



WELCOME NEW YEAR 2017 CHALLENGING DAYS ARE AHEAD

Yes, yet another occasion for all of us to receive the New Year with hopes and aspirations for a better future. We have just completed a turbulent year in the banking industry. The New Year will commence with a herculean task of sorting out the problems of the demonetization which created waves of actions and reactions across the country. The RBI had a tough time managing the entire implementation, by remaining in the background, while the workforce in the banking industry faced all the challenges, bravely in the operations area all over the country and came out with flying colours once more.

2. The Confederation would be holding its Triennial Conference in the month of March 2017 at Jaipur. The preparations are on to make it a grand success. It would be an occasion for the organization to plan the future approach in tackling the issue of salary revision and other major problems faced by the unions in the banking industry.

3. The Confederation is extending its total co-operation and support to all the initiatives of the Central Trade Unions in defending the interest of the working class. The bigger issues

such as threat to the future of the Public Sector undertakings, especially the Banks, attack on the labour laws, the social security measures, the trade union rights etc., are being agitated by the Central Trade Unions. These issues are also dear to all of us being part of this continuous struggle in support of the working class who were responsible for achieving several labour welfare facilities ever since our country became independent.

4. The Confederation has just finished the preliminary task of preparing the comprehensive Charter of Demands to be submitted after due consultation with the constituents of United Forum of Bank Unions in the current year. There are lot of expectations from the workforce in the banking industry that the current salary revision would be encouraging, given the circumstances and the challenges that were encountered very effectively by the workforce and its commitment towards the policies and programmes of the Government including the demonetization. Hence, there is every justification for the rank and file across the country to seek better future for them in the ensuing salary revision negotiations at the industry level.

5. The performance of the banking industry is bound to get affected by the developments that we have witnessed during the demonetization. The last quarters' performance is bound to get truncated due to the fact that the credit off take suddenly slowed down, while the deposits have gone up substantially with more than 15 lakh crores of rupees coming into the banking system. The banks were made to take a big hit in meeting the interest cost on its funds.

6. The IBA is expected to play a very crucial role in ensuring that the hopes and aspirations of the entire workforce is taken care. The Confederation has impressed upon the IBA to direct all the member Banks to submit their mandate for the commencement of the negotiations on the 11th Bipartite Settlement and to complete the exercise in good time.

7. The State Bank of India is now at very crucial stage of implementing the consolidation process. The preparation and ground work have since been completed. The Federation is making all out efforts to meet the challenge and efforts are on to ensure that there is no hiccup in the implementation of the integration of the Associate Banks with the State Bank of India. At the Federation level series of discussions have taken place between the Associate Banks Officers Association leadership and the Federation leadership in order to have a smooth transition even at the organizational level, keeping in mind the welfare of the membership of both the organizations.

8. The efforts of the Government for digitalization and using the banking channels for all economic activities with the sole objective of becoming cashless economy needs to be supported by the employees in the banking industry. The major burden of making the program successful would again fall on the shoulders of the banks.

FUTURE TASK:

9. The country has seen an unprecedented development in the banking industry and its

commitment and responsibility in delivering the goods to the nation. Over 9 lac employees and officers all over the country toiled day and night to fulfill the directions of the Government on several challenging occasions. The Jan Dhan was a glorious achievement and immediately the industry was given the responsibility of implementation of the historical decision of Demonitization by the Government. We stood the test of time and displayed tremendous courage, commitment and conviction in implementing each and every direction of the Government.

10. While the task is very enormous in defending the welfare of the members, the same has to be prioritized in order to chalk out appropriate plans in ensuring success in all the future agenda. The major ones are:-

- a) To extend full support and co-operation in implementing all the socio-economic policies meant towards welfare of the millions and millions of the people living below the poverty line in the country.
- b) To participate in all the struggles meant to save the Public Sector undertakings and also to initiate on our own through Confederation in defending the Public Sector Banks.
- c) To oppose the move of the Government in the name of financial reforms to undermine the performance of the Public Sector Banks and the Old Generation Private Banks and to hand them over to the private sector.
- d) To ensure smooth integration of the Associate Banks with the State Bank of India and to address the issues connected with the HR Problems of the entire workforce in the State Bank of India;
- e) To consolidate and strengthen further the Trade Union movement of the Bank

SUCCESS AWAITS AT THE DOOR WHERE DILIGENCE IS

Officers under the banner of the Federation and the Confederation.

and protect the dignity of the officers' community.

