

A misty forest scene with a wooden structure partially visible through the trees, bathed in a golden light. The scene is atmospheric and serene, with sunlight filtering through the mist and trees. The text is overlaid in the lower half of the image.

**OFFICERS' CAUSE
SEPTEMBER - 2017**



SINISTER DESIGN

The one day token strike on 22nd August, 2017 called by the United Forum of Bank Unions, pulling down the shutters of the entire banking industry, in which more than 12 lac employees and officers participated, was a grand success. The strike was to convey their strong resentment over the initiatives of the Government of India against the so called merger and acquisition of banks under the pretext of making the Indian Banks stronger globally etc. Unfortunately, the Government failed to take note of strong sentiments expressed by the entire banking industry. Instead, they have been going ahead with their own plan of action. The issue of NPA's, the capital requirement of the Banks, the series of actions in the name of recovery of larger scale NPA's etc., are all highlighted with the sole objective of justifying their attempt of merger of Public Sector banks and also to hand over the same to private sector, forgetting that by merging a weak bank with a strong bank will create a bigger bank which will be weaker than what it was earlier.

With this object Government of India also issued a notification on 30th August, 2017 exempting the banks from the provisions of the Competition

Commission of India, in regard to the all cases of reconstitution, transfer of the whole or any part thereof and amalgamation of nationalized banks, under the Banking Companies (Acquisition and Transfer of Undertakings) Act etc., for a period of 10 years.

Appearing to be an innocuous action on the part of the Government, it has a deeper ramification on the right of the individual shareholders. The Competition Commission of India Act enables the investors to question the right of the companies to go in for acquisition, merger etc., overlooking the interest of the individual investors merely on the basis of the majority decision of the shareholders. The law provides an opportunity to the minority shareholders to question the veracity of such moves and protects their interest in all forceful acquisition, merger of corporate units.

According to reports the cabinet committee which met recently had an occasion to deliberate on the sensitive issue of the merger of banks with the avowed objective of consolidation of the public sector banks, thereby bringing the present number of banks to 8 or 10. The first phase of

the merger of Associate Banks with State Bank of India has emboldened the Government to go ahead with their plan of action. The cabinet has decided to go ahead in a phased manner of merger of banks at the initiative of the Ministry of Finance. The methodology, the strategy etc., is left to the Ministry of Finance even without taking the executives of the banks into confidence.

There are contradictory observations made by credit agencies about the quality of the Assets of the banks in the country. The Government has now initiated the second phase of legal action under the Insolvency and Bankruptcy Code (IBC) for the recovery of the bad loans in respect of over 40 corporate units which accounts for very substantial quantum of NPA's in the banking industry. The Icra says that by the end of March 2018, the bad loans which are estimated to be around ₹6 lakhs crore will reach about ₹ 9 lakh crores indicating yet another year of bad performance by the Banks whose net worth is severely getting eroded. The Banks need about ₹1 lakh crore towards the equity as against the budgeted provision of ₹20,000 crore and the Government is yet to announce its plan of action for replenishing the equity in the Public Sector Banks.

In yet another report Moody's the credit rating agencies have predicted that the Banking Sector is on a stable path, would able to manage their liquidity coverage ratios and the business growth is expected to be studious. Mobilization of low cost deposit which is essential for improving the margin of earnings is the forecast that shows the brighter side. Moody's conclude that banking system outlook-India, Asset Quality at trough level shows a stable position.

It is in this background, there is a need for the Government to revisit some of their earlier decisions in the name of merger and consolidation, infusion of private equity into the banks etc., and come out with a clear objective of protecting the Public Sector Banks, retaining its ownership rather than attempting to sell it off to the

Private Sector. Public Sector banks are the driving force behind in all the initiatives of the government in improving the economy in particular the emancipation of millions and millions of population living below the poverty line. Banking industry is also the solution for growing unemployment which is far in excess of the opportunities that are available in the private sector units in the country.

