

Editorial

Instead of a formal editorial, we are sharing another defining chapter in the history of the movement which we are confident will orient our membership to our real commitment of ensuring the welfare of the working people of the world.

1ST GLOBAL BANKING TRADE UNION CONVENTION ANOTHER MILESTONE IN BANKING TRADE UNION MOVEMENT

AIBOC, being the largest organization of supervisory cadre in the world, has been leading the trade union movement, inter-twining its objectives with the welfare of working class. Towards this, another innovating initiative is holding **1st Global Banking Trade Union Convention**, converging representatives from across the globe.

The Global Banking Trade Union Convention was held under the auspices of AIBOC and in collaboration with **'The Global Labour University'** from 17th to 19th March, 2019 at Thiruvananthapuram, Kerala. The theme of the convention was **"Challenges before the Banking Sector & Trade Union Responses"**. The Convention was attended by delegates from India, Malaysia, Nepal, Germany and Brazil. It was an enlightening experience for all the 155 delegates congregated at TRABOES, a centre of excellence equipped with state-of-the-art infrastructure and ambience.

The General Secretary welcomed all the delegates to the programme, which was first of its kind, with a brief introduction of The Global Labour University. While welcoming, the undersigned highlighted working environment in the banking sector and challenges, difficulties faced the employees and officers and the responsibility and scope of Trade

Unions across the globe to combat the challenges. In his inaugural speech Shri K N Harilal, Member of Planning Board of Kerala addressed significant areas related to anti-labour and anti-people policies of the government and highlighted a need to form a platform to counter such moves. He congratulated AIBOC for its initiative in organising such an event, which was the need of the hour.

In his opening remarks, Com Debasis Ghosh, President AIBOC emphasised the necessity of being united to combat the attempts of the capitalist forces across the world and pointed out the need of organising such a unique program for development and update of knowledge in the field also.

The first session was a panel discussion on **"A Decade after the Global Financial Crisis": Where Does the Banking Industry Stand Today?"** The session was



FACTS ARE MANY BUT THE TRUTH IS ONE

chaired by Com D T Franco and the panellists were Dr. C P Chandrasekhar, an eminent economist; Dr. Prasenjit Bose, economist and social worker; Com Raghunathan Krishnan, Assistant General Secretary of Association of May Bank Class I Officers', Malaysia and Com Hem Bahadur Karki, Treasurer BIFU, Nepal. It was a thought-provoking session. Panellists highlighted the effect of the crisis, the role of Public Sector Banks and that again the looming crisis. Com Raghunathan, the Malaysian delegate spoke on the condition of officers working in Public Sector Banks in Malaysia, who were forced to work on Sundays and Holidays and the pressure of selling third party products. Global Financial Crisis, the reasons and its aftermath, role played by the Public Sector Banks in protecting the economy of the country were the points of discussion.

First day had a surprise. This was a public lecture on an unconventional subject in any trade union congregation i.e.- **"Artificial Intelligence and its impact on banking sector"**. Artificial Intelligence (AI), is an imminent demon that is expected to rob the jobs, condemn the working-class population. A young AI Engineer of 25 years of age – Shri Ritobroto Maitra, an IIT Graduate, captivated the delegates and audience. It was not only enlightening and brain storming, but took the audience into a different world. He captured the attention through his presentation that involved a 'Deep Learning' to understand the nuances of Artificial Intelligence. His theme of AI – where to deploy, how to deploy and that it should aid and assist the working class (and not to substitute employment), and the trade union should play its due role in determining the extent of its deployment, were points of highlight. AI was made easy and the fact the session broke the barrier of time and that there was huge participative debate, demonstrated the clarity of the speaker and the importance of subject. Shri Ritobroto not only responded to inquisitive questions from delegates, but also volunteered to take a two days session for AIBOC representatives to understand AI.

The second day of the convention started with a panel discussion on **"The Experience of Bank Mergers & Movements to save Public Sector Banks"**, which was chaired by the undersigned. During opening remarks,

the undersigned spoke on the subject of mergers by narrating the excerpts from a recent Capitol Hill testimony on the issue of merger of two big US Banks of the US Federal Reserve Chairman Jerome Powell by Senator Elizabeth Warren, who had expressed her concerns by stating that **"Everyone else pays the price for diminished competition, for worse service, for higher prices, for employee lay-offs"** The panelists were Dr. Prasenjit Bose, eminent economist and social worker; Dr. Parthapratim Pal, economist and Professor IIM Kolkata; Com D T Franco, former General Secretary AIBOC and Com Raghunathan Krishnan, Assistant General Secretary of Association of May Bank Class I Officers', Malaysia. After a brilliant presentation by all the panellists, a number of pertinent questions were asked by delegates, which were answered by the panel.