- f) **To ensure a fair and equitable salary revision during the 11th Bipartite Negotiations between the IBA and the Confederation as well as the constituents of the United Forum of Bank Unions;**
- g) **To ensure a speedy settlement of several issues pending before the management of State Bank of India through continuous dialogue and negotiations and follow-up on a regular basis.**
- h) **To strive to ensure improvement in the quality of life through a work-life balance**

11. Federation has got a long wish list to be achieved during the New Year. The members have given their total support in all the efforts to resolve a number of issues pending before the Management and the Federation. They would also rally round the banner of the Federation and the Confederation in seeking remedy to all pending issues in the New Year.

12. Federation is also confident that they will surmount all the problems and difficulties to ensure a better life to all in the New Year 2017 and take this opportunity to convey to all the members and their families all round happiness, healthy and Prosperous New Year 2017. ■

GOOD BYE – 2016 AN EVENTFUL YEAR

The curtains were drawn for the year 2016. It was an eventful year for the banking industry. The year turned out to be fast paced and eventful, with unpredictable political and economic changes. The cowardly act of the terrorist at Uri, supported by the military forces in Pakistan, where nearly 18 soldiers laid down their lives triggered the retaliation by the Government of India, who in a surgical strike destroyed the terrorist camps across the border. The international community supported the surgical strike of the Indian military in countering the movement of the terrorists across the border.

2. The Confederation gave a direction to campaign for protecting the public sector units. The slogan "Save Public Sector" bank became popular amongst the bankers and a series of activities were taken up by the affiliates of the Confederation. The Federation provided leadership in this direction and their struggle and support to the IDBI employee's movement saved the IDBI Bank from privatization. The International Women's Day was celebrated in a grand manner.

3. It was a great challenge for the workforce in the banking industry when they were given the task of implementation of demonetization announced on 8th November, 2016. It is a herculean task to ensure that over 15 lac crores of Rupees representing 87%

of the currency in circulation had to be collected by the Banks. The efforts of the bank duly supported by the workforce, was appreciated by the Government and in particular the Prime Minister of our Country. The task is still on.

4. In the labour front the efforts of the Federation to get the enhancement of gratuity ceiling at ` 20/- lacs on par with the Government servants still continue. The Charter of Demand is under preparation and would be submitted in the near future. The issue of Officer Directors on the Board remains as an unresolved issue at the Government level.

5. The Bank has successfully introduced the Family Floater Group Insurance Scheme for the retirees in the State Bank of India, a lot of initiatives was taken by the Federation in ensuring the success of the scheme.

6. In order to meet the growing challenge in the Bank as well as in the industry, Federation had revived the co-ordination between both the staff and officers Federations. The joint meeting helped in understanding the issues concerning both federations in the bank as well as in the industry. The co-ordination is expected to address all the common issues on a priority basis in the days to come.

ARISE, AWAKE, STOP NOT TILL THE GOAL IS REACHED

7. This is the silver jubilee year of NATURE a wing of AISBOF, known for its training and grooming leaders in managing the Defense work as well as the trade union activities in the country.

8. The Federation has renovated the Guest House 'Gandhi Nilaya' and dedicated it to the service of their members across the country. The renovated rooms as well as the additions are now being used by the members across the country. The Federation also added additional accommodation at the Mumbai Guest House by purchasing another flat providing an excellent infrastructure to the members. The Guest Houses were also opened by many of the affiliates like Hyderabad Circle, Bhopal Circle, Chandigarh Circle etc., in order to provide excellent services to the membership when they visit these places on sightseeing as well as for medical facilities etc.

9. The issue of Career Development System (CDS) has become a major challenge. The Federation has had a series of meetings and is geared up to meet the issues involved, so as to ensure that the members are not put to difficulty.

