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UNION IS STRENGTH

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Editorial

NAVIGATING THE STORM MANAGING WORK PRESSURE, CULTIVATING CULTURE

In our shared journey at the State Bank of India and within the All India State Bank Officers' Federation, we encounter various leadership styles that significantly influence our work experiences. Our collective aspiration is to cultivate a workplace culture characterized by respect, honesty, and continuous growth. However, amid our endeavours, we encounter a notable challenge: instances where certain individuals resort to applying undue pressure, employing harsh language, or making decisions that adversely affect the careers of others.

As officers within our organization, irrespective of our specific roles, we inherently bear the responsibility of leadership. This responsibility entails guiding and uplifting our colleagues rather than resorting to tactics that instil fear or undermine morale. Unfortunately, there are occasions when the prevalence of excessive pressure and negative conduct disrupts the harmony within our teams and erodes the foundation of trust that is vital for our collective success. Such conduct not only violates the principles we hold dear but also undermines team cohesion, erodes trust, and impedes our collective ability to function as a cohesive unit, or what we proudly refer to as "Team SBI."

The roots of these detrimental behaviours often run deep, influenced by a variety of factors such as personal stressors, feelings of

insecurity, or a mistaken belief that dominance equates to effectiveness in leadership. It falls upon us to acknowledge and confront these underlying issues with empathy and a sincere dedication to fostering constructive dialogue. Rather than placing blame, our collective focus should be on identifying solutions that nourish a healthier and more supportive work environment. Achieving this goal requires a concerted effort from top management, characterized by a focused approach, unwavering honesty, and strong determination. Both the Federations must also actively collaborate as partners in this journey of progress and transformation. Only through such collaborative efforts can we effectively address the root causes of negative behaviours and cultivate a workplace culture that prioritizes respect, integrity, and collective growth.

The cultivation of a truly supportive workplace necessitates the active participation of each member of our community. When confronted with instances of behaviour that deviate from our shared values, it is imperative that we rally together and bring it immediately to the notice of local representatives, who are tasked with addressing such issues at all appropriate levels as required. By nourishing a culture of mutual respect and understanding, we can collectively steer our organization toward greater

NATION FIRST, ORGANISATION NEXT, INDIVIDUAL LAST

cohesiveness and success.

In our pursuit of a supportive environment, it is imperative that we prioritize quality over quantity. Rather than spreading ourselves thin across a multitude of tasks, we should focus our efforts on those endeavours that hold the greatest potential for impact. Regular reflection and refinement of our priorities enable us to maintain alignment with the overarching objectives of our organization, ensuring that our actions are purposeful, and results-driven.

Let's take a moment to reflect on life's analogy as a closet filled with various garments. Just as we declutter our physical spaces to establish order and harmony, we must also strive to eliminate unnecessary distractions that hinder our collective progress. Recognizing the importance of distinguishing between what is truly essential and what is merely superfluous will enable us to direct our energies towards activities that significantly contribute to our organizational goals.

In the hustle and bustle of our daily lives, it is all too easy to lose sight of the bigger picture. Yet, it is precisely during these moments of chaos that we must make a conscious effort to step back and reassess our priorities. Just as a painter steps back from the canvas to gain perspective, so we distance ourselves from the minutiae of our daily routines to gain clarity and focus.

In our present circumstances, our daily routine mirrors that of a juggler. To illustrate, envision as a juggler, with each task symbolizing a ball we're striving to keep in the air. Initially, when we have only a few balls to juggle, we can easily decide which one to catch and throw next. However, as more balls are added, we start to lose control. We're no longer making conscious decisions about what we're doing; instead, we're simply reacting to the urgency of each task. It feels like the balls are juggling us, rather than the other way around.

This overwhelming feeling of being swamped with

tasks is familiar to many of us. We become so consumed with trying to keep up that we lose sight of our own priorities and goals. Our tasks begin to dictate our lives, leaving us feeling powerless.

However, it doesn't have to remain this way. We possess the power to regain control by prioritizing what truly matters. By intentionally focusing on the most crucial tasks and relinquishing the rest, we can reclaim ownership of our lives. This empowers us to make decisions aligned with our values and aspirations. Therefore, we must adhere to the role assigned to us by the Bank and abide by laid-down instructions. By taking charge of our tasks and concentrating on what's essential, we can lead a life guided by our own choices and priorities, rather than external pressures or the relentless pursuit of being number one at any cost. Embracing this concept can significantly enhance our overall well-being and satisfaction.

