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Editorial

PERFORMANCE OF BANKS – NPA A BIG THREAT

The performance of the banks both in the Public and Private sector is clouded with growing NPA's despite the best efforts of the managements of the banks to cleanse their balance sheets. The dismal performance of the country as a whole since the last one year as regards to the GDP growth despite the bold postures taken by the Government in particular by those who are incharge of pursuing the World Bank prescriptions for opening up of the economy is not providing any concrete comfort to those who are genuinely concerned with the health of the banking industry.

The RBI is a mute spectator of slow down in the growth of the credit and also the unabated increase in the inflation during the last couple of months. The RBI's initiative to pump in additional funds to the system of banking through the CRR rate operation has not produced the expected impact on the credit off take in the industry. The major area of NPA's that is causing serious concern to all the banks despite the credit restructuring of large outstanding has now given the required to relief in the matter of making provisions for NPA's. The corporate NPA's are a real threat to the banking system as a whole. The issue of the priority lending that requires a soft approach as regards the recovery, the waiver of loans etc., are equally giving a strain on the profitability of the banks. The firm stand taken by the RBI to ensure compliance of Basel Norms despite the banks world over are not able to fully appreciate and comply with the provisions is yet another pressure on banks for the achieving better results in the current year.

The other threats are enforcement of FDI by the Ministry of Finance and the initiative of the Finance Minister to get through several amendments that are pending before the Parliament providing for greater private participation in the equity of banks. The United Forum of Bank Unions was able to put through two days' strike in an effective manner and succeeded in stalling of the approval of the amendment for the time being. The turmoil that was seen in the Parliament during the winter session due to the various scams and frauds that have been exposed by CAG as reported in the media was a blessing in disguise, since the Parliament could not conduct any business and consequently the amendments are still awaiting the final nod of the Parliament.

The Employees and Officers organizations are now gearing up for the resumption of the negotiations on the 10th bipartite and the performance of the banks will have its own impact on the ongoing negotiations between IBA and UFBU to certain extent. The rank and file across the country are therefore awaiting in all eagerness as to the resumption of the negotiations and the progress during the next couple months in ensuring a fair deal to the bank employees and officers in the country.■

Organisational Issues

UFBU MEETING
HELD ON 28TH SEPT. 2012 - A REPORT

Text of the Circular No. 25th dated 8th October, 2012 of UFBU

A meeting of the UFBU was held at Chennai on 28th September, 2012. Com. S.S. Shishodia (President of AIBOA) presided over the meeting.

A report on the developments that have taken place since the last meeting was placed by the Convener narrating the general political and economic scenario obtaining at the moment and the issues taken up by the UFBU.

Congrats for the successful strike: The meeting congratulated all the units and the multitudes of our membership for their magnificent response to the call of the UFBU to make the 2 Days strike on 22nd and 23rd August, 2012 a splendid success. The meeting noted that our struggle, strike actions and preparation for instant strike, etc. had its own impact on the Government and consequently, the Banking Laws Amendment Bill which they attempted to pass in the recent Session could not go through. Our strike action also helped in getting necessary national focus on the reasons and demands of our struggle.

Further course of action: The meeting decided that given the continued attempts of the Government to pursue their banking reforms agenda and non-resolution of our demands, we need to continue our struggle further. While deciding that any attempt to get the Bill passed in the next winter session should be answered by continuing our resistance, the meeting decided the following as follow-up actions:

a) On our own demands like compassionate appointment, 5 day banking, regulated working hours, pension scheme improvements, etc. – Submission of memorandum letters to the IBA by all our unions in October/November, 2012.

b) On Banking reforms and Bill: Continue the campaign through meeting all central trade unions, political parties, MPs, mass signature collection from general public and bank customers in petition to Speaker, Lok Sabha during November/December, 2012. Call of

Central Trade Unions for struggle: The meeting took note of the declaration of the Trade Union Convention organized jointly by all the Central Trade Unions against the increasing anti-people, anti-labour policies of the Government and its call for struggles and strike actions. The meeting welcomed this united initiative and struggle and extended its support. The meeting decided that the decision to join their call for 2 days strike in February, 2013 will be decided after each constituent Unions take a view on the same at their level.