The second session of the second day was on **"Technological Change in Banking and Trade Union Responses"**, chaired by Com Rupam Roy, Secretary AIBOC. The panellists in the brainstorming session were Dr. Usha Ramanathan, eminent legal researcher and social worker; Shri Ritobroto Maitra, AI engineer; Com Tom Pasemann, Trade Unionist from German Savings Bank and Dr. Christoph Scherrer, German economist and political scientist, professor of globalization and politics and Executive Director of the International Centre for Development and Decent Work at the University of Kassel. It was a very informative session on the current perspective of banking industry. The audience enjoyed the sparring session between the two panellists viz. Dr. Usha Ramanathan and Shri Ritobroto Maitra. Dr. Usha Ramanathan's assuring conclusion that Banks are nearly "unsubstitutable" and "irreplaceable" in the near future was encouraging.

The last session of the second day was a panel discussion on **"Purposes and Challenges for Public Banks: Rural Development in India, National Development in Brazil, Keeping Public Banks on Mission"**. The panel was chaired by Dr. Praveen Jha, economist and professor of JNU; Dr. Javier Ghibaudi, economist, Ph.D. in Urban and Regional Planning from Federal University of Rio de Janeiro, Assistant Professor of The Federal Fluminense University of Rio de Janeiro and Professor Meenakshi Rajeev, presently

THERE IS NOTHING PERMANENT EXCEPT CHANGE

chair professor at Reserve Bank of India Institute for Social and Economic Change, visiting professor of University of California, USA and Kassel University, Germany. Panellists and delegates were deeply engrossed in the session, which again broke the barrier of time, till late evening. Various factors affecting rural development, and most importantly the issues revolving around rural credit, declining investment credit, unscientific method of assessing yield of crop while arriving at insurance claims etc., were discussed. Large number of delegates participated in the interactive session.

At the beginning of the third day a public lecture on **"Challenges before Public Sector Banks"** was given by Dr. Christoph Scherrer. It was revealed that the issues affecting PSBs in India are global in nature and the scenario of banking industry especially Public Sector Banks are more or less same.

The last session was panel discussion on **"Challenges**

before Public Sector Banks and Trade Union Responses". It was chaired by Com Dr. V Chidambarakumar, former Sr Vice President, AIBOC. The panellists included Com G V Manimaran, Sr Vice President AIBOC; Com Pradip Biswas, Vice President & former General Secretary BEFI, Dr. Christoph Scherrer, Dr. Javier Ghibaudi and Com Raghunathan. All the speakers did bring in huge value addition, thought provoking deliberations.

The Convention ended with rendition of the National Anthem.



Organisational Issue

OUR RESPONSE TO YOUR CALL TO BANKERS TO JOIN #MAINBHICHOWKIDAR CAMPAIGN

Text of letter no. AIBOC/2019/41 dated 25.03.2019

Shri Narendra Damodardas Modiji,
Hon'ble Prime Minister
Government of India, New Delhi

Respected Sir,

Our response to your call to Bankers To Join #MainBhiChowkidar campaign

Greetings from **All India Bank Officers' Confederation (AIBOC)**, the largest Trade Union of officers in the world having a membership of over 3.20 lakh spread across the nook and corner of the country, who are in constant touch directly with over

80 crore populace of the country. We are an apolitical organisation espousing the cause of our members and to work for betterment of our esteemed institutions. Our members are the officers in banking industry, who are involved in planning and implementation of various policies and programmes of the Government, in addition to routine banking activities.

2. We, the officers of the Bank are "Aarthik Chowkidars" in as much as we shoulder the responsibility of managing and safeguarding the financial system of the country. We are "Saamajik Chowkidars" as we shoulder the humongous responsibility of implementing each of the social and welfare programmes brought out by the Government.