Establishing clear boundaries is another crucial component of maintaining a healthy work-life balance. By defining clear parameters for professional obligations and personal well-being, we can prevent burnout and ensure that our energies are directed towards activities that align with our values and aspirations. There is a pressing necessity to master the skill of saying "No" graciously. Effectively saying "No" entails clear and assertive communication, coupled with expressing gratitude for the opportunity or request. If warranted, offering a concise explanation focused on why the request doesn't align with our current priorities or workload can be beneficial. Through the establishment of boundaries and the proactive management of expectations, we can steer clear of overcommitment and burnout while nurturing mutual respect and understanding.

Additionally, cultivating emotional intelligence in our interactions is essential. Emotional attachments and biases can cloud our judgment, hindering our ability to make rational decisions. By nurturing a culture of empathy and understanding, we create an environment where

SUCCESS AWAITS AT THE DOOR WHERE DILIGENCE IS

individuals feel empowered to express themselves openly and honestly without fear of judgment or reprisal. Considering that we all assume different roles in various circumstances, taking a moment to envision ourselves in the position of our subordinates or superiors can sharpen our decision-making, making it more focused and rational. This practice paves the way for a supportive environment conducive to collective growth and well-being.

Furthermore, the act of saying "No" doesn't have to be confrontational or negative; rather, it should be reframed as a positive choice to prioritize what truly matters. By respectfully declining non-essential tasks, we create space for meaningful contributions and uphold our ability to deliver high-quality results aligned with our goals and responsibilities. Mastering the art of saying "No" empowers us to take control of our time and energy, enabling us to focus on tasks that align with our values and priorities. Through assertive and respectful communication, we navigate work pressure with confidence and integrity, contributing to a supportive and productive workplace environment for ourselves and others. Additionally, the willingness of senior officers to accept "No" from juniors plays a pivotal role, reflecting both their level of ego

and their sense of responsibility in leadership roles.

Dealing with individuals in the organization who undermine the fundamental fabric of our collective ethos with their toxic behaviour requires a firm and proactive approach. It is imperative that such behaviour is addressed swiftly and decisively to uphold the integrity and values of our organization. This may involve implementing disciplinary measures, providing counseling or coaching, and if necessary, taking appropriate corrective actions, regardless of the individual's position within the organization. By holding all individuals equally accountable for their actions and upholding a zero-tolerance policy towards toxic behaviour, we can safeguard the well-being of our workforce and preserve the positive culture and reputation of our organization.

Let us reaffirm our commitment to fostering a supportive workplace environment where every individual feels valued, respected, and empowered to contribute their best. By embracing the principles of empathy, collaboration, and continuous improvement, we can navigate the challenges of work pressure with resilience and fortitude, emerging stronger and more united as a team. ■

**REPRODUCTION OF UFBU CIRCULAR NO: UFBU/2024/1 DATED 14-02-2024
BIPARTITE TALKS WITH IBA
NEGOTIATING COMMITTEE MEETING – ROUND 7
DISCUSSIONS WITH IBA ON 13-2-2024**

Text of AIBOC Circular No. 2024/03, dated 14.02.2024.

Unions and members are aware that on 7th December, 2023, the MoU was signed between IBA and our Unions by which wage revision was agreed at 17% hike over the wage bill as on 31-3-2022 i.e. a total of ₹ 12,449 crores.

Thereafter few meetings of the Working Group on issues like Leave rules, LFC, Special Pay posts for workmen, Disciplinary action rules for employees and officers, etc. were held. On the 9th January, 2024, a meeting of the Core Committee was held with workmen unions wherein the reports of the Working Groups were submitted.

Similarly, a meeting of the Core Committee was held with officers' associations on 11th January, 2024.

On the 12th January, 2024, a meeting of the Negotiating Committee was held and the cost sheet with allocation to various wage components was finalized. We have been pursuing the various issues connected therein so as to finalise the full-scale Settlement/Joint Note. IBA was also engaged in drafting the various clauses of the Settlement covering the various improvements agreed upon during the course of the discussions. Yesterday on the 13th February, 2024, discussions were held with Workmen Unions in the morning session and with Officers Associations in the post

ARISE, AWAKE, STOP NOT TILL THE GOAL IS REACHED

lunch session. The draft of the Settlement/Joint Note was discussed and mostly finalized. The formula for ex gratia to pensioners is being fine-tuned and will be finalized shortly. Few more issues are there to be sorted out. We urged upon the IBA to complete the process at the earliest so that the full-scale Settlement/Joint Note could be signed. We also urged upon the IBA to expedite the clearance of 5 Day Banking proposal by the Government.