Common charter of demands: The meeting discussed the issue of wage revision and the need to submit Charter of Demands on the IBA. After discussions, common approach was evolved on the basic approach to wage revision. It was decided that workmen unions and officers associations would finalise their respective common charter whereafter the same would be jointly submitted to the IBA by the middle of this month.

Attacks in SBI against Officers Association – extend support : The meeting took serious note of the unwarranted attacks by the SBI management on legitimate trade union rights and the vindictive actions being contemplated against the leaders of AISBOF. The meeting adopted a resolution extending support of UFBU to the agitation by AISBOF and calling upon the management to withdraw these attacks." ■

WORK IS WORSHIP, DO YOUR DUTY

Appointment

SUBBALAKSHMI PENSE
NEW CMD OF ALLAHABAD BANK

Smt, Subbalakshmi Panse has taken charge as the Chairman and Managing Director of Allahabad Bank effective from 1st October, 2012.

She earlier served as the Executive Director of Vijaya Bank and was responsible for the administrative and business development of Vijaya Bank for a period of two years.

"Common Bond" Congratulates Smt. Subbalakshmi Panse for having elevated as CMD of Allahabad Bank and wish her all success in her future assignments.■

Banking

PRESENCE OF WOMEN STAFF MORE IN SOUTH BASED BANKS

Most of the south, India based banks have a fair share of women in their workforce. This trend is visible when one looks at the annual reports of public sector banks.

The contrast between banks based in the South and those in the North, on this score, are clear. Take the example of two associate banks of State Bank of India – the Kerala based State Bank of Travancore (SBT) and the North-based State Bank of Bikaner and Jaipur (SBBJ). In 2011-12, the percentage of women employees was 37.77 percent in SBT, and 10.21 percent in SBBJ.

According to Usha Ananthasubramanian, Executive Director of Punjab National Bank, South India has been a forerunner in women's education. This could be a reason for more women here taking up employment, such as bank jobs, than their counterparts in some of the northern States.

Meera Arhanha, General Manager of Karnataka Bank, says that many banks have taken birth in the South. And, there is a banker in most households in the South. In the North, there are more business opportunities.

The South, she says, is more service oriented and the North, business oriented.

A close look at the banking industry shows that the South has indeed been the 'cradle' of Indian banking.

Even today, as many as seven public sector banks – Indian Bank, Indian Overseas Bank, Syndicate Bank, Corporation Bank, Andhra Bank, Canara Bank and Vijaya Bank- along with three of the associate banks of SBI- SBT, State Bank of Hyderabad and State Bank of Mysore- and half a dozen old private banks are located here. That these banks are headquartered in the South and have strong presence here, give the women folk some level of comfort. ■

Source: Business Line, date: 24/9/2012

NOW, BANKS PLAN TO HAVE COMMON JOB INTERVIEWS

Banks are planning to have a common interview that could open up opportunities in one go in many banks for candidates, who now have to give multiple interviews for jobs in various banks.

Public sector banks, which recruit about 30,000 - 40,000 people a year on an average, expect to save time and cost once this common interview becomes a reality. As many as 20 banks are expected to give the mandate to Institute of Banking Personnel Selection, or IBPS, to conduct the common interview on their behalf. IBPS also conducts common written test for these banks.

Senior bank executives said the governing body of IBPS had come up with the suggestion and the member banks gave their in –principle consent to the proposal at a meeting held on September 14. Banks are now required to get the respective board clearance before they give IBPS the final mandate. This looks a certainty as the selection body is run by senior bank executives with Bank of Baroda chief MD Mallya being the chairman, while Punjab National Bank Chairman K R Kamath, Canara Bank's

SELF HELP IS BEST HELP

S Raman and IDBI Bank's R M Malla are some of the members.

The new system may be introduced as early as this year itself and candidates who took the common written exam on June 17 may be the first to attend the common interview. Over 7.5 lakh candidates took the exam for probationary officers and the result is expected in the first week of October.

"Standardization of the selection process will reduce the work load for banks," said a governing body member of IBPS. "The present system is not time and cost-effective." IBPS director AS Bhattacharya declined to comment.