10. At the Corporate Center the year witnessed a series of meetings with the management in order to resolve several of the pending issues. The major issues

are the resolution of the long pending in the area of financial benefits to the officers, the streamlining of the Disciplinary Proceedings, the ongoing basis discussions on Career Development Scheme etc. The bipartite structure is now kept active and the issues are being discussed and resolved on a day to day basis. The Federation is appreciated by the Management for its progressive outlook in resolving a number of corporate issues as well. The next major issue would be merger of Associate Banks and the Federation and the Management are fully geared up for this task.

11. Thus, the year 2016 was full of activities. There is a long list of successful conduct of meetings and activities by all the affiliates all over the country including their General Body meetings, wherein the leadership of the Federation was able to deliberate on all the current challenges and give a definite shape on their approach from time to time. In the process of meeting these challenges, the Federation has emerged more stronger, united and committed towards the welfare of the members and at the same making a very substantial contribution for strengthening the trade union movement as well the growth of the economy. Let us say good bye to the year 2016 and welcome the New Year 2017 with open arms which is expected to be yet another challenging and rewarding year for all. ■

SHRI.V.G.KANNAN, FORMER MANAGING DIRECTOR OF STATE BANK OF INDIA APPOINTED AS CEO OF IBA

Shri.V.G.Kannan, former Managing Director and Group Executive (Associates and Subsidiaries) of SBI who retired on 31st July, 2016 has now been appointed as the Chief Executive Officer of the Indian Banks' Association.

"Officers' Cause" congratulates Shri V.G. Kannan for having appointed as the CEO of IBA and wish him all success in dealing with the welfare of the employees and officers of the banking industry. ■

Organisational Issues

PENDING ISSUES OF XTH BPS/INITIATION OF PROCESS FOR XITH BPS AND DEMONETISATION AND ITS IMPLICATIONS ON BANKING SECTOR

From the text of AIBOC Circular No.71 dated 8th December, 2016.

QUOTE:

Our members are aware that our XIth Bipartite Settlement is due from 1.11.2017. We felt it necessary

to remind IBA for timely initiation of the process in order to set the ball rolling. In this endeavor, we have sent a communication Ref No. 2016/195 of date to IBA, asking them to seek mandate from member banks.

Members are also aware that we are in the process

WORK IS WORSHIP , DO YOUR DUTY

of resolving the pending issues of the last bipartite settlement related to amendments in the Disciplinary and Appeal Regulations. To follow up the matter, we have sent a communication to IBA, vide letter ref No. 2016/196 of date.

We had already advised our members that a representation was made to the RBI Governor vide our letter Ref No. 2016/181 dated 28.11.2016, pointing out adverse impact on the Banking Industry due to directive of maintaining 100% CRR on incremental deposits. We are happy that RBI has announced for the withdrawal of 100% CRR requirement on incremental deposits w.e.f. the fortnight beginning from 10th of December, 2016. However, there were some more issues related to demonetization drive, adversely affecting the Bank officers, which need redressal. Therefore, we have sent another communication ref. no. 2016/197 to the Governor, RBI, on date.

The Executive Committee of our Confederation, which met on 6th December, 2016 at Bengaluru, expressed its serious concern over the propaganda to malign the image of officials of PSBs, for the overstated statements issued by RBI of supplying more than sufficient new currency notes to the banking sector as against actual short supply and for the widely shared information that currency supply to the New Generation Private Sector Banks is favoured at the cost of Public Sector Banks. Therefore, we strongly took up the case with the Governor, RBI through yet another communication ref. 2016/198 on date itself asking to supply us the data of cash disbursements to top 40 Banks of the country - Region/City wise. We have also demanded to immediately stop unwarranted and exaggerated statements, creating confusion and mistrust. ■

WORK FROM HOME CONCEPT

The concept of work from Home was a major demand of the Federation, especially for women officers. As mentioned earlier and in all our meetings, the Bank has decided to carry this issue forward. Accordingly, they are on the subject and are in the process to formulate the "Work from Home/ anywhere policy on HR initiative for all its employees that will allow certain roles, based on technology and other dependencies, to

work from off- site locations.