In the UFBU meeting held during the lunch time, it was decided that all the remaining issues including the clearance of 5 days banking are to be expedited so that the Settlement/Joint Note can be signed at the earliest and without any hassle.

Further developments will be informed to unions and members in due course.■

FIVE – DAY BANKING A NECESSITY

Dr. Suman Kumar Kasturi.. *Air veteran-turned-Independent ... Researcher*

Beyond doubt, banks herald any nation's growth. In Indian settings, banking is the foundation for the overall economic development of the country. The banking system has undergone major changes over the years with the advancement in technology — of course, it's a need of the hour too. If we deeply analyse the development of the banking sector, mainly it can be divided into three phases — the early phase which lasted till 1969, the nationalisation phase which continued from 1969 to 1991 and the liberalisation phase which began in 1991 and continues to date.

Each phase of the aforesaid banking development has equally imposed a few challenges to the overall functionality of the banking sector ie, from adopting new technologies to implementation of various policies, both external and internal.

STRESSFUL JOB

The banking industry, as never before, has been facing a wide range of challenges — from regulatory changes to increasing competition from various digital players. In a nutshell, the banking industry has been facing many challenges such as economic uncertainty, regulatory changes, cybersecurity risks, increasing competition, fintech disruption, customer expectations, manpower shortage and talent management. The ultimate solution banks have to address these challenges is to invest in technology, partner with fintech, and explore new business models.

On the other hand, banks usually follow a mechanism called bank stress test, a method to analyse and determine whether a bank has enough capital to withstand an economic or financial crisis. Nonetheless, in the opinion of many bankers, there should be a similar test which might be termed Bankers Stress Test, to analyse and determine whether a banker has enough strength to withstand the stress.

Indeed, banking has become a more stressful job than any other job in the market. A validation of this argument can be extracted from an article titled,

"When No One Wants a Promotion: The Appraisal System in Public Sector Banks Needs to Improve."

The author, Shyamal Majumdar, clearly explains the present-day situation of the banks due to which no one would like to opt for a promotion.

EMPLOYEE FATIGUE

Even though banking hours on paper are limited to some eight hours, bankers typically work nearly 12 hours a day — a fact that is not known to most of the general public. The extended hours of working, for sure, shatter the work-life balance, which harms the overall functionality of the individual. Furthermore, bankers commute to their workplaces on a day-to-day basis. So, the travel time adds to the stress.

Banks continue to meet the needs of their customers, but it should not be at the cost of every banker's health



Customarily, a harmful work-life balance occurs when work becomes irresistible and takes precedence over personal life, leading to negative magnitudes for an individual's well-being. According to most bankers, they have been experiencing negative consequences due to constant overwork, neglected personal life, burnout, lack of self-care and strained relationships.

There's a saying, ***"Work expands to fill the time allotted,"*** meaning work spills over into personal time, if not restrained — leading towards employee fatigue. To overcome high fatigue and an unhealthy work-life balance, bankers need a long break ie, an interruption in continuity, a pause in work — for it allows them to pause and rest so that they can resume whatever they have been doing with new energy. But then again, unfortunately, breaks are often associated with guilt, and this is because while on a break, an individual is often tranquil and ostensibly doing nothing, and there is no means to prove that this 'doing nothing' will help an individual do, feel and perform better in the impending time.

VALID DEMAND

The aforementioned discussion is precisely suitable for the five-day banking demand of bankers. In a recent development, ever since the news started making the rounds about the demand for five-day banking of public sector banks, there have been various opinions on this.

Now, the million-dollar question which arises is — whether or not five-day banking is a necessity. Certainly, the demand is not the bankers' culpability, but it is their legitimate demand to have some quality time to spend with their family members, to address

the geriatric needs of their parents and elders, and many other things which warrant just time and nothing else!

Yes, changing times demand changes in work culture too. It's time to concede how imperative breaks are for our mental and physical health. Breaks are very significant, because continuously working without taking proper rest harms not just productivity but also mental and physical health and thus an employee's overall well-being.