The issue needs to be tackled through a concerted efforts by all the unions not only in the banking industry but in all other sectors of the economy. Once the banks are sold to the private sector, it will have its own ramification in all sectors of the economy, especially in availing the financial assistance from the banking system. Today, more than 70% of the banking business is under the control of the Public Sector units which play second fiddle in the implementation of all policies and programmes of the Government to take the country to the greater economic prosperity. The anticipated GDP growth of around 7- 7.5% in the next fiscal and thereafter to drive it to the level of 2 digits can happen only with the solid support of the banking industry under public sector. The Government appears to be heading for a first major merger of the banks in one of the 4 zones. When it happens, the existing branch network gets totally shrunk, leads to a lot hardship to the customers as well as the priority lending's in that particular zone. The Government should not rush to go for arithmetical merger of the banks just to satisfy the outside world that the reforms are on a strong rail in the country.

The issue figured during the discussions at the Executive Committee of All India Bank Officers Confederation at their emergency meeting held on 30th August, 2017 and at the meeting of UFBU on 31st August, 2017. It was decided to take an appropriate strategy to fight out the menace of so called merger initiatives of the Government involving the entire unions in the banking industry in order to protect the interest of the common man in the country. ■

SUCCESS AWAITS AT THE DOOR WHERE DILIGENCE IS

**COUNTRYWIDE STRIKE ON 22.8.2017
A GRAND SUCCESS – BANKING CAME TO GRINDING HALT
A STRONG MESSAGE TO THE POWERS
STRUGGLE TO CONTINUE**

The one day strike call given by the United Forum of Bank Unions on 22.8.2017 against the ill-advised moves of the Government was a thunderous success. The strike extended to all the Public Sector, Private Sector, Regional Rural and Co-operative Banks as the issues were dear to each and every employee and officers working in the banking industry. The strike was conducted in an effective manner throughout the country. The UFBU strike call was implemented in total by all the constituents all over the country.

2. Reports received indicate that the employees and officer's throughout the country participated in the rallies, demonstrations, processions organized by the local units of the United Forum of Bank Unions. The meetings in the Metro-Cities, State Capital, the District Head Quarters, were attended in large numbers. The members took out procession holding banners and raising slogans against the ill-advised moves of the Government and demanding immediate review of the position in regard to the initiatives taken in the matter of merger of banks, privatization of banks etc. The strikers also raised slogans against the large borrowers who were responsible for creation of huge NPA's in the banks and wanted stringent measures to be taken against them for recovery of the banks' dues. The rallies were addressed by the leaders of the constituents of the United Forum of Bank Unions in all major centers.

3. The affiliates of the Federation and their leaders took active part in the implementation of the strike call given by the United Forum of Bank Unions. The demonstrations and rallies were held in large numbers in front of several Banks throughout the country highlighting the demands of the UFBU and seeking early solution to several of the issues raised by UFBU.

4. Members are aware that there were efforts on the part of the Indian Banks' Association through conciliatory proceedings before the Regional labour commissioner, Mumbai immediately on receipt of the strike notice by them. However, these proceedings could not produce any result since IBA was not in a position to address the major issues raised by the UFBU namely the stoppage of Merger of banks and privatization of banks. The conciliation failed.

5. A last moment effort was made by the Central Labor Commissioner, Delhi who invited the representatives of the UFBU and the representatives of the banking department under the Ministry of Finance who could not offer any solution to the issues raised by the UFBU and thus the conciliation failed and UFBU decided to go through the strike.

6. The details of the strike and effective conduct of demonstrations, rallies, processions by thousands of employees and officers in all major cities, state capitals and district sectors were widely covered by media both electronic and print media highlighting the issues and also justification for the strike call given by the United Forum of Bank Unions.

7. The constituents of United Forum of Bank Unions are meeting shortly to review the situation and take further steps to pursue our long pending demands with the Government and IBA. The success of the strike has sent a strong signal to the Government and the ball is now in the court of the Government. In case, the Government fails to take note of the sentiments of over 10 lac employees and officers who struck work in the banking industry, the UFBU would be forced to escalate the agitation in due course. Members should be in readiness for further course of action at short notice including strike actions. ■

**THREAT OF MERGER OF BANKS
NEW INITIATIVES OF THE GOVERNMENT
STRUGGLE HAS TO CONTINUE**

The Government has failed to take note of the strong sentiments of the workforce in the banking industry. Over 12 lac members working in the banking sector representing all shades of

banking viz., Public Sector, Private Sector, Regional Rural and Co-operative Banks in the country, struck work on 22nd August, 2017 to send a strong message of protest to the Government against its

ARISE, AWAKE, STOP NOT TILL THE GOAL IS REACHED

ill-advised initiative of reduction of the present number of Public Sector banks through the mergers amongst themselves in the name of consolidation and tackling of NPA's. The cabinet went ahead with its action plan to go for the proposed merger of banks and reduction of the present number of banks to 10 to 12 banks as was being advocated.