2. Accordingly, the Bank has partnered with KPMG to conduct a feasibility study and are conducting a survey to study the various roles.

The Bank has therefore sought opinions in <https://wfh.statebanktimes.in>. The result is awaited. ■

AN APPEAL FOR EXTENSION OF ENHANCED GRATUITY CEILING TO OFFICERS IN STATE BANK OF INDIA

Federation had been requesting the Government for the extension of the enhanced ceiling of Gratuity extended to the Government employees, to our employees and officers also with effect from 1.1.2016. The request was forwarded to the Government by the management of the Bank as well. Federation had also requested for the intervention of the Labor Minister in this

regard. Federation has now taken up the matter with the Prime Minister of India seeking his intervention in the matter for taking necessary steps for enhancement of Gratuity Ceiling from ₹ 10/- lacs to ₹ 20/- lacs, on par with the Central Government employees, effective from 1.1.2016, which will be of a great help to the retiring officers and employees of the Bank. ■

INTEREST RATES ON INDIVIDUAL HOUSING LOANS (IHL)

After the demonetization, the Bank is now flush with funds. It is also true that the cost of funds has come down substantially. Under circumstances the Federation had suggested the following for the benefit of the employers.

- a. The interest rates on Individual Housing loans for staff may be reduced.
- b. Presently probationary officers are eligible to avail housing loans only after completion of 5 years. This may be reduced to 2 years

LET CUSTOMER SERVICE BE OUR MOTTO

(on confirmation), as the coverage can be increased and the commitment levels of the young officers can be enhanced.

- c. As the housing loans are 100% secured, and as the loan amounts have been increased, the Bank may waive the margin stipulation and provide 100%

housing loan to staff.

- d. Presently there is a stipulation of 60:40 for eligibility for loans. The logic is that a minimum of 40% is required for subsistence. Now because of higher wages and as the 11th bipartite in the offing, the stipulation may be 75:25 instead of 60:40 ratio. ■

PERSONAL OVERDRAFT FOR STAFF

In view of the reduction in cost of funds, the prevailing rates of interest to general public and the comfortable funds position and considering that the staff advances are fully secured and safe the Federation had requested the corporate centre that;

- 1) The personal OD limit may be enhanced to ₹ 15 lakhs

- 2) The rate of interest may be reduced in tune with the current trends and cost of funds.

So that this assistance will go a long way in motivating the staff and helping them in tiding over liquidity crisis and financial problems when they go for purchase of a new house, education /marriage of children etc. ■

VEHICLE /CAR LOAN SCHEME FOR STAFF

After the demonetization, as the footfalls have dropped and as demand for cars have come down due to liquidity crunch, the Bank has now allowed 100% finance on 'On -Road Price' of cars vide e-circular No.NBG/PBU/AI-CARLOANS/19/

2016-17 dated 21.12.2016. Federation has now requested the corporate center to extend the same facility to the officers of the bank also, including the cost of Insurance and Registration etc-response is awaited. ■

GUEST HOUSE AT AMRITSAR OF SBIOA CHANDIGARH CIRCLE

The long cherished dream of having a Guest House for SBIOA, Chandigarh Circle was fulfilled when the newly built well furnished Guest House was inaugurated at Amritsar on 18.12.2016 by the Circle Chief General Manager Sri.Anil Kishora. The General

Managers and DGM & CDO of SBI, Chandigarh Circle, and other office-bearers of the Federation were present on the happy occasion. The guest house would benefit large number of officers who intend to visit the city of Amritsar. ■

Banking

SBI CHOOSES VILLAGES FOR HI-TECH PAYMENTS PILOT

Shirki, in the Raigad district of Maharashtra, about 100 km south of Mumbai, is a village famous for producing some of the best Ganapati idols in the state, with its artisans in great demand during the festive season. This also led the State Bank of India (SBI), to launch the pilot of its Aadhaar based payment system from this village.

SBI Deputy Managing Director and Chief Information Officer Shree. Mrutyunjay Mahapatra inaugurated the pilot on 24th December 2016. While inaugurating the project he said that "Generally, technology is conceptualized,

designed and generated in large cities. So the common man -centric approach is not always factored in. Compared to 3G or 4G connections in Mumbai, Shirki only had basic internet connectivity. "We plan to operationalise the system with the lowest common denominator of bandwidth. It must function when the network robustness is not there. This is also to force an ecosystem on the rural masses," he added.