It's a wonder why some people are sceptical about this valid demand of bankers. Many organisations have adopted the five-day working culture and have proven to be fruitful with more productivity as the outcome.

Of the many factors that affect productivity, taking care of one's physical and mental health is a big part of it. Correspondingly, the Fatigue Risk Management System, which is a comprehensive approach that is based on applying scientific evidence to manage employees' fatigue, evidently supports the same.

In sum, bankers handle heavy mental pressure from all ends to execute their roles, even during emergencies such as the Covid-19 lockdown period. By staying agile and adapting to changing market conditions, banks have remained competitive and continue to meet the needs of their customers. Nonetheless, it should not be at the cost of every banker's high-stress levels. At this juncture of an alarming moment, five-day banking, if implemented, may prove to be a blessing.■

IT IS TIME FOR A FULL-SCALE OVERHAUL OF THE INSOLVENCY AND BANKRUPTCY CODE.

During the resolution plan approval, only about 15% is paid by the purchaser and the repayment takes years without any further interest collected by the banks, according to the financial stability report released by banking regulator Reserve Bank of India on December 28, 2023

The Insolvency and Bankruptcy Code (IBC) came into effect in 2016 with the following objectives:

Maximise the value of debtor's assets; promote and encourage entrepreneurship; ensure timely and effective resolution of IBC cases; balance

the interests of all stakeholders, including creditors, debtors, and staff; facilitate the promotion of a competitive market and economy; and provide for a framework to deal with cross-border insolvency cases.

A recent settlement by the National Company Law Tribunal (NCLT), Mumbai Branch on December 19, 2023 had approved a resolution plan in respect of Reliance Communications Infrastructure Ltd. (RCIL), a wholly-owned subsidiary of Reliance Communications (RCom) owned by Anil Ambani. Against the claims made by the debtors totaling

₹49,668 crore, the NCLT admitted only ₹47,251 crore and the settlement was ₹455.92 crore, a mere 0.92% of the debt. Interestingly the settlement will be done by Reliance Projects & Property Management Services Ltd. owned by Anil's older brother Mukesh Ambani, set to take over its assets. It has taken four years to complete the Resolution Plan (RP) as against the stipulated maximum of 330 days.

WATCH | Is the latest IBBI data a turning point in India's insolvency and bankruptcy journey?

The Financial Creditors (FCs) should ideally get principal and interest. In the case of Essar Power MP Ltd. that was taken over by Adani Power, the amount realised was 12.37%.

A new term has entered Indian bankers' dictionary - haircuts - that is, writing off loans and accrued interest on the loan. The illustration below gives a glimpse of the so-called haircuts, which is actually a part of the loss to FCs.

DEEP HAIRCUTS

These are only a few examples. In the case of Videocon, taken over by the Vedanta Group, only 5% of the loan outstanding on the date of declaration had been recovered by the banks. Reliance Infratel had huge assets, which were taken over by the elder Ambani for a pittance. In the Siva Industries case, C. Sivasankaran has 9 fraud cases against him, including the IDBI fraud, but his father was allowed to take over the company paying just 7% of the loan.

Do these not amount to loot? It is depositors' money that is given as loan, while deposit interest rates have gone down to help defaulters.

The Financial Stability Report (FSR) released by the Reserve Bank of India (RBI) on December 28, 2023 summarises the Corporate Insolvency Process (CIRP): "Since the inception of the IBC, a total of 2,808 Corporate Debtors (CDs) have been rescued (808 through RPs, 1,053 through appeal and review or settlement, 947 through withdrawals) and 2,249 CDs have been referred for liquidation till September 2023. The total admitted claims till September 23 are 7,058. As many as 2,001 are pending of which 36 (out of 37) for seven years, 502 for six years. During the resolution plan approval, only about 15% is paid by the purchaser and the repayment takes years without any further interest collected by the banks."

LITTLE REALISABLE VALUE

The report also mentions realisable value to the creditors as 16.9% in 2020-21, 22.4% in 2021-22 and 37.1% in 2022-23. One should know the admitted claims are less than the dues. While banks collect up to-date interest on loans to farmers, students, MSMEs and on housing, including penalty interest for delays, corporates are treated differently.

But the RBI says the creditors realise 168.5% of the liquidation value and 86.3% of the fair value. The reality is that banks or FCs are recovering an average of just 10-15% in NCLT-settled cases of large corporates.