2. The Government has been attempting to go for a strong campaign supported by the experts from the banking industry, former heads of the RBI etc., in support of the merger initiatives. The decision of the Government to closely monitor the initiative of the banks in regard to the merger process and also its declaration that by the end of this financial year, the first stage of mergers of the public sector banks would take place is highly provocative and invitation to confrontation with the unions. The representatives of the UFBU have conveyed their strong resentment over any such initiatives and insisted for detailed discussions on the issue so that they can come out with several alternative proposals avoiding the proposal of the merger mooted by the Ministry of Finance.

3. The Government is also creating an impression amongst the general public that the NPA issue could be resolved through the merger process. The problems of NPA's can be resolved only through stricter measures of recovery from the willful

defaulters as well as the corporate borrowers. NPAs have to be recovered through the effective recovery including the taking over of the assets of the promoters who have defrauded the banking system and enriched themselves in the process. The present NPA of around ₹ 7 lac crores is expected go up in the coming quarters and it is for the Managements of the Banks to strengthen the recovery process. A small recovery here and there cannot help the strengthening of the equity base of the banks. There has to be a sustained plan of action to recover these bad loans rather than going for the soft options for recovery and campaigning for the merger or privatization of the public sector banks.

4. The issue came up for debate in the last Executive Committee meeting of the Confederation and the methodology to be adopted for tackling the serious challenge posed by the Government to the workforce in the banking industry. The members were of unanimous view that the issue should be taken up on priority basis with the UFBU and a meeting should be convened immediately so that further course of action can be planned to thwart the sinister design of the Government.

5. There is a need for strong preparation on the part of the rank and file to rally round the organizational action plan so that we should be able to succeed in our attempt to stop the move of the Government in this direction. ■

PARTICIPATIVE MANAGEMENT - EMPLOYEES REPRESENTATION ON THE BOARDS OF THE BANKS ANTI-LABOUR APPROACH OF THE GOVERNMENT TRUNCATED BOARDS

The Government of India introduced the concept of industrial democracy in the functioning of the Public Sector Units since 1970's through introduction of the appointment of representatives of the employees and officers on the Boards of the Banks. The participative management was a novel thinking by several democratic countries in order to utilize the rich experience and expertise of the workers in the industry through the participation of their representatives on the Boards of the Banks. The Government adopted bill for the appointment of workmen directors on the boards of the Public Sector banks and a similar scheme was introduced in respect of the Officer Directors as well in the

Public Sector Banks. The scheme is current and operative. It proved highly beneficial not only for the Officers organizations but also to the Management since the representative on the Boards on behalf of the officers fraternity will bring along with him the rich experience of the working knowledge and also will be contributing in a positive manner for the overall development and progress of the institution.

2. The scheme of appointment of Officer-Directors on the Boards of the bank was a cumbersome and required to pass through several stages. The majority organization will have the right to submit a panel of three names to the Management for

WORK IS WORSHIP , DO YOUR DUTY

onward transmission to the Government of India who will get the advice of the Reserve Bank of India and finalize the same. However, in the recent past several changes have taken place and the Government has entrusted the responsibility of the appointment of the Directors on behalf of the Union and the Association to the Bureau of Banks Boards which was authorized not only to clear the names of the Directors but as also the appointment of the senior executives of the banks for final approval of the Ministry of Finance.

3. In the recent past, the Government has not taken any initiative to clear the names forwarded by the Banks for appointment of the Directors on behalf of the workmen as well as Officers in the Banks. As a result, most of the banks where the vacancies have arisen during the last 2 years, no appointment has taken so far despite the statutory provision and the responsibility rested on the Government of India for the appointment of the representatives of the workmen as well as officers in the Banks. The issue has been constantly followed-up by the representatives of the associations directly as well as through the parent body including the United Forum of Bank Unions.