In the present system, a few top candidates appear for multiple interviews of different banks and they tend to get offer letters from most banks. The next log gets the opportunity only when the first lot is absorbed, making the hiring process lengthy.

Sources said that IBPS is planning to waive the fee for appearing in the common interview. At present, candidates need to shell out ₹150-250 per interview, which banks recover from candidates as the cost for conducting interviews. State Bank of India will not be part of this common selection test, although its chairman Pratip Chaudhuri is a member of IBPS governing body. RBI ED R Gandhi and financial services joint secretary Umesh Kumar are also members.■

Source: Busines Standard

Article

NPAs IN EDUCATION LOAN AN OVERVIEW

Banks in India introduced a scheme for education loan in 1992 for enabling access to tertiary education for everyone who wants it. But, the education loan scheme became popular when the Government of India in consultation with Reserve bank of India (RBI) and Indian Banks' Association (IBA) came out with a comprehensive education loan scheme in 2001 to ensure that no deserving student in the country is deprived of higher education for want of funds. In other words, the scheme is expected to help meritorious students pursuing higher education in technical and professional courses. Based on recommendations made by a Study Group, set up by IBI, it had prepared a Model Educational Loan Scheme which was advised to banks for implementation by the RBI along with certain modifications suggested by the Government of India. Subsequently, in line with the announcement made by the Finance Minister in his Budget Speech for the year 2004-05, the IBA introduced certain changes in the security norms applicable to education loans. The scheme was further modified in the year 2007- 08 based on experiences gained in the operation of the scheme over the years. There is a tremendous response from the students due to unique features of the scheme.

FEATURES OF EDUCATION LOAN

While India is marching ahead to maintain GDP of around 8-9 percent in the near future, a need for development of human capital clearly exists. In particular, the meritorious students coming from the lower and middle class should be encouraged to acquire higher qualifications by seeking loan from the banks. From the study of the scheme of a public sector bank, certain salient features shall be understood. Accordingly, banks provide education loan in the form of term loan. The scheme is meant for funding regular Diploma, Graduation, Post- graduation including technical and professional courses offered in India and abroad and recognised by the university / government/ autonomous institutions like IITs, IIMs ete. But vocational training and skill development study courses are not to be covered as the scheme is framed to provide bank loans only for higher studies. Loan amount is expected to cover fees payable to college/ school/hostel/ examination/library/laboratory fees, purchase of books/ equipments/instruments/ uniforms, purchase of computers -essential for completion of the course (maximum 20 percent of the total tuition fees payable for completion of the course), caution deposit/ building fund/refundable deposit (maximum 10

BE TRUTHFUL, BE FEARLESS

percent tuition fees for the entire course), travel expenses/passage money for studies abroad, cost of a two wheeler up to INR 50,000/ -and any other expenses required to complete the course like study tours, project work etc.

Maximum amount of loan for studies in India is INR 10 lacs for studies in India and INR: 20 lacs for studies abroad. Interest rate is around 13 percent, which varies from bank to bank and also depends upon the amount of loan. Concession in interest rate is offered to girl students. There are no processing fees. Repayment will commence one year after completion of course or 6 months after securing a job, whichever is earlier. The maturity of loan for both studies in India (up to INR 10 lacs) and studies abroad (INR 20 lacs) is 5-7 years. No security is asked for loan up to INR 4 lacs. But for loan amount ranging from INR 4 lacs - INR 7.50 lacs, banks may merely seek the third party guarantee. For loans above INR 7.50 lacs tangible collateral security of suitable value, along with the assignment of future incur of the student for payment of installment, is asked for. There is no margin money for small loan up to INR 4 lacs. But for the loan amount exceeding INR 4 lacs, the percentage of margin is 5 and 15 for studies in India and studies abroad respectively. Like any other loans, necessary documents have to be produced by the student to avail the education loan. Thus, the education loan scheme is becoming friendly to the students due to softer terms and conditions. Response to the scheme has been quite impressive from the study of the performance related data.