The Aadhaar Merchant Payment System (AMPS) - that employs technology developed by the Tata Consultancy Services and the National Payments

BE TRUTHFUL, BE FEARLESS

Corporation of India –is aimed helping people go fully cashless.

In this system, customers don't need to carry even their credit or debit cards or a cellphone to make a transaction. All they need their Aadhaar number and name of their bank.

The merchant would key in the details and take

the customer's thumbprint on an Android phone –based fingerprint scanner. The payment would be executed through the AMPS application, easily downloaded online. The entire process would take 30 seconds. After the money had been debit from their account, the customers would get an alert on their cellphone. ■

Source: Business Standard, Dated-25.12.2016

Article

RIGHT TO FREE SPEECH VS RIGHT TO REPUTATIONS

Article 19(1)(a) of the Constitution of India allows freedom of speech and expression to all citizens of the country subject to reasonable restriction imposed by the state. Without the freedom of speech the democracy will not prevail in the country, as the constitution of India was framed based on the principles of Liberty, Equality and Fraternity. Freedom of speech and expression shall mean the right to express one's conviction and opinion freely by word of mouth, writing, printing pictures or any other mode. When the freedom of speech is the basis of democracy, a democratic government attaches great importance to it as without freedom of speech democracy may not survive.

There have been several judgments on fundamental rights, such as freedom of speech and expression and their importance in the context of democracy. In the matter of *Romesh Thapper vs State of Madras*, AIR 1950 (SC) Patanjali Sastri CJ observed that 'Freedom of speech and of the Press lay at the foundation of all democratic organization, for without free political discussion no public education, so essential for the proper functioning of the process of popular government is possible. A freedom of such amplitude might invite risks of abuse'. Recently when some of the writers of one of the southern states criticized the functioning of the government, the authorities tried to strangle the critics by filing criminal defamation case against them who had to approach the Supreme Court for relief. While granting relief the court was critical of the state government for misusing the provisions of Indian Penal Code,

when the Indian constitution allows freedom of expression. The Supreme Court while disposing the case also advised the state government that in democracy leaders must face criticism and observed that the government has been using criminal defamation to stifle dissent and criticism.

However according to the court one cannot be oblivious to the fact that the right to freedom of speech and expression is a highly valued and cherished right but at the same time one cannot be unmindful to the fact that the constitution conceives a reasonable restrictions. Constitution provides that the state has a legitimate right to regulate the freedom of speech and expression and to ensure that no defamatory or libellous speeches are made. The right to free speech cannot be a license to defame others. There should be a balancing approach especially when we are living in a society.

It is the politicians and writers who are liberally using the freedom of expression by way of statements or writing mostly to receive media attention and carry their cadre along with them. It is their tendency to impose their ideas over others forgetting that there may be more intelligent people in the society especially when the literacy rate has improved. The theory of balancing rights dictates that along with the right to freedom of speech and expression those writers or politicians are duty bound to protect others based on the principles of co-existence without interfering their right to think and express.

When certain statements are misrepresented while coming through the media, often it is getting the colour of defamation. As such media should be extra careful while reporting any statement made by the writer or politician if such writing or speech is likely to ruin the reputation of others. Reputation is a cherished constituent of life, making it relevant and should be well protected. Those people who make statement for media coverage and improving the TRP should realize this. As such one has to limit its application that may create disorder or disturbance in the society leading to law and order situation.

The criminal defamation that exists in Indian Penal Code is not a restriction on free speech that can be characterized as disproportionate or taken as a revenge. It is cognizable only when there is *mens rea* attached to it, that there should be an intention to cause harm that are essential to convict a person under law.

Holding an opinion or expression through word,

deed or writing which are calculated to disturb the tranquility of the state and lead ignorant person to subvert the governments is treated as sedition. It is an offence under Section 124A of IPC. Under various judicial verdicts seditious speech and expression may be punishable if the speech is incitement to violence or public order.