4. In the case of the State Bank of India, the position is vacant for more than 2 years. The Federation has forwarded the panel names as required under the scheme. There has been a constant follow-up with the Management and the Management is pleading helplessness in dealing with the matter. The issue figured in the last agitation call given by the United Forum of Bank Unions as well. As a result, we have no

representation and the benefit of participating in the Central Board of State Bank of India.

5. Representation of the Federation through the various channels including the Ministry of Finance has failed to evoke any positive response. The State Bank of India and its Associates had the benefit of the representation on the Boards of the Banks and these representatives had made tremendous contribution for the success of the Bank. Today, instead of 5 Associate Banks and State Bank of India, we have only one Board representation to be filled up by the Government of India. There appears to be an attempt to ignore the existing statutory provision for the representation of the workers and officers on the Boards of the Banks by the Ministry of Finance and to indirectly abolish the scheme in vogue.

6. The Government has now taken a series of decisions in regard to the merger of the Public Sector Banks despite the strong protest action by over 12 lac employees and officers working in the banking industry by participating en mass in the one day strike on 22nd August, 2017. The Government is yet to respond to our issues positively.

7. The UFBU will take stock of the situation and arrive at a concrete steps to be taken to thwart the sinister design of the Government in the name of Merger of Public Sector Banks including the nomination representatives of the union and association on the Boards of the Banks. We shall keep you posted of further developments.■

TWO DAYS OF ATHMA MANTHAN WITH YOUTH AT KOLKATA THE CITY OF JOY

Text of AIBOC Circular No.2017/48 dated 29th August, 2017.

QUOTE:

The Youth Convention held on 26th & 27th at Kolkata was a great introspection, learning experience and togetherness. AIBOC, West Bengal State Unit, had made all possible arrangements within a short span of time viz. The inaugural rally, the gift bag(made of jute), reading materials, food, hospitality, hotel arrangements, logistic support,

cultural programme, photo exhibition, eminent speakers, news bulletin on the second day etc. In short, everything was excellent. More than that was the involvement of the delegates, attending sessions with full attention, applauding and appreciating when needed, participating in the group discussions, excellent presentation of views of the group, suggestions for the Organisation, all were of very high order.

Dr Rohit, Assistant Professor, JNU, CESP, presented

LET CUSTOMER SERVICE BE OUR MOTTO

the key note address on the first day during the open session. Immediately after, a panel discussion took place on the topic "70 years of Freedom- Promises, Status and Future". Prof. Dr Shantanu Basu, was the moderator of the discussion, which featured Ms Mahua Moitra, MLA, Dr Prasenjit Bose, Economist, Shri Srijan Bhattacharrya, Student and social worker, Shri Dipankar Mukherjee, former State Secretary, AIBOC, WB State Unit and Shri Arunangshu Paul, Advisor, SBI Caps Securities. The speakers had enthralled the audience with their lively deliberation. The delegates were split into sixteen groups in the post lunch session and discussed amongst themselves on various topics. Senior executives and senior AIBOC leaders were assigned a group each to guide the participants.

The following are the recommendations of the future leaders who have taken oath to take the organisation to greater heights.

NPS

- NPS to be converted into an assured Pension Scheme as it is a Social Security.
- Income Tax exemption needed for the returns.

TECHNOLOGY

- Banks should integrate all data including HR Data
- Care to be taken to serve the larger majority who are semi literates and not tech savvy.

NPA

- ◆ Entire economy is affected. Govt should come forward with stringent measures for recovery.
- ◆ Waiver of Agriculture loans should be for borrowers who have repaid also.

CTC

- ☐ Cost to Company should not be accepted in Banking Industry

PERMANENCE BASED SALARY INCENTIVE

- Everyone have to get a uniform salary
- ESOP can be debated – to be given to all
- Incentive is equal to bribe and leads to Divide and Rule
- Appreciation can be done without monetary incentive.

ETHICAL BANKING & CROSS SELLING

- Cross Selling has become a menace
- Stop incentive for Cross Selling
- Ethics and Cross Selling cannot co-exist
- Separate Vertical should take care of Cross Selling Products
- Let us say no to misselling
- AIBOC should take all steps to stop this unethical Banking.