LEARNING NEVER EXHAUSTS THE MIND

In fact, we can be considered as the 'Financial Army' of the nation safeguarding the economic independence. While your good office is well aware of the tremendous role of Bankers, who successfully implemented schemes viz. Jan Dhan Yojana, APY, Financial Inclusions, MUDRA, 59 minute loan and similar welfare programmes, we are also sheet anchors for the present state of economy and development of the country-be it Green, White & Blue Revolutions, Village Adoption, Service Area Approach, Rural Credit dispensation, SEEU, SEPUP, PMRY, PMEGP, IRDP, Irrigation Schemes, Tribal Sub-Plans, the list goes on and on. Undoubtedly, we can stake our claim for successful implementation of Demonetisation of currency and subsequent Remonetisation of economy, which was possible only on account of the untiring and relentless efforts of the officers in Public Sector Banks (PSBs) in the country. Officers took these tasks to their heart, engaged themselves passionately, and ensured success. Today's infrastructure, industrialisation, up-ticking purchasing power in rural, semi-urban and urban areas was the result of the commitment, sincerity and dedication of officers of PSBs. This was possible only for the reason that the major Banks are nationalised and a social cause was imbibed in these nationalised banks. We, in PSBs, believe that we are part of Government and its extended arm to carry out the wish list of Government policies, despite severe constraints and even at the cost of severe personal inconvenience as we consider ourselves to be the financial army of the nation.

3. However, we are deeply irked by the stand of the government on several pertinent issues, which are appended for your kind perusal and consideration. We have made several representations to the Ministry of Finance, however, the issues stand unresolved. At this critical juncture in the view of the ensuing polls such factors will be weighed in by the entire fraternity, who are directly connected to 80 crore populace of the country.

4. While we appreciate your Abhiyaan, we take this opportunity to bring to your kind attention few important issues as appended.

a. Merger & Consolidation of Banks – Not a solution

to any of the problems faced by Banking Industry today: Mergers only add up the balance sheet numerically and do not bring any advantages factually and practically. The jargons like "economy of scale" and "value addition", "big is strong" have not worked world-wide. The recent announcement of the amalgamation of the three Banks viz. Vijaya Bank, Dena Bank and Bank of Baroda has caused deep resentment across the banking fraternity and other stakeholders. Merger & Amalgamation tantamount to 'Reverse nationalisation' and will undo all the good work done by the Public Sector Banks. A Nation like ours, where economic, social and financial disparities persist, we need more public sector bank branches instead of its rationalisation under the guise of merger to reach out to common man for inclusive development. Country has immense potential for each segment of Banks as each Bank has its own niche customers as targets.

Sir, we have made it possible to transform the lives of the populace of the country by providing banking service. Amalgamation of Banks reduces the number of banks and branches, which are not in the best interest of the country. Neither does it any value addition. Amalgamation of State Bank of India and its Associate Banks has been a colossal financial blunder. It has resulted in closure of branches in the name of rationalisation. At the end of the day, PSBs are not just meant to be profit-oriented. Social banking is an intertwined objective. Merger results in depriving the common man of the banking facilities. Banks with different cultural backgrounds should be encouraged to retain their identity. The impending amalgamation of Vijaya Bank and Dena Bank with Bank of Baroda has given rise to lot of discontentment among customers and the citizenry of the respective regions. There is a myth that mergers bring synergy. Instead, most mergers across the world have failed to work out as they did not usher in the expected synergy. Mergers will make balance sheet bigger; but does not infuse strength and make them healthy. On the other hand, mergers bring in vulnerability. Bigger entities tend to lack control and become fragile. Failure of 'Too Big To Fail' entities will be catastrophic to the nation's economy. The sub-prime crisis bears testimony as how financial giants have been uprooted overnight. Further, everyone pays the price of diminished

THE JOURNEY OF A THOUSAND MILES BEGINS WITH ONE STEP

competition, for deterioration of services, higher charges and wide scale retrenchment. It will be detrimental to the interest of the common man.

We urge upon your good office to stall the unfortunate and ill-conceived decision of amalgamation of the three banks taken by the present Central Government, apparently violating all laid down norms and bypassing the Bank Nationalisation Act, 1970/1980. Public Sector Banks have protected and insulated the economy of the country during global recession. We implore upon you to review the stand on Mergers & Amalgamations of the Bank. On the other hand, we urge upon you to nationalise the old generation private sector banks to build strong credit delivery and financial inclusion system. We also take this opportunity to say here that the de-classification of IDBI as a private sector bank has caused deep angst and resentment. This has not only affected the morale of the officers and employees who joined IDBI as it was a PSB, but has shaken the confidence of the customers also.

b. Salary revision: The legitimate demands of #AarthikChowkidars appears to be a non-priority to Bank Managements. While the Pay Commission and salary revision of Government, quasi-government employees take place hassle-free, salary revision of bankers do not take place without agitation and protracted negotiation. While we are needed for carrying out policies and programmes of Government, for salary revision, the government is oblivious to our need.