As per the FSR, out of 597 liquidations, against the claim of ₹1,32,888 crore, the amount realised was ₹5,251 crore or 3% of the claims admitted.

The FSR of April 2023 says 'as of March 2023, there were 25,107 applications for CIRPs of corporate debts worth ₹8.81 lakh crore, disposed of before admission to the insolvency process.' Why? How were they disposed of? Was there any recovery? If so, how much? The RBI report does not give any details on this, which is astonishing.

According to the 32nd report of the Parliamentary Standing Committee on Finance, submitted to Parliament on August 3, 2021, "The Committee found that the low recovery rates with haircuts as much as 95% and the delay in resolution process with more than 71% cases pending (for) more than 180 days clearly points towards a deviation from the original objective of the code intended by the Parliament."

"The Committee found that there are numerous issues with regard to Resolution Professionals (RPs) for which two regulators IPA and IBBI have taken disciplinary action on 123 Insolvency Professionals (IPs) out of 203 inspections conducted till date."

So, 60% of the IPs inspected were found to be indulging in malpractices. ***"The Committee's view, keeping in mind the experience gathered so far, there is an urgent need to have a professional code of conduct for the Committee of Creditors (COCs)."***

The Committee had also recommended fixing a

BE TRUTHFUL, BE FEARLESS

ceiling on haircuts. These have not been implemented.

'80-90% HAIRCUT'

Harsh Goenka, Chairman, RPG Enterprise, stated, "Promoters slash away on the side, take the company to cleaners, get an 80% to 90% haircut from bankers/NCLT. That's the new game in town". He had tweeted this to the PM.

After the resolutions, the borrowers continue to be wealthy and so are the IPs, the lenders are absolved from liability but the banks suffer.

Only companies are declared insolvent and not the owners. Eventually, the depositors are the losers. As the original objectives have not been fulfilled, a full review of IBC and NCLTs is urgently needed.

The RBI must also implement its own earlier decision to have a maximum ceiling of credit to a single corporate house at ₹10,000 crore, which will reduce the burden of banks during write-offs. ■

(Thomas Franco is former General Secretary, All India Bank Officers Confederation, and Deputy Chairman, Global Labour University.)

SBI RESEARCH UNIT DEBUNKS K-SHAPED ECONOMIC RECOVERY THEORY; SAYS INCOME INEQUALITY IS DECLINING

Income inequality in India has declined, with more than a third of taxpayers moving to higher income tax buckets, while top taxpayers' contributions declining, the Economic Research Department of SBI said in a report, rebutting talks of K-shaped post-pandemic recovery.

In a K-shaped recovery, some parts of the economy may experience strong growth while others continue to decline. Some economists, including former RBI governor Raghuram Rajan, have often referred to India's post-pandemic economic growth as K-shaped.

SBI research paper said the K-shaped recovery seems "at best flawed, prejudiced, ill-concocted and fanning interests of select quarters to whom India's remarkable ascendance, signalling more the renaissance of the new global south, is quite unpalatable".

"Income inequality captured through the Gini coefficient (one of the most widely used measures of income inequality) of taxable income has declined significantly from 0.472 to 0.402 during FY14-FY22," it said.

While 36.3 per cent of taxpayers have moved from lower income to higher income tax bucket, resulting in 21.3 per cent additional income, the top 2.5 per cent of taxpayer's contribution in income has declined from 2.81 per cent to 2.28 per cent during FY14-FY21 (April 2013-March 2014 fiscal year to April 2020-March 2021 fiscal).

It went on to state that 19.5 per cent of small firms have transitioned into larger firms through MSME

value chain integration and consumption of the bottom 90 per cent of the population has increased by ₹ 8.2 lakh crore post-pandemic.

With the rise of income in the rural economy, people are substituting two-wheelers for four-wheelers.

As many as 15 per cent of taxpayers in India are women taxpayers, it said, adding two crore family members are consuming food through Zomato from semi-urban areas.

The report for the first time in the Indian context used publicly available income tax data to measure the estimates of inequality.

According to recent data, the income-tax returns (ITRs) filed by individual taxpayers earning between ₹ 5 lakh and ₹10 lakh, climbed by 295 per cent in the assessment years (AY) A 201314 and AY 202122, showing a positive trend of migration to a higher range of gross total income.

The number of ITRs filed by people earning between Rs 10 lakh and ₹ 25 lakh has increased by 291 per cent while the total number of persons filing income tax increased to 7.4 crore in AY23 from 7 crore in AY22. For AY24, 8.2 crore ITRs have been filed by December 31, 2023.