CONNECTING DOTS WITH YOUTH

- ◆ Provide opportunity for leadership.
- ◆ Have Cadre Development Programmes in States
- ◆ Have care and Empathy
- ◆ Accept Dissenting Voices
- ◆ Motivate by recognition
- ◆ Share responsibility.

WORK LIFE BALANCE

- ☐ Regulated Working Hours has to be followed.
- ☐ 5 Day week
- ☐ Work will never stop. So plan accordingly.
- ☐ Sitting late is not performance

NEW ALTERNATIVE WAYS TO RESISTANCE

- Provide front page advertisement in Newspapers
- Interact with Public – the customers
- Use media and Social Media
- Have more meetings with People
- Organise People's Parliament well.
- Involve family members, relatives , friends and customers at Dharnas and Strikes

DEMONETISATION

- ⇒ Was total failure
- ⇒ Corporate benefited through Digital Platform
- ⇒ Paytm – biggest beneficiary
- ⇒ Should demand report from RBI & Finance Ministry
- ⇒ Should not forget the suffering

RBI-BBB, DFI & CONSULTANTS

- ➔ Multiple agencies lead to spoilsport
- ➔ Establish norms which benefit the country
- ➔ Appoint Officer / Employee Director
- ➔ Provide autonomy to the Banks.

NEW WAYS OF BANKING

- ➔ Use technology of voice recognition, face reading & Biometric
- ➔ Privacy of individuals to be taken care of
- ➔ Personal Banking is what people want.

DECODING BANKING SECTOR REFORMS

- ➔ In the name of reform dismantling Public Sector
- ➔ Merger is step towards privatisation
- ➔ Private Banks cannot serve the masses
- ➔ Contribution of Public Sector Bank not recognised
- ➔ Intensify agitation
- ➔ Defend public Sector with People's support

A book, "Policies of India are decided at World Bank & IMF – Not at our Parliament" by Com. Sivakumar D from Syndicate Bank was released.

A documentary on demonetisation prepared by Com. Sanjit Ravi of Bank of India was shown and appreciated by all.

Com. Anup Sen, former Chief Manager of SBI, who sends, "News of Interest" to more than 1 lakh Bankers every day, Dr. M.B. Nirmal, IOBian, who has done so much for environment and society and Com. Ajay

Kumar Reddy, delegate and Captain of Indian Cricket Team for Blind which won world T-20 championship were honoured.

The second day witnessed presentation by the group leaders, who were given the stage and shared the dais with Com Dilip Saha, President, AIBOC. All the speakers in the session presented their topic with great gusto and fervour and displayed excellent presentation skills. In the post lunch session, Ms Usha Ramanathan, presented her views on the subject Digital India - Aadhar & Privacy, which was an eye opener. It was followed by presentations on 'Ethical Banking - Concerns on transparency' by Mr. Joe Athialy and Ms. Priyadarshini of 'Centre for Financial Accountability' and 'Business Correspondents - A Critical look by Ms. Kaarika Das and Team, students of JNU.

On the whole, the organisation has been enriched with many valuable inputs; identified future leaders and will implement the recommendations. We need to nurture the delegates, who attended the 2 day meet- the first ever national Youth Convention organised by AIBOC. The affiliates are requested to enter the particulars of the delegates in the portal www.aiboc-nyc.org so that they can meaningfully contribute their ideas and suggestions in the days to come.

Oath taken: We the youth serving the Nation through the Banking Sector take pledge that we will not allow privatisation and merger of Public Sector Banks. We take pledge that we stand for Gender Equality, We stand for Unity above Caste, Creed, Language and Religion.

We take pledge that we strive for equality, Equity and preserve the values of the constitution of India. The entire programme was webcast and seen by lot of comrades in India as well as abroad. The videos are available in YouTube link <https://youtu.be/L4ZqIDBijLY>

"Let's create History" was the theme of the convention. We have indeed created history. Let us take this initiative forward to carry forward the legacy of our mighty organisation. ■

SBI LAUNCHES CHATBOT TO ASSIST CUSTOMERS

State Bank of India (SBI) has enabled a chatbot to field queries on the bank's retail products from visitors to its website. Named **SBI Intelligent Assistant** (SIA), the bot responds to customer inquiries on home loans, education loans, car loans, personal loans, recurring deposits and term deposits.