PERFORMANCE OF BANKS UNDER THE SCHEME

Data regarding education loan accounts in number and amount outstanding are available for public sector banks (PSBs) numbering to 28, now reduced to 26. As per the data during 2008-11, PSBs maintained an impressive growth of 70.57 percent in the number of accounts from 12.98 lacs in 2008 to 22.14 lacs in 2011 and 108 percent growth in loan amount ranging from INR 19844 crores in 2008 to INR 41344 croes. These PSBs are classified into two categories: State Bank group of 8 banks (now reduced to 6) and nationalised banks group of 20. Between these two groups, nationalised banks group seems to be more active in providing education loan which is evident from the study of growth in the number of accounts and the amount of education loan during the period 2008-11. To elaborate, nationalised banks group witnessed a steep rise in loan amount by 107.28 percent during 2008-11 as against a moderate growth of 64.02 percent by State Bank stoup. It is worth mentioning that State Bank of India alone claims nearly one-forth share in total education loan provided by PSBs in 2011.

IBA education loan scheme for vocational courses

Along with the present education loan scheme, there is a felt need to introduce a separate scheme for vocational courses because the present education loan scheme does not permit the students to pursue such courses. Appreciating this need, the IBA has approved a vocational education loan scheme that provides an impetus to the country's skill mission, as part of a thrust to improve the efficiency of the labour force and boost the economy. In any case, this would be an extension of the current education loan scheme of banks. But the proposed scheme for vocational courses requires an approval from the Board of each bank before rolling it out. As per the approved scheme, this type of education loan does not require any collateral security from students and there will be no age bar for availing of the loan. Interest rate to be charged will be linked to the Base rate of the individual banks or at reduced rates if subsidy is provided by the Central or State Government. Further, simple interest will be charged during the study period and up to the commencement of repayments. For courses up to one year duration, the repayment can be made between two and five years after the moratorium period and, for courses above one year duration, it can be replayed in three to seven years. Under the scheme, the maximum loan amount would be in the range of INR 20,000 to INR 1.5 lacs to those pursuing courses up to three months duration and above three months duration respectively. However, banks may consider sanction higher limits for courses with above one year duration. Thus, efforts are on to facilitate the students to undertake higher studies and prevocational courses

SUCCESS COMES ONLY TO THOSE, WHO DARE AND ACT in a big ay, banks are worried about increasing number of defaults.

LOAN DEFAULTS

Though data regarding in NPAs in education loan are not compiled at the aggregate level, some indication is available from the news paper reports is understood. Accordingly, the gross NPA percentage in education loan portfolio is as high as 6.0 for 2011-12. The author has also confirmed this level by interacting with a senior banker in a public sector bank. Hence, this calls for analysis of reasons for loan defaults.

As per the recent study conducted on education loan in India, it is observed that the rate of loan default is higher in male students than in female students. Further, the default rate in respect to long duration courses is higher than in short duration courses. Also, defaults are high in respect of loans for overseas studies. In general, students from rural areas are relatively regular in loan repayment than students from city areas. There are many reasons for loan default in education loan. According to this study, reasons for NPAs in education loan include: dissatisfaction with institutions and education programme leading to academic failure; dropout; unemployment or working at lower wage; personal problems like divorce, death of parents, more dependent family members and higher debt of the borrower. Similarly, wrong selection of a beneficiary, ineffective follow-up of advances and failure of debt collection NPAs in education loan. Many of these reasons are internal for which certain recovery strategies may be suggested.

RECOVERY STRATEGIES

1. Credit guarantee fund trust for education loan

In view of high credit risk associated with education loan, banks are hesitant to extend support to the students in a big way. To reduce risk associated with education loan, the Union Budget 2012-13 proposes to set up Credit Guarantee Fund Trust for Education Loan with a corpus of INR 5000 crores. The move was endorsed at a meeting of the Central Advisory Board on Education (CABE). Both HRD and Finance Ministries have discussed the measure once and further talks are going to take place soon to finalise structural issues and final modalities. IBA is also involved in working out modalities of the Fund. Accordingly, the corpus of , INR 5,000 crore will be built over, a period of time. The government will create an initial corpus of INR 1,000 crore loans five times that amount. So, for the first year, (education loans of around INR 5,000 crore will get a credit guarantee. The government 'will subsequently release INR 1,000 crore every year to build the total corpus of INR 5000 crores. As per the scheme, banks will pay 1 percent of the loan amount to the fund. In turn, if a student defaults, the fund will ensure that 75 percent of the loan amount is returned. Once this is in place, banks need not require any collateral security for availing of loans up to INR 7.5 lacs. Currently, it is up to INR 4 lacs for students whose family income is less than INR 4.5 lacs per year. Banks' contribution of 1 percent is expected to meet administrative cost of the Fund. Thus, this fund would facilitate the process of reducing NPA level