However in *Kedarnath Sing vs State of Bihar* case in 1962 Supreme Court keeping in mind the reason for introduction of Section 124A of IPC and the history of sedition, held that Section 124A not *ultravires* the constitution. At the same time it is also clarified by the court that comments however strongly worded expressing disapprobation of action of the government without exciting those feeling which generates the inclination to cause public disorder by acts of violence is not sedition. Though reasonable restriction is attached to freedom of speech under the constitution it was liberally used during freedom struggle, by the British. ■

DEMOCRACY IN TEARS

People of the country value their democracy when it is the government of the people by the people for the people. People bestowed their faith in their elected representatives to take care of the plight of the common man.

India saw many parliamentarians in the past, both in the ruling as well as in the opposition, reputed for their oratory skills, maturity and constructive debate, who had taken the democracy in the right spirit. Parliament is the sanctum sanctorum of Indian democracy for its very nature and composition and it is incumbent upon every member of Parliament to maintain its dignity and decorum.

But of late the Parliament has lost its credibility when the political parties seldom took care to maintain its sanctity. Many precious hours have been lost due to rucks or pandemonium created

in the Parliament. The recently concluded winter session of the Parliament has been one of the least productive session with repeated disruption mainly on the issue of the demonetization of currency. The demonetization through a surgical strike had very badly hit many political parties that was reflected throughout the session. The Opposition was trying to denigrate the government for obvious reason, forgetting their responsibility to the nation and to the people of the country who have elected them.

Ever since the Parliamentary democracy was established in India there were trying times in the country, as various governments in the past could not implement their various policies and programmes due to the objection or pandemonium created by the opposition in the Parliament. The story of Indian politics had been a story of alliance in the recent past when many political parties with different ideologies came together as a marriage

of convenience; without any common ideology or programme. Hence it was difficult for the opposition parties to come together with a common strategy. The recent pandemonium created by the members inside the Parliament has surprised all the right thinking people across the country. According to them the Parliament is functioning at the whims and fancies of a few individual leaders, who are sinking to the level of ordinary people and have no principle to stand by with their conduct and functioning marked by opportunism. They fail to understand that the people who voted them to power is not to disrupt the Parliament. As such political class can hardly complain if the people are losing confidence in the institution of the parliament if it is not allowed to discharge its constitutional function. If they do not come up to the expectation of the voters it is possible that they will be unpredictably and unceremoniously removed. Unlike in the past the literacy level in India has improved considerably creating many intellectuals writers, thinkers, scientist with whom the political leaders are not a match.

Debate and discussions are *sine qua non* in a democracy. As such any provision of law needs to be debated elaborately and vigorously at the Parliament before making it in to a statute. Otherwise the democracy ceases to be government of the people, by the people, for the people. Opposition has the right to criticize the government but that has to be done appropriately through debate. Stalling the Parliament at the cost of ex chequer is a disservice to the people. It diminish the image of the Parliament especially when watched by other democracies in the world. They should also bear in mind that the entire drama played by the members in the houses of Parliament are being exposed through the electronic media.

Seeing the situation prevailing in the Parliament disrupting its valuable hours earlier, the President of India Shri. Pranab Mukherjee while addressing the members of the higher education institution

had reiterated some of the first principles of Parliamentary democracy, describing the role of three organs of the state viz Legislature, Executive and Judiciary. He had also outlined the responsibilities of parliamentarians and the consequences if they fail to discharge their duties. The absence of debate for which opposition parties are primarily responsible with their disruptive tactics is not going to improve the quality of legislation. If the parliamentary process is to regain its credibility it is necessary for both the government and the opposition members to make an effort and that Indians do not send their representatives to parliament to watch them disrupt it, he observed.

Again seeing the pandemonium and disruption in the recently concluded winter session of the Parliament the President advised the members for God's sake do your duties' thereby invoking the almighty to prevail good sense upon the members. The advise of the president should have been respected in letter and spirit.

Government on their part cannot afford disruption of Parliament that will inflict severe blow to the parliamentary democracy. As such the crisis managers of the government should have taken necessary effort to avert such crisis. Both sides should realize that the debate is the only democratic way of making the government accountable for its action and inaction.