Salary revision is carried out in Banks through a bi-partite negotiation mechanism between IBA (an Association of management of banks) with the major trade unions and associations. Member banks of IBA formally give a mandate to IBA to negotiate on behalf of them. Though the salary revision has fallen due with effect from 01.11.17, little progress has been achieved till date. The attitude of IBA has been regressive. Few issues in this connection are:-

i. Fractured mandate: In tune with the recommendations of the Report of Pillai Committee formed by Central Government (1979), salary

negotiation was taking place for officers from Scale I to Scale VII (Scale I being junior most and Scale VII being General Manager). As many as seven joint negotiations of the past (till the last) have happened on the similar line. During current period, five banks out of twenty (5 out of 20) have given 'fractured' mandate to IBA to negotiate only upto Scale-V, thus leaving Officers in Grades VI and VII out of the negotiation spectrum. Again, we see a clear disparity here. Government includes messenger to cabinet secretary in its Pay Commission but does not want to include Scale VI and VII, who were very part of our negotiation mode and are governed under the same OSR.

Despite our repeated requests, discussions and agitations, neither Government nor IBA have taken any initiative to get the full mandate from those 5 banks (viz. State Bank of India, Punjab National Bank, Union Bank of India, Bank of Baroda and Indian Bank). This fractured mandate has become the major roadblock in negotiation. As such, we were constrained to excuse ourselves from the negotiations in the absence of full mandate by Banks as was the practice.

ii. Charter of Demands and the parity of salary vis-à-vis central government officers: Salary of Officers of the Bank was higher than that of the IAS Officers till 1979. In the name of parity, the salaries of Bank Officers were equated, rather reduced to that of Civil Services. Later, government has been revising the salaries of IAS Officers, through CPCs, but did not favour the Bank Officers with the parity, disowning the report of its own committee. The difference has been widening with each pay revision/ bipartite settlement. Now, the starting basic pay of a Scale-I Bank Officer stands at ₹ 23,700/-, as compared to ₹56,100/- for Group 'A' Officers of Central Government. This alone is enough to tell the tale of wage revision for Officers in Banks. Incidentally, it is pertinent to mention that before 1979, the basic pay of Bank Officers was more than that of IAS Officers, while now it is just a fraction of it.

Sir, the entire situation is paradoxical. Government considers officers of the Bank as public servants for all administrative purposes. The service conditions are also on the lines of Civil Services. Banks are working

A MAN CAN BE DESTROYED BUT NOT DEFEATED

as the extended arm of government, implementing its policies and programmes in the financial sector and are under the control, supervision and ownership of the Central Government. This being the situation, it is unfortunate that same yardstick is not being followed while carrying out revision of salaries and allowances for officers. While in government service, salary is paid, having no relevance to their performance or paying capacity, banks being the extended arm of government and within its ownership, similar approach should have been followed. Banks are earning and improving their Operating Profit, year after year, despite sacrificing income on account of the policies like maintenance of Cash Reserve Ratio, Statutory Liquidity Ratio, directed lending. It is only the net profit which has declined due to RBI provisioning norms and loan write off policies etc. on which neither the banks nor the Bank officers have any control. Beyond all, services of the bankers to the country is invaluable, considering the fact that they serve the citizenry at every nook and corner of the country under varied and compelling circumstances. Our members have been taking active role and responsibility in implementation of the various policies and objectives of the government as enshrined in the Indian Constitution. Further, we are the active partners in the economic progress of the country and thus in Nation Building.

We feel that paying capacity cannot be a yardstick to determine our pay structure. If the Government can present deficit budget year after year, yet takes adequate care of its employees and retirees with handsome package and regular revisions of pension; we, the bankers, also deserve similar treatment.

We request you to direct the concerned authority to complete the salary negotiation based on the Minimum Wages Principle accepted by 7th CPC and in accordance with our Charter of Demands submitted to IBA.

c. National Pension System (NPS): Pension is a deferred wage and meant to ensure a dignified, reasonable living of personnel and their family, who have contributed to the growth and cause of the Organisations in the prime of their age. In NPS,

contribution to the fund is defined and known, but the returns are NOT. Pension is uncertain, and depends on the vagaries of stock/financial markets. One is not sure of return/pension payable on retirement, unlike conventional pension scheme (Old Pension Scheme).