Chatbots are digital robots that can carry on a conversation through audio or text.

The decision to introduce a chatbot was taken

as it was felt that navigating the website could be a bit of a task for a customer. "Most of the time, customer touch points with the bank are for three things- sales, service and enquiry," According to banking source for enquiry and navigate quite a bit or go to call centers, where the agent may not be fully knowledgeable."

The chatbot was developed by Allincall, a start –up backed by IIT Bombay, and uses machine learning and bot experience to respond to customer queries.■

Source: Financial Express Dt.01.9.17

FORCED PSU BANK MERGERS WON'T WORK

An architecture has emerged for the Government to tackle the massive bad loan problem of state – owned banks. There is now a Banks Board Bureau to pick new top managers for banks and act as a buffer between banks and the government to ensure proper governance.

There is also an insolvency and bankruptcy code which is a single legal window, so to speak, to speed up the process for resolution of bad debts. Though these measure will take time to show results they can be termed the good part of the architecture. The indifferent part is the Government empowering itself to ask the RBI to direct banks to initiate proceedings under the code and also form committees to give banks directions in this regard.

Since bank managements will move slowly on their own to resolve bad debts for fear of future scrutiny, this move makes sense but it also lays the ground for the government to pick and chose between bad debts and the promoters behind them. So this can be termed the indifferent part of the architecture.

MERGING CONCERNS

But where the Government is going conspicuously slow in recapitalizing public sector banks whose net worth is severely eroded. Witness the minuscule ₹ 10,000 crore provided for this in the latest budget when the NPA load goes into lakhs of crores.

Instead it has decided to move forward with the merger of banks, reducing their total number by almost half to around a dozen. For this the

government has approved a mechanism which will both oversee and speed up things. This is the bad part of the architecture.

Mergers are being touted as the way to have only big strong banks which will then have enough depth in their balance sheets to take care of future provisioning needs and also keep lending big to achieve rapid economic growth. But by simply merging a weak bank with a strong bank you will merely create a bigger bank which will be weaker than what it was in its earlier avatar.

We need go no further than to look at the immediate fallout of the merger of five associate banks of the State Bank of India with it self. The associate banks made a loss of ₹ 5,792 crore for the March quarter of 2016-17 and ₹ 10,243 crore for the entire year.

This resulted in the consolidated net profit of SBI going down to a mere ₹ 241 crore when the stand alone net profit was ₹10,484 crore. The consolidated net profit will be a fraction of the outgo on account of dividend. Hence dividend, which props up the government's fisc, will have to be paid out of reserves.

The shock delivered by these number caused the SBI share to tank by 4.6 percent. Fiancé minister Arun Jaitley had earlier expressed confidence that the merger would make the bank a global player!

SYSTEMIC RISKS

In fact, the experience since the financial crisis of 2008 suggests that governments should have on their hands

LET US BUILD A STRONG AND SELF RELIANT INDIA

as small a number of entities as possible which are too big to fail as they are systemically important.

This puts the responsibility over them ultimately in the hands of the regulator whose job it is to ensure systemic stability.

On the other hand, it is small banks with strong local roots which lend to small and medium enterprises with good knowledge of the world they operate in that have a lot going for themselves.

Through the small units and startups they fund, smaller banks are the creators of jobs and wealth. In fact, in today's world of banking, it is the small that is beautiful because they have their feet firmly planted in the ground and are thereby robust on their own terms.

Merging banks so as not to have to recapitalize them in a big way will merely postpone the need to adopt a real solution and probably make things, worse when it will not be possible to hide any more behind stopgap measures.

Article
The contrast between mergers based on the basis of felt commercial needs as opposed to simply doing so in order to show that one is doing something is illustrated by the two stages which the State Bank of India group has gone through. Earlier an associate bank was merged with the parent when it was considered to be weak.

This led to the merger of State Bank of Bikaner and Jaipur and State Bank of Indore with the parent.

But the subsequent merger of the five remaining associate banks is a blanket action which is justified only on the ground that it is better to have fewer state owned banks than more. It is no wonder that post the mass merger, the merged entity is seen to be weaker than its earlier stand alone self.