India need to change its democratic process unlike other countries where a healthy covenants and tradition is prevailing to prevent the matter going out of control and wishes to hold on her democratic credentials. Parliamentarians must realize that the task of representing the opinions, interest and needs of the citizen is their paramount responsibility. Whereas the recent events in our temple of democracy shows that our parliamentarians have proved unworthy of the great responsibility bestowed on them. This is the political tragedy of our democracy. ■

[2016 (151) FLR 832]
(ALLAHABAD HIGH COURT –LUCKNOW BENCH)
SATYENDRA SINGH CHAUHAN and ANIL KUMAR, JJ.

Service Bench No. 1369 of 2010

July 27, 2016

Between

BRIJENDRA KUMAR AGARWAL

and

STATE OF U.P. Through THE PRIN. SECY., DEPTT. OF INSTITUTIONAL

Departmental Proceedings– Non-supply of copy of advice of Public Service Commission received by Government– Amounts to violation of principles of natural justice– Therefore, punishment order cannot be sustained– Impugned order set aside– Petition allowed– Direction issued to opposite parties to release all post retiral dues including revised pension to petitioner. [Paras 5 and 9]

JUDGMENT

SATYENDRA SINGH CHAUHAN and ANIL KUMAR, JJ.– Heard learned Counsel for the petitioner and learned Standing Counsel.

2. By means of this writ petition, the petitioner has challenged the order dated 23rd June, 2010, by which certain punishment has been awarded by making recovery of the amount to the tune of ₹ 1,81,000/- and also reduction of pension to the extent of 20% from the petitioner.

3. The petitioner was placed under suspension by means of the order dated 20th June, 1986 while working on the post of Sales Tax Officer in the department. A departmental proceeding was initiated against him. The Deputy Commissioner (Executive) Moradabad was appointed as an Enquiry Officer vide order dated 21.8.1986. A charge sheet was also served on the petitioner on 3.9.1986. The petitioner demanded certain documents by means of letter dated 20th September, 1986. A reminder letter was also given by the petitioner in this regard on 9.1.1987. The Enquiry Officer supplied the copies of the documents on 19th February, 1987, but, it is stated that the said documents were not relevant. Ultimately, the petitioner retired from service on 12th November, 1987. The State Government issued an order staying the disciplinary proceeding on account of pendency of a vigilance enquiry against him on 2nd April, 1988. However, the enquiry was restarted by lifting the said stay order.

The Joint Commissioner (Establishment) Jhansi, informed the petitioner vide order dated 30th September, 2002 that he has been authorized to hold enquiry in the matter and sought reply from him within a week. The petitioner demanded copy of the order dated 30th September, 2002 indicating that the enquiry had already been stayed by the State Government, but, he did not receive any reply from the Enquiry Officer. The petitioner requested the Principal Secretary to the Government of U.P. to get conducted the enquiry at Ghaziabad keeping in view of his ill health and old age by means of letter dated 21st April, 2004. On 11th January, 2005, a reminder was also given by the petitioner to the Enquiry Officer as well as to the Principal Secretary of the department, but, no reply was received from them. The Enquiry Officer proceeded with the enquiry *ex-parte* on 10th June, 2005. On 9th March, 2006, the State Government issued another order to continue the enquiry under Article 351-A of the Civil Service Regulations. A show cause notice was also issued to the petitioner along with the enquiry report on 7th April, 2006. The petitioner submitted reply to the show cause notice on 28th April, 2006. The Disciplinary Authority issued another notice to the petitioner on 12th April, 2007, by means of which he was informed that as to why the reduction of pension to the extent of 20% and recovery of ₹ 1,81,000/- should not be made from him. The petitioner submitted reply to the show cause notice dated 12th April, 2007. On 8th June, 2007, the State Government sought advice from the Public

NEVER BEND BEFORE THE INSOLENT MIGHT

Service Commission, Allahabad and the Public Service Commission, Allahabad, gave its advice to the State Government on 20th May, 2010 and thereafter, the impugned order of punishment has been passed.