Economic downturn, financial crisis in stock/financial markets can wipe out the very pension fund itself, which affects pension amount and the fund. We have seen such situation even in developed country like US during 2008. Since the welfare and the quality of life of the retired personnel (and their family) are involved, we request that NPS may kindly be withdrawn, and replaced with conventional pension scheme.

d. Five Day Week: Globally, the organisations work 5 days a week. The working conditions in the Banks have been strenuous. Poor infrastructure, lack of adequate staff has made the officers work till late in the night, resulting in poor health, huge pressure on the officers, which culminates in serious work-leisure mismatches, life style diseases and of late, repeated acts of suicides being committed by the officers of the Banks. Officers in the Banking industry are invisibly chained to their work place. Social and family life has become a mirage. Officers are called upon to work on holidays and Sundays, frequently disrupting the personal life. On account of this, officers are facing burn-outs, unable to justify themselves in their family. Introduction of Five Day Week in this era of digitisation will not only result in motivation of officers, it would also enable a meaningful social life which in turn will result in higher efficiency in work place. 5 Days' week will also rejuvenate many other commercial sectors/activities of the economy.

e. Pension updation: Retirees in Banks face a peculiar situation. The basic pension is static as on the date of retirement. While pension gets automatically updated for government employees, this does not happen to retirees in banks though the pension scheme in Banks are on the lines one prevailing in Central Government. Today, pension of a senior officer (even of the rank of a General Manager) of yester years will be lesser than a staff who retires today. Family pension is a pittance (15% of last drawn

WHOEVER IS HAPPY WILL MAKE OTHERS HAPPY TOO

pay), which cannot ensure a minimum standard of living. Recently, your goodselfs were kind enough to update the Pension for Officers/Employees of Reserve Bank of India. We demand similar line of treatment in this regard.

f. Publication of list of wilful defaulters: We have seen promoters of corporate bodies poorly conducting their accounts, but not a poor promoter till date. Accounts are NPAs, but the promoters are wealthy. While we appreciate the efforts of the Government in bringing fugitive offenders back to the country, keeping in view the alarming situation of stressed assets (NPAs) in the Banks, we are of the firm view that initiatives like publication of list of wilful defaulters, confiscation of passport, debarment of wilful defaulters from contesting elections and other punitive measures would go a long way in demonstrating the political will and help in cleaning balance sheets of the Bank. This will have a cascading positive effect like reduced cost of lending, recycling of funds, which will definitely augur well for the country and economy. In fact, 20% of recovery of gross NPAs will effectively imply that PSU Banks would no longer need capital infusion.

g. Recruitment of adequate staff: Sir, banking industry is the only industry where business doubles every 10 years, but the staff strength halves. There was no recruitment in Banks between mid-90s to 2008. Recently, the Standing Committee on Finance has observed that the PSBs ought to step up hiring in the junior and middle levels to ensure that there is no vacuum following retirement of large number of employees in the near future. It is disconcerting to note that 14 banks have declared 'zero' vacancies in Probationary Officer/management trainees in IBPS examinations. Staff inadequacy is the mother of all problems faced in banking industry, which is causing hardship not only to customers, but also to the employees and officers, who have to shoulder humongous workload. There have been spates of suicides of bank officers, who have cited tremendous work pressure as a prime cause. Additionally, the unethical practices prevalent in Banks to force sell third party products, which is

distorting the focus of core banking business and is also taking a heavy toll on Bankers, who are at the receiving end of humiliation and abuses of senior functionaries who are earning disproportionate incentives through selling of third party products.

h. Filling up of Workmen and Officers' Nominee Directors on the Boards of PSBs: Though relevant Laws stipulate nomination of Workmen/Non-workmen Employee Directors on the Boards of Bank; the Government is yet to nominate any on the Board— for the reasons best known to it. In this connection it is to be mentioned that prior to 2014 such posts of workmen/ officer directors were never left vacant. We hope you would appreciate principles and the advantages of participative management, besides the fact that the Officer Nominees in the Boards of the PSBs not only ensure safeguarding the interest of the Officers' community, but are capable of playing the role of watchdogs (chowkidars) against faulty credit decisions, if any, taken by the Boards.

i. Compassionate Appointment: Compassionate appointment is meant to be a helping hand to the family when a serving Officer expires, to enable his/her family to live with dignity and respect. This is more of a humane action than anything else. Such appointments are far and few and do not impact an organisation in any way. Rather, it demonstrates the sympathy and the empathy of the employers towards its own employees.