PROFESSIONAL MANAGEMENT

If merger, *per se*, is not a solution then what is? Obviously, given the present dead weight of non performing large corporate loans, there is a future for public sector banks only if they are run by professional managers who can take a view on a project and other risks at stake before making a commitment. On the other hand, what had happened was politically directed lending for projects whose costs had sometimes been gold plated (overstated) and with inadequate assessment and coverage of the risks at stake.

Crony capitalism and public sector bank had debts are two sides of the same coin. Once the top managers chosen by the Banks Board Bureau settle down and start changing the managerial culture, professionalism can emerge in an ambience of improved governance.

But that can happen without mergers! The right policy now would have been to simply continue chasing bad debts armed with the powers conferred by the bankruptcy and insolvency code and not engage in forced mergers. These are as dubious as forced marriages. ■

Source: *Business Line-Dt.31.8.17*

Judicial Verdict

[2017 (152) FLR 1095]
(ORISSA HIGH COURT)

Ms. SANJU PANDA and SUJIT NARAYAN PRASAD, JJ.

O.J.C. No. 5345 of 1999

August 22, 2016

Between

BRANCH MANAGER, STATE BANK OF INDIA

and

PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, ROURKELA and another

Industrial Disputes Act, 1947—Section 25-F—Constitution of India, 1950—Article 226—Writ Petition—Award of Industrial Tribunal for reinstatement with 50% back wages in favour of opposite party workmen—Challenged— Workman has been engaged to perform his duty as canteen Boy-cum-Messenger—But before passing the award the Industrial Court has not taken into consideration the

DUTY FIRST, RIGHT NEXT

nature of appointment, availability of job etc.— Further the Tribunal has also not gone into relationship of employer employee—In view of these circumstances and all aspects of matter, the Court held that payment of ₹1,25,000/- in favour of opposite party workman would meet the ends of justice. . . [Para 7, 8 and 10]

JUDGMENT

S.N. PRASAD, J.—This writ petition is on the behest of Branch Manager, State Bank of India, Barbil Branch wherein the award dated 20th July 1998 passed in Industrial Dispute Case No. 115 of 1997(C) has been challenged.

The award has been passed for reinstatement with payment of 50% of the backwages in favour of the opposite party-workmen which has been challenged on the ground that the Industrial Tribunal has not appreciated the fact regarding master - servant relationship in between Barbil Branch of State Bank of India and the opposite party-workmen and without answering the same the finding has been given regarding non-compliance of the provision of section 25-F of the Industrial Disputes Act.

It has been contended that the Industrial Tribunal ought to have taken into consideration before passing the award of reinstatement with 50% of backwages by first establishing the relationship of employer-employee in between the management and the opposite party-workmen which is the mandatory requirement and without doing so the award has been passed for reinstatement, while the all along case of the management - petitioned is that the opposite party- workmen is not the employee of the Barbil Branch of State Bank of India, rather he was engaged as a Canteen boy by the Local Implementation Committee (Staff Welfare Scheme) at Barbil Branch and as such the Industrial Tribunal ought to have given finding to that effect before answering the reference.

2. Per contra the learned Counsel representing opposite party-workmen has submitted that there

is no infirmity in the award, rather the award has been passed by the Industrial Tribunal after taking into consideration entire aspect of the matter, specifically the fact that opposite party-workmen has rendered his service continuously from June 1984 till 1.4.1992 but without complying the provision of section 25-F of the Industrial Disputes Act, the opposite party- workmen since been retrenched from service, hence the Industrial Tribunal has answered the reference in favour of the workman by way of reinstatement with 50% of back wage considering the fact that the provision of section 25-F ought to have been complied with mandatorily.

He further submits that there is no infirmity in the award, hence no interference is required by this Court.

3. Heard the learned Counsels for the parties and perused the documents available on record.

It is the case of the opposite party-workmen who has been engaged as Canteen boy-cum-Messenger to work under Barbil Branch of State Bank of India in the month of June 1984 and continued as such till 1.4.1992 and whereafter he was not allowed to discharge his duty. The opposite party-workman has made representation but when no result has come out, he raised a dispute before the Assistant Labour Commissioner, Rourkela and a conciliation proceeding was initiated, but when the same has failed, the appropriate Government has made a reference to the effect:

“Whether the action of the Branch Manager, State Bank of India, Barbil Branch, P.O. Barbil, Dist. Keonjhar in terminating the services of Sri Mukund Patra, Canteen Boy-cum-Messenger, P.O. Barbil, Dist. Keonjhar w.e.f. 1.4.1992 is justified? if not what relief the workmen is entitled to?”