2. Students seeking admission under management quota

Banks have reported certain cases where the employment potential would not justify the fee structure for management seats from the point of view of repayment of the loan being sought. Worried over a rise in default on repayment of education loans, as per the IBA Guidance Note, the IBA has asked lenders to impose stricter terms on loans given to students getting admission under the management quota. Any loan considered by banks for students getting admission under the management quota would be outside the model education loan scheme. Banks may fix appropriate terms and conditions for such loans

3. Loan assessment criteria

As per the Model Education Loan scheme of IBA, banks are advised not to look at the financial position of parents while evaluating loan to a meritorious student. The sole criterion for sanctioning the education loan should be the assessment of employability and earning potential of the student upon completion of the course and not the parental income! family wealth. With this view in mind, the quality of loan appraisal is expected to be of high quality and the chances of defaults by the students would be reduced. Similarly, selection of the student is more important. Before finalisation of the loan amount, proper screening should be done. As part of credit appraisal, the placement record of the institute where the student studies, should be verified before sanctioning the amount. The course curriculum of the institute where the student studies should also be crosschecked from an employment point of view.

4. Risk assessment

More importantly, risk associated with education loan has to be assessed properly. To elaborate, the student -borrower has no credit history and as such he is assumed to be creditworthy as this is a futuristic loan. And, if a joint borrower has a loan account with the bank which is treated as a non- performing assets, such organization runs the risk of having to consider the student loan also an NPA ab initio. To overcome this, the bank may, as a prudent measure, insist on the joint borrower who is acceptable to the bank, in case of adverse credit history of the parent/guardian of the student.

5. Loan recovery aspects

In view of the rising NPAs, banks have to strengthen their loan recovery machinery. It is essential to be in touch with the student periodically to assess his progress and placement upon completion the course. Updation of contact details of the student and the guarantor are essential. Reminders should be sent to them regularly for the payment of interest and principal amount after securing employment. Having understood about default of one or two interest payments, the bank should make enquiry to ascertain the reasons. If the student deliberately defaults even after securing a good job, the concerned bank should initiate a stern action. Today, it is easy to identify default cases immediately due to the technology driven package for identification of potential NPAs. While the branch manager is busy with the routine business development activities, the controlling office in the bank may have to pay special attention to those branches that are experiencing high NPAs in this segment. There should also be incentives for those students who repay, entire bank dues timely. Thus, recovery from education loans should be undertaken on a war footing.

CONCLUSION

Educational loan is a socially and economically relevant scheme from the Indian banking industry point of view. Rightly, the RBI has included education loans as part of the priority sector lending of banks. The scheme aims at providing a need- based finance to the meritorious students for taking up higher education. But the level of NPAs in education loan is now high and increasing. Consequently, banks are slowly developing an element of hesitancy to provide education loan further. Since the scheme is in the larger interest of the students' community, our efforts need to be strengthened to make it economically viable. For this purpose, banks have to develop a robust credit monitoring system by keeping in touch with me students/joint borrower periodically by sending reminders, paying visit to me residence of the students /joint borrower and taking a stern action against willful defaulters. Debt restructuring may also be considered in deserving cases by rescheduling loan installments as per the salary package offered after completing course. More importantly, banks have to show a lot of concern to loan defaults in education loan by adopting a professional approach in loan recovery. Above all, timely counseling to the students and me joint borrowers would help to strengthen banker-borrower relationship and create a positive climate for loan recovery. In these regards, we have a long way to go.■

Dr. V.S. Kaveri
Source: Indian Banker, September 2012

WE SHOULD SEND FLOWERS TO INDIAN BANKERS

Recently, Moody's Investors Service threatened to downgrade 13 Indian banks. The rating agency is reviewing India's ability to provide support to its banking system. The combined fiscal deficit of the Centre and State governments, including oil and fertilizer subsidies, is around 11% of India's gross domestic product, or GDP, and such a high deficit curbs the government's ability to support the banking system through a capital infusion, if needed. In its assessment of systemic support, Moody's will consider the size of the banking system in relation to government resources, the level of stress in the banking system and its foreign currency obligations relative to the government's own foreign exchange resources, among other things. Early in May, US President Barack Obama's administration conducted stress tests of the US banking system and three was no surprise in the result : 10 of the largest 19 US banks need $65 billion (around Rs.3.07 trillion) in funds to boost their capital.