We have been demanding that compassionate appointment, as is prevalent in Central Government service, be extended to Banks. The scheme in vogue in Banks is majorly irrelevant and infructuous and hardly helps any. We request you to support our demand for implementation of the Scheme that is adopted in Central Government service as Bank Officers are treated as public servants and their service conditions are on the lines of Civil Service of the Government.

5. Sir, in the backdrop of the issues stated in the foregoing, we urge upon you to address these issues, which have created angst and frustration amongst the entire banking fraternity, who are formidable opinion

makers. Without addressing the genuine issues of 10 lakh bank officers and employees along with the entire banking fraternity, for which they are aggrieved against the policies of your Govt., you cannot expect the participation of the Banking fraternity to join your political campaign of #MainBhiChowkidar. We urge upon your good office to stall the impending Amalgamation of Vijaya Bank, Dena Bank and Bank of Baroda forthwith and also meaningfully address

the issues listed in the foregoing most of which do not come under "Election Code of Conduct".

With best regards,

**Yours sincerely,
Sd/-
(Soumya Datta)
General Secretary**

Circulars

CIRCULARS

❖ **15 dated 08th March, 2019:** International Women's Day 2019- Balance for better

❖ **16 dated 08th March, 2019:** Letter to Shri Arun Jaitley, Hon'ble Finance Minister, Govt. of India regarding 11th wage negotiation in banking industry and other relevant issues

❖ **17 dated 14th March, 2019:** Letter to Shri Arun Jaitley, Hon'ble Finance Minister, Govt. of India regarding option sought from Dena Bank and Vijaya Bank officers/ employees

❖ **18 dated 21st March, 2019:** 1st Global Banking Trade Union Convention another milestone in banking trade union movement

❖ **19 dated 21st March, 2019:** Tax on perquisite value of accommodation w.p.no. 14126/2008 in the matter of AIBOC vs. Union of India

and Others

❖ **20 dated 22nd March, 2019:** Tax on perquisite value under section 17(2) of Income Tax Act, 1961 as amended by Finance Act, 2007; Appeal against Final Judgement order dated 20.04.2016 in W.P. no. 10053 of 2008 of Madras High Court; AIBOC appeal in Supreme Court of India Special Leave Petition no. 4327/2017

❖ **21 dated 25th March, 2019:** Text of letter no. AIBOC/2019/41 dated 25.03.2019 to to Shri Narendra Modiji, Hon'ble Prime Minister of India in response to his tweet dated 24.03.2019 to join #mainbhichowkidar campaign

❖ **22 dated 26th March, 2019:** Strike Call given by Catholic Syrian Bank Officers' Association (CSBOA) on 02nd April, 2019 - Fraternal Support by AIBOC

Judicial Verdict

2018-IV-LLJ-96 (SC) LNIND 2018 SC 331 IN THE SUPREME COURT OF INDIA

Present

Hon' ble Mr. Justice Madan B. Lokur and
Hon'ble Mr. Justice Deepak Gupta

C.A. Nos. 7423-7429 of 2018

1st August, 2018

Narendra Kumar Tiwari and Others Etc

..... Appellants

Versus

State of Jharkhand and Others Etc.

..... Respondents

Regularisation — Irregular Appointments - Regularisation Rules – Appellants irregularly appointed employees of State Government and denied benefit of regularisation — On petitions filed by Appellants, Division bench of

COMING TOGETHER IS BEGINNING, WORKING TOGETHER IS SUCCESS

High Court denied regularization, hence these appeals- Whether High Court justified in denying regularisation of Appellants - .Held, State continued with irregular appointments and same is indication that it believed that it was all right to continue with irregular appointments and terminate whenever required, which is exploitation of employees - High Court as well as State ought to have considered entire issue in contextual perspective and not only from point of view of interest of State, financial or interest of employees -- Short circuit process of regular appointments by appointments on irregular basis is hardly good governance Regularisation Rules must be given pragmatic interpretation — if Appellants have completed alleged number of years of service, they should be regularised unless there is some valid objection to their regularisation like misconduct - Impugned judgment and order passed by High Court set aside — Appeals disposed of.

MADAN B. LOKUR, J.

1. Leave granted.

2. These appeals arise out of the common judgment and order dated 17th November, 2016 passed by a Division Bench of the High Court of Jharkhand in a batch of writ petitions relating to the regularisation of daily wage or contract workers on different posts. The writ petitioners (now appellants) were denied the benefit of regularisation in view of the provisions of the Jharkhand Sarkar ke Adhinasth Aniyamit Rup se Niyukt Ewam Karyarat Karmiyo ki Sewa Niyamitikan Niyamawali, 2015 (hereinafter referred to as the Regularisation Rules).