The Industrial Tribunal has proceeded to answer the reference and came to conclusion that the opposite party - workmen has performed his duty

from June, 1984 and continued till 1.4.1992 and as such the provision of section 25-F is attracted but since the same has not been followed, hence the termination of opposite party - workmen cannot be said to be in consonance with law and accordingly the reference has been answered in favour of the workmen by directing reinstatement with 50% of back wages which is under challenge in this writ petition.

4. Before answering the issue it would be relevant to go through the provision of section 25-F of the Industrial Disputes Act, 1947 which is hereunder AS:-

“25-F. Conditions precedent to retrenchment of workmen.

No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) The workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;
- (b) The workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and
- (c) Notice in the prescribed manner is served on the appropriate Government for such authority as may be specified by the appropriate Government by notification in the official Gazette.”

This section contains conditions precedent to retrenchment of workmen and the conditions laid down in it have been preamble with the words,

no workman employed. in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by the employer. The provision contains protection; i.e.

- (i) having the relation of employee with the employer.
- (ii) he must be a workman within the meaning of section 2(s) of the Act,
- (iii) the establishment in which he is employed must be an industry within the meaning of section 2(j) and
- (iv) he must have put in not less than one year of continuous service as defined by section 23-B under the employer.

These conditions are cumulative. If any one of these conditions are lacking, the provision of this section will not be attracted.

6. The all along case of the petitioner - Bank is that the opposite party - workmen has not been engaged rather he has been engaged as Canteen Boy- cum-Messenger by the Local implementation Committee (Staff Welfare Scheme) at Barbil Branch, hence there does not exist any relationship of master-servant in between the Bank and the workers of the Canteen, but while appreciating the Award, we find that these issue has not been answered by the Tribunal.

7. Indisputably, the Industrial Court, exercises a discretionary jurisdiction, but such discretion is required to be exercised judiciously. Relevant factors therefor were required to be taken into consideration; the nature of appointment, the period of appointment, the availability of job, etc. should weigh with the Court for determination of such an issue.

8. Admittedly in this case the opposite party-workmen has been engaged to perform his duty as Canteen Boy-cum-messenger by the Local Implementation Committee under the Staff

Welfare Scheme but before passing the award the Industrial Court has not taken into consideration the nature of appointment, availability of job, etc. and further the Tribunal has also not gone into the relationship of employer - employee in between the Barbie Branch of State Bank of India and the opposite party - workmen. But instead of going into these controversies, it would be proper to meet the ends of justice by placing reliance on various authoritative pronouncements of the Hon'ble Apex Court in the cases of *Idrishan Yakubkhan Pathan v. State of Gujarat, Madhya Pradesh Administration v. Tribhuban, Sita Ram and others v. Moti Lal Nehru Farmers Training Institute and Jagbir Singh v. Haryana State Agriculture Marketing Board* and another, and taking into consideration these aspects of the matter this Court vide order dt.14.7.2015 has directed learned Counsels for both the parties to convey the amount of compensation to be paid to the opposite party No. 2 in lieu of the award of reinstatement.

9. Learned Counsel representing the petitioner - bank has produced one communication

dtd.11.7.2016 showing willingness to pay ₹ 1,00,000/- to Sri Mukund Patra in lieu of reinstatement. Learned Counsel for opposite party -workmen has submitted that the amount of ₹ 1,00,000/- is too less and as such he has prayed to enhance the same.

10. Considering all aspects of the matter we are of the considered view that payment of an amount of ₹ 1,25,000/- (Rupees one lakh twenty - five thousand) only in favour of the opposite party - workmen would meet the ends of justice

11. Accordingly, we modify the award directing the petitioner -Management to disburse an amount of ₹1,25,000/- (Rupees one lakh twenty -five thousand) only in favour of opposite party - workmen within period of four weeks from the date of receipt of copy of this order.

Accordingly the writ petition stand disposed of. ■

Petition Disposed Of.

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