US treasury secretary Timothey Geithner is "reasonably" confident that the banks could raise the capital on their own, but the government will not shy away from providing capital, if necessary. The 19 banks tested by 150 examiners of the US treasury and the Federal Reserve, account for two-thirds of the total assets of the US banking system, and at least 50% of the total credit in the US economy.

I am not qualified to conduct stress tests of Indian banks. But it may not be a bad idea to take a close look at some of their critical financial parameters and the impact of the global credit crunch on their balance sheets. Expect for a few banks such as Jammu and Kashmir Bank Ltd, Development Credit Bank Ltd, City Union Bank Ltd and Lakshmi Vilas Bank Ltd in the private sector and United Bank of India and Punjab and Sind Bank in the public sector, all Indian banks have announced their earnings for fiscal 2009. Since foreign banks operating in India account for just about 8% of banking assets, the performance of state –run and private banks provides a fair idea of the health of the national banking system. The findings are quite revealing. Going by the data, collated by Ashwin Ramarathinam, Mint's research analyst, only two banks had less than 11% capital adequacy ratio, or CAR, in March 2009.

They are Dena Bank (10.73%) and State Bank of Hyderabad (10.58%). Going by the current norms, banks in India are required to maintain 9% CAR, expressed as a ratio of capital to risk –weighted assets. In other words, for every Rs.100 worth of assets, a bank needs Rs.9 of capital. This is a very critical indicator of a bank's health. Twenty –eight of the 35 banks that have announced their 2009 earning so far have at least 12% CAR or more and some of them even a far higher capital cushion.

For instance, Federal Bank Ltd has 20% CAR; Yes Bank Ltd 17% CAR; and ICICI Bank Ltd, India's largest private sector lender, 15.53% CAR. Another key parameter to judge the banking system's health is the level of its stressed assets. With corporate earnings shrinking and many individuals losing jobs in a slowing economy, it is only natural that bank's non –performing assets, or NPAs will grow. A rise in NPAs affect bank's health as they do not earn anything on such assets and, on top of that, banks need to set aside a portion of their income to provide for stressed assets. Even in the worst year for the financial sector in independent India, local banks have not seen any dramatic increase in their NPAs. In fact, 25 of 35 banks that have announced their earnings so far have less than 1% of their advances categorized as net NPAs and 10 of them even have less than 50 basis points net NPAs. One basis point is one hundredth of a percentage point. Net NPAs are arrived at after money is set aside to cover gross NPAs. Only two banks have at least 2% net NPAs. They are Kotak Mahindra Bank Ltd. 2.39%, and ICICI Bank, 2.09%. State Bank of India, the country's largest lender, has 1.76% net NPAs. Punjab National :Bank's net NPAs are 17 basis points and that of Andhra Bank, 18 basis points.

Indeed, the Reserve Bank of India's insistence on restructuring those loans where borrowers are not in a position to pay on time has helped banks to arrest the rise of stressed assets, but with fledgling sings of recovery in sight in various pockets of the economy, most of these loans are unlikely to add to bank's bad assets. The gross NPA level is relatively higher at two banks, ICICI Bank and Kotak Mahindra Bank holding around 4.3% gross NPAs each –and Federal Bank, carrying 5.57% gross NPAs. However, the overall industry does not project an alarming picture. Higher provisions have brought down the level of net NPAs and banks have been able to make such provisions because they recorded hefty profits Net profits of 35 banks rose 27.20% in fiscal 2009 to Rs.41,545.54 crore. Public sector banks, as a group, performed better than their counterparts in the private sector, collectively posting close to a 31% increase in their net profits while private bank's profits on an average have gone up by 16.75%.