3. The admitted position is that the appellants are irregularly appointed employees of the State Government. They sought regularisation of their C.A. status on the ground that they had put in more than 10 years of service and were therefore entitled to be regularised. The High Court took the view that the decision of the Constitution Bench of this Court in Secretary, State of Karnataka and Others v. Umadevi (3) and Others AIR 2006 SC 1806 : (2006) 4 SCC 1 did not permit their regularisation since they had not worked for 10 years on the cut-off date of 10th April, 2006 when the Constitution Bench rendered its decision. According to the High Court, the Regularisation Rules provided a one-time measure of regularisation of the services of irregularly appointed employees based on the cut-off date of 10th April, 2006 in terms of the judgment of the Constitution Bench. Therefore,

since the appellants had not put in 10 years of service they could not be regularised.

4. The appellants had contended before the High Court that the State of Jharkhand was created only on 15th November, 2000 and therefore no one could have completed 10 years of service with the State of Jharkhand on the cut-off date of 10th April, 2006. Therefore, no one could get the benefit of the Regularisation Rules which made the entire legislative exercise totally meaningless. The appellants had pointed out in the High Court that the State had issued Resolutions on 18th July, 2009 and 19th July, 2009 permitting the regularisation of some employees of the State, who had obviously not put in 10 years of service with the State. Consequently, it was submitted that the appellants were discriminated against for no fault of theirs and in an irrational manner.

5. Having heard learned counsel for the parties and having considered the decision of the Constitution Bench in Secretary, State of Karnataka and Others v. Umadevi (3) and Others (supra) as well as the subsequent decision of this Court explaining Secretary, State of Karnataka and Others v. Umadevi (3) and Others (supra) in State of Karnataka and Others. v. M.L. Kesari and Others. AIR 2010 SC 2587 : (2010) 9 SCC 247 : LNIND 2010 SC 696 : 2010-IV-LLJ-583 we are of the view that the High Court has erred in taking an impractical view of the directions in Secretary State of Karnataka and Others v. Umadevi (3) and Others (supra) as well as its consideration in State of Karnataka and Others v. M.L. Kesari and Others (supra).

6. The decision in Secretary State of Karnataka and Others v. Umadevi (3) and Others (supra) was intended to put a full stop to the somewhat pernicious practice of irregularly or illegally appointing daily wage workers and continuing with them indefinitely. In fact, in paragraph 49 of the Report, it was pointed out that the rule of law requires appointments to be made in a constitutional manner and the State cannot be permitted to perpetuate an irregularity in the matter of public employment which would adversely affect those who could be employed in terms of the constitutional scheme. It is for this reason that the concept of a one-time measure and a cut-off date was introduced in the hope and expectation that the State would cease and desist from making irregular or illegal appointments and instead make appointments on a regular basis.

7. The concept of a one-time measure was further explained in State of Karnataka and Others vs. M.L. Kesari and Others (supra) in paragraphs 9, 10 and 11 of the Report which read as follows:

“9. The term “one-time measure” has to be understood in its proper perspective. This would normally mean that after the decision in Secretary State of Karnataka and Others v. Umadevi (3), and Others (supra) each department or each instrumentality should undertake a one-time exercise and prepare a list of all casual, daily-wage or ad hoc employees who have been working for more than ten years without the intervention of courts and tribunals and subject them to a process verification as to whether they are working against vacant posts and possess the requisite qualification for the post and if so, regularise their services.

10. At the end of six months from the date of decision in Secretary State of Karnataka and Others v. Umadevi (3), and Others (supra) cases of several daily-wage/ad hoc/casual employees were still pending

before courts. Consequently, several departments and instrumentalities did not commence the one-time regularisation process. On the other hand, some government departments or instrumentalities undertook the one-time exercise excluding several employees from consideration either on the ground that their cases were pending in courts or due to sheer oversight. In such circumstances, the employees who were entitled to be considered in terms of para 53 of the decision in Secretary State of Karnataka and Others v. Umadevi (3), and Others (supra) will not lose their right to be considered for regularisation, merely because the one-time exercise was completed without considering their cases, or because the six-month period mentioned in para 53 of Secretary State of Karnataka and Others v. Umadevi (3) and Others (supra) has expired. The one-time exercise should consider all daily-wage/ad hoc/casual employees who had put in 10 years of continuous service as on 10-4-2006 without availing the protection of any interim orders of courts or tribunals. If any employer had held the one-time exercise in terms of para 53 of Secretary State of Karnataka and Others v. Umadevi (3), and Others (supra) but did not consider the cases of some employees who were entitled to the benefit of para 53 of Secretary State of Karnataka and Others v. Umadevi (3), and Others (supra) the employer concerned should consider their cases also, as a continuation of the one-time exercise. The one-time exercise will be concluded only when all the employees who are entitled to be considered in terms of para 53 of Secretary State of Karnataka and Others v. Umadevi (3), and Others (supra) are so considered.