4. Learned Counsel for the petitioner has submitted that while receiving the advice from the Public Service Commission, Allahabad by the State Government, its copy was never supplied to him, therefore, the impugned order is vitiated in the eyes of law. It also amounts to violation of principles or natural justice.

5. On the other hand, learned Standing Counsel has submitted that petitioner's punishment order has been passed in accordance with law and there was no delay in supply of the copy of advice of the Public Service Commission to the petitioner. He has also submitted that the enquiry was held in accordance with law.

6. We have gone through the record. From perusal of the record, we find that after initiation of disciplinary proceeding, an *ex-parte* enquiry was conducted against the petitioner. The opposite parties did not take into account the objections raised by the petitioner and ultimately a show cause notice was issued to the petitioner and the petitioner submitted reply to the said show cause notice. However, another notice was issued to him with regard to the proposed punishment. An advice was sought from the Public Service Commission, Allahabad and the copy of the advice was received by the State Government, but, the same was never supplied to the petitioner. The non supply of document amounts to violation of principles of natural justice.

7. In this regard, learned Counsel for the petitioner has relied upon a case *S.N. Narula v. Union of India and others* Relevant paragraphs from the case of *S.N. Narula* (Supra) are reproduced as under:

"5. This order was challenged by the Union

of India by way of writ petition before the High Court of Delhi and by the impugned judgment the High Court interfered with that order. The writ petition was partly allowed and it was directed that the matter be again considered by the Tribunal. Against that order the Appellant has come up in appeal by way of Special Leave Petition.

6. We heard the learned Counsel for the Appellant and the learned Counsel for the Respondent. It is submitted by the Counsel for the Appellant that the report of the Union Public Service Commission was not communicated to the Appellant before the final order was passed. Therefore, the Appellant was unable to make an effective representation before the disciplinary authority as regards the punishment imposed.

7. We find that the stand taken by the Central Administrative Tribunal was correct and the High Court was not justified in interfering with the order. Therefore, we set aside the judgment of the Division Bench of the High Court and direct that the disciplinary proceedings against the Appellant be finally disposed of in accordance with the direction given by the Tribunal in Paragraph 6 of the order. The Appellant may submit a representation within two weeks to the disciplinary authority and we make it clear that the matter shall be finally disposed of by the disciplinary authority within a period of 3 months thereafter."

8. He has also relied upon a decision of the Hon'ble Supreme Court in *Union of India and others v. S.K. Kapoor*. Relevant paragraphs of the said case are reproduced as under :

"8. There may be a case where the report of the Union Public Service Commission is not relied upon by the disciplinary authority and

in that case it is certainly not necessary to supply a copy of the same to the concerned employee. However, if it is relied upon, then a copy of the same must be supplied in advance to the concerned employee, otherwise, there will be violation of the principles of natural justice. This is also the view taken by this Court in the case of **S.N. Narula v. Union of India and others** Civil Appeal No. 642 of 2004 decided on 30th January, 2004.

9. It may be noted that the decision in **S.N. Narula's** case (supra) was prior to the decision in **T.V. Patel's** case (supra). It is well settled that if a subsequent Coordinate Bench of equal strength wants to take a different view, it can only refer the matter to a Larger Bench, otherwise the prior decision of a Coordinate Bench is binding on the subsequent Bench of equal strength. Since, the decision in **S.N. Narula's** case (supra) was not noticed in **T.V. Patel's** case (supra), the latter decision is a judgment per incuriam.

The decision in **S.N. Narula's** case (supra) was binding on the subsequent Bench of equal strength and hence, it could not take a contrary view, as is settled by a series of judgments of this Court."

9. We have considered the submissions of learned Counsel for the petitioner and also the law laid down by the Hon'ble Supreme Court in the cases cited by the learned Counsel for the petitioner and find that opposite parties have not supplied the copy of the advice or the Public Service Commission, which is in violation of principles of natural justice. Therefore, we are of the view that the punishment order on account of aforesaid fault cannot sustain. The petitioner has already attained the age of 82 years. In these circumstances, we allow the writ petition and set the impugned order of punishment directing the opposite parties to release all the post retinal dues including the revised pension to the petitioner. ■

Petition Allowed.

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