At least nine banks' net profits have gone up by 50% or more in 2009 and only four in the pack of 35 banks that have so far announced their earnings have shown a drop in their net profits. They are ICICI Bank and Kotak Mahindra Bank in the public sector. Indian banks remain healthy and profitable even in the worst of times. Shouldn't we send flowers to our bankers to say thanks ?■

Source: Mint, Bankers Trust, Date-Oct 2012

2012-IV-LLJ-269 (Pat)
IN THE HIGH COURT OF PATNA
(C.W.J.C. No. 7093/1997 dated May 11, 2012)
PRESENT
MR. JUSTICE S.N. HUSSAIN
Between
Anil Kumar Sinha
And
Regional Manager, Central Bank of India, Regional Office, Patna (Bihar) and Others

Dismissal-Of Bank employee from service-No evidence produced by Bank to prove employee acted with ulterior motive-Points not considered by appellate authority-Direction to consider matter afresh, issued.

JUDGMENT

1. Heard learned counsel for the petitioner and learned counsel for the respondent and its authorities.

2. This writ petition has been filed by the petitioner for the following reliefs:-

(i) For issuance of a writ of ***certiorari*** for quashing the order issued from the Central Bank of India, patna Regional Office under the signature of the Regional Manager vide PRO:ENQ:95-519 dated February2, 1995 whereby and where under the petitioner has been dismissed from the service on the basis of the departmental enquiry held in pursuance of Bank charge-sheet no. PRO:ENQ:FRD:92-155 dated October 26, 1992 against the petitioner.

(ii) For quashing the final order of the appellate authority i.e. the Assistant General Manager, Zonal Office, Patna, passed on May 30, 1995 in the matter of an appeal, preferred by the petitioner challenging the Patna High Court order of the Regional Manager (the disciplinary authority) passed on February 2, 1995 in pursuance of Bank Charge Sheet No. PRO:ENQ:FRD:92-155 dated October 26, 1992 whereby the Assistant General Manager, Zonal Officer, Patna (the Appellate Authority) has been pleased to dismiss the appeal of the petitioner and has confirmed the punishment of dismissal of the petitioner awarded by the disciplinary authority.

(iii) For issuance of a writ of mandamus for directing and commanding the respondent authorities to take back the petitioner in his service on the post he was working and allow him to discharge his duty.

(iv) For directing the respondent authorities to pay the entire consequential benefits to the petitioner for which the petitioner may be found entitled in accordance with the law, from February2, 1995, i.e. from the date on which the petitioner was dismissed from the service.

(v) For directing the respondent authorities to pay 70% of the salary to the petitioner, which was not paid to him since July, 1994 up to January 1995.

(vi) For issuance of any other appropriate writ/ writs, order/orders and direction/directions in the facts and circumstances of the case as stated hereinafter.

3. It is not in dispute that petitioner was appointed as an Assistance Cashier-cum-go down Keeper in the Central Bank of India, Gaya Branch in the year 1972 where after he joined on July 31, 1972 and he was transferred from one place to another where he discharged his duties to the full satisfaction of the authorities. Subsequently he joined as Chief Cashier, Central Bank of India, Manger Branch on December 30, 1980 and from there he was transferred to Jhauganj Branch, Patna City and finally he was transferred to Frazer Road Branch as Chief Cashier, Currency Chest where he joined on March 13, 1985.

4. It is also not in dispute that on October 26, 1992 a memorandum was issued to the petitioner by the disciplinary authority informing him that the authorities have decided to hold a departmental inquiry against him for the following acts:-

(i) Shri Sinha neglected his duties by not maintaining laid down norms, rules and procedures and routine checking of note packets deposited in currency chest through remittances of other branches which unwarrantedly contained several thousand pieces of cut, burnt and effective notes and also mutilated notes in soiled notes packets. The Bank, consequently has been put to huge monetary loss.

(ii) Abusing his official position as the Chief Cashier, Currency Chest, Frazer Road

Branch, Shri Sinha indulged with ulterior motive of deriving undue pecuniary gains in fraudulent exchange of a very large number of defective notes directly from public for par value, which has put the Bank to huge monetary loss.