The Gini Coefficient is one of the most widely used measures of income inequality. The Gini coefficient estimated using ITR data of taxable income of individuals shows that individual

income inequality has decreased from AY15 (FY14) to AY23 (FY22) from 0.472 to 0.402. Further, based on past trends, SBI projects that the Gini coefficient will further decrease to 0.402 in AY23.

According to income tax data, 36.3 per cent of individual ITR filers belonging to an income group of less than ₹ 3.5 lakhs in AY15 (FY14) have left the lowest income group and shifted upwards. 15.3 per cent have shifted each in the income group of ₹ 3.5 lakhs to 5 lakhs, and ₹ 5 lakhs to 10 lakhs, 4.2 per cent people shifted in the income group of ₹ 10 lakhs to ₹ 20 lakhs and the rest further upwards.

It said 21.1 per cent of the gross income of the lowest income group of lower than ₹ 4 lakhs has shifted upwards, with 6.6 per cent gross income shifted towards ₹ 4 lakhs to ₹ 5 lakhs group, 7.1 per cent towards ₹ 5 lakhs to ₹ 10 lakhs group, 2.9 per cent towards ₹ 20 lakhs to ₹ 50 lakhs

group, and 0.8 per cent in ₹ 50 lakhs to ₹ 1 crore group.

The income disparity of people earning less than ₹ 3.5 lakh has declined from 31.8 per cent to 15.8 per cent during FY14-21, signifying that the share of this income group in the total income in comparison to their population has increased by 16 per cent, the report said.

On the share of top taxpayers in income, the report said that in FY14, the combined income of 23 individuals with income of more than ₹ 100 crore was 1.64 per cent of the total income of FY14. Even though the number of such individuals has increased to 136 in FY21, the share of their combined income in FY21 has fallen to 0.77 per cent.

According to the report, post-pandemic, households are reconfiguring their savings towards physical assets, including real estate.■

EXPLAINER: WHETHER BANK EMPLOYEES ARE PUBLIC SERVANT?

Article by Mr Rishad Murtaza..Advocate, Supreme Court of India

The present article delves into an ambiguity in law regarding the status of bank employees. There is a contradiction in the definition of a public servant which finds place into statutes dealing with penal law. Supreme Court of India in a judgment held that employees of a bank are public servants for the purpose of

The Prevention of Corruption Act, 1988 But they are not public servants as far as Indian Penal Code is concerned. In order to take COGNIZANCE there has to be a valid sanction accorded by the competent authority.

Section 21 of the Indian Penal Code defines a public servant. It reads as follows:

The words public servant denote a person falling under any of the descriptions hereinafter following, namely:-

first-

second-every commissioned officer in the military, [naval or air] forces of India

third-every judge including any person empowered by law to discharge, whether by himself or as a

member of any body of persons, any adjudicatory functions]

fourth-every officer of a Court of Justice[including a liquidator, receiver or commissioner] whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the court, and every person especially authorized by a Court of Justice to perform any of such duties;

fifth -every juryman, assessor, or member of a panchayat assisting a Court of Justice or servant;

sixth-every arbitrator or other person to whom any cause or matter has been referred for or report by any Court of Justice, or by any other competent public authority

seventh-every person who holds any office by virtue of which he is empowered to place or keep any person in confinement

eighth - every officer of [the government] whose duty

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it is, as such officer, to prevent offenses, to give information of offenses, to bring offenders to justice, or to protect the public health, safety or convenience

ninth-every officer whose duty it is as such officer, to take, receive, keep or expend any property on behalf of [the government], or to make any survey, assessment or contract on behalf of [the government], or to execute any revenue process, or to investigate, or to report, on any matter affecting the pecuniary interests of [the government], auto make, authenticate or keep any document relating to the pecuniary interests of [the government], or to prevent the infraction of any law for the protection of the pecuniary interests of [the government]

tenth-every officer whose duty it is, as such officer, to take, receive, keep or expend any property, to make any survey or assessment or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district;

eleventh -every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral rule or to conduct an election or part of an election.

twelfth- every person-

1. in the service or pay of the government or remunerated by fees or Commission for the performance of any public duty by the government
2. in the service or pay of a local authority, a corporation established by or under central, provincial or state act or a government company as defined in section 617 of the Companies Act, 1956.

