided under the Act¹¹ says that deficiency means faulty, or shortcoming, inadequacy in quality or nature of service. Thus, Consumer Protection Act,2019 includes the redressal of disputes of consumers for deficiency of Banking Services to Consumers. However, its not ideal to burden the consumer disputes forums at all levels with banking cases as well. Therefore, in order to provide an exclusive dispute resolution mechanism for deficiency of banking services, Reserve Bank of India, under section 35A of the Banking Regulation Act 1949, has brought in Banking Ombudsman Scheme 2006.

Both, Banking Ombudsman Scheme and The Consumer Protection Act, strive to achieve the same object, i.e., protecting interests of consumers and resolution of disputes with regard to deficiency in banking services. Thus, Banking Ombudsman Scheme indirectly, aims to achieve the goals of Consumer Protection Act. In this way, it can be said that, Banking Ombudsman and The Consumer Protection Act are interrelated.

However, the Consumer Protection Act's ascendancy over the Banking Ombudsman Scheme due to the following reasons:

- i. The redressal forums are established at multiple levels, including district forums at the district level, state commissions at the state level, and a national commission at the national level. In cases where a complainant is dissatisfied with the national commission's decision, they have the option to file their case in the Supreme Court, India's highest judicial authority.
- ii. The scope of redressal under the Consumer Protection Act is comprehensive in terms of both original and appellate jurisdiction. District forums have original jurisdiction, state commissions wield original and appellate jurisdiction, national commissions

[accessed on 28-09-2023](#) at 11:27 pm

¹⁰ “Consumer Protection Act, 2019”, Act 35 of 2019, Section 2(42).

¹¹ “Consumer Protection Act, 2019”, Act 35 of 2019.

- possess original and appellate jurisdiction, and the Supreme Court holds appellate jurisdiction.
- iii. The Consumer Protection Act allows customers to file complaints against banking service deficiencies without requiring the complainant to be the bank's customer exclusively. Authorized representatives of bank customers, banking customer welfare associations, as well as Central and State Governments, among others, can also act as complainants.
 - iv. Orders issued under the Consumer Protection Act encompass the calculation of damages suffered by the complainant.
 - v. Failure to comply with the orders issued by the consumer redressal forums results in penalties being imposed on the party found at fault.

Since, COPRA, 2019 sets up adjudicatory mechanisms at different levels, it has superiority over the Banking Ombudsman. Nevertheless, Banking Ombudsman Scheme holds its significance intact by providing the redressal mechanism at the lower level with a speedy disposal mechanism.

4 STATISTICS OVER THE DISPOSAL OF CASES BY BANKING OMBUDSMAN¹²

Number of complaints	Year		
	2014-15	2015-16	2016-17
Received during the year	85131	102894	130987
Brought forward from previous year	3307	3778	5524
Handled during the year	88438	106672	136511
Disposed of during the year	84660	101148	125319
Rate of Disposal (%)	96%	95%	92%
Carried forward to the next year	3778	5524	11192

Based on the data provided, it's evident that customer awareness has grown steadily over the years. Despite a rising number of cases carried over annually, there's a consistent effort in handling and resolving them. The increasing rate of case handling reflects an effective disposal mechanism, alleviating pressure on consumer courts. This approach safeguards customer interests, fostering a healthier relationship between banks and their clientele.

¹² “Annual Reports on Banking Ombudsman Scheme, By Reserve Bank of India, <https://rbi.org.in/Scripts/PublicationsView.aspx?id=18052#C8>,” Last accessed on (29-09-2023, 20:06)

5 FINDINGS

The research reveals the following:

- Over time, there has been a rise in customer awareness regarding the Banking Ombudsman.
- The effectiveness of Banking Ombudsmen in handling and resolving cases has been evident.
- There's a consistent increase in the number of cases managed and resolved by banking ombudsmen annually.

6 CONCLUSION

Banks, being the one of the important institutions rendering broad range of services to the customers, also have the duty to provide the services with due diligence, in the event of faulty rendering of services, banking ombudsman comes for the rescue by adjudicating the dispute and keeping up the relationship between the customer and the banker. Banking Ombudsman, having such an important role, shall also be adjudicating the disputes cautiously and shall always need to handle the disputes efficiently for maintaining the trust, reputation and to avoid backlogs and ultimately providing the customer satisfaction.

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