5. Thereafter, the petitioner appeared before the Enquiry Officer and submitted his defence and evidences, where after Enquiry Officer submitted his report dated February 28, 1994 finding that both the charges stood proved against the petitioner.

6. It is also not in dispute that thereafter second show cause notice was issued to the petitioner, in response to which he filed his show cause on March 12, 1994. Subsequently, the disciplinary authority vide its order dated February 2, 1995 passed orders of dismissal under the provisions of Regulation 4(h) of CBIOE (D & A) Regulations 1976 after holding the petitioner guilty of both the offences.

7. Against the said order, the petitioner filed an appeal on March 15, 1995 giving details of points challenging the order of the disciplinary authority. However, the said appeal was dismissed by the appellate authority vide order dated May 30, 1995 affirming the punishment of dismissal awarded to the petitioner by the disciplinary authority.

8. Learned counsel for the petitioner specifically argues that the disciplinary authority did not at all consider the points raised by the petitioner and the evidences adduced by him with respect to each of the charges and only comparing the points of the petitioner with the findings of the Enquiry Officer he has passed his order. He further states that petitioner had admitted before the authority only to the extent that notes were exchanged for non-issuable to issuable from one denomination to other denomination mainly with Fraser Road Branch of the same Bank to keep the minimum balance of the said Branch, but the disciplinary authority considered the said qualified admission to Patna High Court be a complete and absolute admission with respect to the allegations leveled against him with respect to exchange of notes with public at large.

9. Learned counsel for the petitioner further argues that from the memorandum of appeal dated March 15, 1995 it would be quite apparent that the petitioner had raised several very important legal and factual points against order of disciplinary authority, but the appellate authority did not at all consider the said points nor did it consider the evidence on which the petitioner had relied and passed a stereo type order affirming the order of petitioner's dismissal.

10. On the other hand, learned counsel for the respondents-Bank vehemently opposes the contentions of learned counsel for the petitioner and submits that there is no procedural defect in the steps taken by the authorities as full opportunities were given to him at every stage of the proceeding and after considering the defences and evidences, the impugned orders had been passed. He further submits that the acts committed by the petitioner had assumed a very large proportion due to huge loss to the Bank and hence punishment given to the petitioner is absolutely legal and proper. He further states that had the petitioner been in service regularly he would have retied much earlier in the year 2008. He also avers that there is no occasion for any interference in the impugned order of the authorities.

11. From the arguments of learned counsel for the parties and the materials on record, it is quite apparent that the claim of the petitioner from the very beginning was that at the time the petitioner joined his post at Frazer Road Branch it was the

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practice of accepting such notes from the Branches and after his joining petitioner wrote several times to the higher authorities, but the said authorities ignored the matter and did not give instructions to the petitioner in that regard. It is also stated that no details of monetary loss had been mentioned by the respondents. Unless the Reserve Bank of India takes a decision regarding such notes sent by the respondents, the amount of loss, if any, cannot be properly ascertained.

12. Furthermore, the allegation against the petitioner is that he had indulged in the aforesaid acts with ulterior motive and also that the petitioner had accepted defective notes directly from public for par value. These allegations had to be proved by the authorities failing which on the basis of mere allegations of these sorts, no punishment can be given to the person concerned, but from the impugned orders, it is quite apparent that no evidence with respect to such charge had been produced by the authorities concerned. If the disciplinary authority failed to consider the same, it was for the appellate authority to consider it in accordance with law, especially when the petitioner had raised all such points in the memorandum of appeal before the appellate authority.

13. In the said circumstances, this writ petition is allowed, order of the appellate authority dated May 30, 1995 (Annexure -18) is hereby quashed and he is directed to consider the matter afresh in accordance with law as well as in accordance with the observations given above. If the petitioner produces a copy of this order along with a copy of his memorandum of appeal dated March 15, 1995 as well as the orders of the authority concerned dated February 2, 1995 and May 30, 1995, the appellate authority shall give an opportunity of hearing to the petitioner or any other present or ex-official of the Bank on his behalf as defence representative and shall decide the appeal afresh expeditiously by a speaking order, preferably within a period of three months from the date of receipt of a copy of this order. ■

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