In the year 1988 a new legislation namely the prevention of corruption act, 1988 was enacted. In Section 2 (c) public servant is defined as follows

1. any person in the service or pay of the government or remunerated by the government by fees or Commission for the performance of any public duty;
2. any person in the service or pay of a local authority;

3. any person in the service or pay of a corporation established by or under a central, provincial or state act, or an authority or a body owned or controlled or aided by the government order government company as defined in section 617 of the Companies Act, 1956;
4. any judge, including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions;
5. any person authorized by a Court of Justice to perform any duty, in connection with the administration of justice, including a liquidator, receiver or commissioner appointed by such court ;
6. Any arbitrator or other person to whom any cause or matter has been referred for decision or by a competent public authority;
7. Any person who holds an office by virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll auto conduct an election or part of an election;
8. any person who holds an office by virtue of which he is authorized or required to perform any public duty;
9. any person who is the president, secretary or other office bearer offer registered cooperative society engaged in agriculture, industry, Trade or banking, receiving or having received any financial aid from the central government or a state government Or from any corporation established by or under a central, provincial order state act, or any authority or body owned or controlled or aided by the government or a government company as defined in section 617 of the Companies Act, 1956
10. any person who is the chairman, member or employee of any Service Commission or board, by whatever name called, or a member of any selection committee appointed by such Commission or board for the conduct of any examination or making any selection on behalf of such Commission or board;

11. any person who is a vice chancellor or member of any governing body, professor, reader, lecturer are there any other teacher or employee, by whatever designation called, of any university and any person whose services have been availed of by a university or any other public authority in connection with holding or conducting examinations;
12. any person who is an office bearer or an employee of an educational, scientific, social, cultural or other institution, in whatever manner established, receiving or having received any financial assistance from the central government or any state government, or local or other public authority.

Banking Regulation Act 1949 in section 46A postulates that a chairman, managing director, director, auditor, liquidator, manager and any other employee of a banking company is deemed to be a public servant for the purposes of chapter IX of the Indian Penal Code for the purposes of clarification it is relevant to point out that sections 161 to 165A contained in chapter IX of the Indian Penal Code have been repealed by section 31 of the prevention of corruption act 1947 and these offenses are engrafted in section 7, 8, nine, 10, 11 and 12 of the prevention of corruption act 1988. It is also relevant to point out that section 167, 168, 169, 170 and 171 continue to remain in chapter IX of the Indian Penal Code even after enactment of the prevention of corruption act 1988.

Supreme Court of India in the case of central Bureau of Investigation, bank securities and fraud cell versus Ramesh Gelli and others criminal appeal number 1077- 1081 of 2013 held that employees of a bank are public servants for the purposes of prevention of corruption act 1988.

"In the light of law laid down by this court as above, it is clear that object of enactment of P.C Act, 1988 was to make the anti corruption law more effective and widen its coverage. In view of definition of public servant in section 46 A of banking regulation act 1949 as amended the managing director and executive director of a banking company operating under license issued by Reserve Bank of India, were already public servant, as such cannot be excluded from the definition of public servant. We are of the view that over the general definition of public servant given in section 21 IPC, it is the definition

of public servant given in the P.C. Act 1988 read with section 46 A of banking regulation act which holds the field for the purposes of offenses under the said act for banking business what cannot be forgotten is section 46A of banking regulation act 1949 and mainly for the reason that section 161 to 165A of IPC have been repealed by the P.C Act 1988 relevance of section 46A of banking regulation act 1949 is not lost"

in paragraph 26 and 27 of the judgment Supreme Court of India held as follows;

" however, we may make it clear that in the present case the accused cannot be said to be public servant within the meaning of section 21 IPC as such offense under section 409 IPC may not get attracted, we leave it open for the trial court to take cognizance of further offenses punishable under Indian Penal Code, if the same get attracted.

Therefore, having considered the submissions made before us, and after going through the papers on record, and further keeping in mind that statement of objects and reasons of the bill relating to the prevention of corruption act, 1988 read with section 46A of banking regulation act, 1949, we are of the opinion that the courts below have erred in law in holding that accused Ramesh Gelli and Sridhar Subasri, who were chairman / managing director and executive director of GTB respectively, were not public servants for the purposes of prevention of corruption act 1988."

This judgment is followed by a recent judgment delivered in criminal appeal number 2339 of 2023A. Sreenivasa Reddy VERSUS Rakesh sharma and others. In this case Supreme Court of India framed the following questions of law;

1. The appellant, serving in his capacity as an assistant general manager, State Bank of India, overseas bank, is removable from his office save by or with the sanction of the government so as to make section 197 of the CRPC applicable ?
2. Is it permissible for the special court CBI to proceed against the appellant for the offenses punishable under the IPC despite the fact that sanction under section 19 of the PC act, 1988 to prosecute the appellant for the offenses under the PC act 1988 is not on record as the same came to be declined?

NEVER BEND BEFORE THE INSOLENT MIGHT

Supreme Court of India answered the first question as follows :

"it is pertinent to note that the banking sector being governed by the Reserve Bank of India and considered as a limb of the state under article 12 of the constitution of India and also by virtue of section 46 A of the banking regulation act, 1949, the appellant here in is deemed to be a public servant for the purpose of provisions under the PC act 1988. However, the same cannot be extended to the IPC. As yuming for a moment that the appellant here in should be considered as a public servant for the IPC sanction also, the protection available under section 197 of the CRPC is not available to the appellant herein since, the conditions in built under section 197 of the CRPC are not fulfilled"

as far as the second question is concerned Supreme Court of India answered the same as follows;

"Thus, although in the present case, the appellant has been discharged from the offenses punishable under the PC act 1988 yet for the IPC offenses he can be proceeded further in accordance with law.

If the offenses on the charge of which, the public servant is expected to be put on trial include the offenses other than those punishable under the PC act 1988 that is to say under the general law (i.e IPC) the court is bound to examine, at the time of cognizance and also, if necessary, at subsequent stages (as the case progresses) as to whether there is a necessity of sanction under section 197 of the CRPC. There is a material difference between the statutory requirements of section 19 of the PC act 1988 on one hand and section 197 of the CRPC on the other. In the prosecution for the offences exclusively under the PC act 1988 sanction is mandatory qua the public servant that necessity (or otherwise) of sanction under section 197 of the CRPC depends on the factual aspect. The test in the latter case is of the Nexus between the act of Commission or omission and the official duty of the public servant. To commit an offense punishable under law can never be a part of the official duty of a public servant. It is too simplistic an approach to adopt and to reject the necessity of sanction and the section 197 of the CRPC on such reasoning. The "safe and sure" Test, is to ascertain if the omission or neglect to commit the act complained of would have made the public servant answerable for the

charge of dereliction of his official duty. He may have acted in excess of his duty but if there is a reasonable connection between the impugned act and the performance of the official duty the protective umbrella of section 197 of the CRPC cannot be denied so long as the discharge of official duty is not used as a cloak for illicit acts."

Before concluding Supreme Court of India made certain extremely important observations viz

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" the object behind the enactment of section 19 of the PC act 1988 is to protect the public servants from frivolous prosecutions. Take a case wherein, the sanctioning authority at the time of declining to accord sanction under section 19 of the PC act 1988 observes that sanction is being declined because the prosecution against the accused could be termed as frivolous or vexatious. Then, in such circumstances what would be its effect on the trial so far as the IPC offenses are concerned? Could it be said that the prosecution for the offences under the PC act, 1988 is frivolous but the same would not be for the offences under the IPC?

What we have highlighted maybe examined by this court in some other litigation at an appropriate time"

To sum up, after studying and analyzing the various facets of law as enshrined in prevention of corruption act, banking regulation act , CRPC and IPC and various judgments of constitutional courts the law as it stands today for the employees of bank is as follows:

- employees of a bank are public servants only as far as prevention of corruption act is concerned.
- Since they are public servants hence a sanction is required as it is mandatory under section 19 of the prevention of corruption act.
- Employees of a bank are not public servant as far as IPC is concerned.
- Section 197 CRPC would not be attractive because of what Supreme Court of India has held "Protection available under section 197 of the CRPC is not available to the appellant herein since, the conditions in built under section 197 of the CRPC are not fulfilled"
- last but not the least Supreme Court of India has opened a window in the case of A Sreenivasa Reddy by holding that if sanction is refused under section 19 of the prevention of corruption act 1988 as the sanctioning authority came to a conclusion that prosecution is frivolous or vexatious then what would be its effect on the trial as far as IPC offenses are concerned is an issue which may be examined by the Supreme Court of India in some future litigation at an appropriate time. ■

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