11. The object behind the said direction in para 53 of Secretary State of Karnataka and

Others v. Umadevi (3) and Others (supra) is twofold. First is to ensure that those who have put in more than ten years of continuous service without the protection of any interim orders of courts or tribunals, before the date of decision in Secretary State of Karnataka and Others v. Umadevi (3) and Others (supra) was rendered, are considered for regularisation in view of their long service. Second is to ensure that the departments/instrumentalities do not perpetuate the practice of employing persons on daily-wage/ad hoc/casual basis for long periods and then periodically regularise them on the ground that they have served for more than ten years, thereby defeating the constitutional or statutory provisions relating to recruitment and appointment. The true effect of the direction is that all persons who have worked for more than ten years as on 10-4-2006 [the date of decision in Secretary State of Karnataka and Others v. Umadevi (3) and Others (supra)] without the protection of any interim order of any court or tribunal, in vacant posts, possessing the requisite qualification, are entitled to be considered for regularisation. The fact that the employer has not undertaken such exercise of regularisation within six months of the decision in Secretary State of Karnataka and Others v. Umadevi (3) and Others (supra) or that such exercise was undertaken only in regard to a limited few, will not disentitle such employees, the right to be considered for regularisation in terms of the above directions in Secretary State of Karnataka and Others v. Umadevi (3) and Others (supra) as a one-time measure.”

8. The purpose and intent of the decision in Secretary State of Karnataka and Others v. Umadevi (3) and Others (supra) was therefore two-fold, namely, to prevent irregular or illegal appointments in the future and secondly, to confer a benefit on those who had been irregularly

appointed in the past. The fact that the State of Jharkhand continued with the irregular appointments for almost a decade after the decision in Secretary State of Karnataka and Others v. Umadevi (3) and Others (supra) is a clear indication that it believes that it was all right to continue with irregular appointments, and whenever required, terminate the services of the irregularly appointed employees on the ground that they were irregularly appointed. This is nothing but a form of exploitation of the employees by not giving them the benefits of regularisation and by placing the sword of Damocles over their head. This is precisely what Secretary State of Karnataka and Others v. Umadevi (3) and Others (supra) and State of Karnataka and Others v. M.L. Kesari and Others (supra) sought to avoid.

9. If a strict and literal interpretation, forgetting the spirit of the decision of the Constitution Bench in Secretary State of Karnataka and Others v. Umadevi (3), and Others (supra) is to be taken into consideration then no irregularly appointed employee of the State of Jharkhand could ever be regularised since that State came into existence only on 15th November, 2000 and the cut-off date was fixed as 10th April, 2006. In other words, in this manner the pernicious practice of indefinitely continuing irregularly appointed employees would be perpetuated contrary to the intent of the Constitution Bench.

10. The High Court as well as the State of Jharkhand ought to have considered the entire issue in a contextual perspective and not only from the point of view of the interest of the State, financial or otherwise – the interest of the employees is also required to be kept in mind. What has eventually been achieved by the State of Jharkhand is to short circuit the process of regular appointments and instead make appointments on an irregular basis. This is hardly good governance.

11. Under the circumstances, we are of the view that the Regularisation Rules must be given a

COMMON BOND ENGLISH MONTHLY-R.N.I.NO:36648/82-TOTAL NO.OF PAGES 12 APRIL - 2019

REGN. NO. KRNA/BGE -1122/2017-2019 PUBLISHED ON 25-03-2019

POSTED AT BANGALORE PSO, MYSORE ROAD, BANGALORE - 560 026 / ON 2ND OF EVERY MONTH

LICENCED TO POST WITHOUT PRE-PAYMENT-LICENCE NO. WPP 330

pragmatic interpretation and the appellants, if they have completed 10 years of service on the date of promulgation of the Regularisation Rules, ought to be given the benefit of the service rendered by them. If they have completed 10 years of service they should be regularised unless there is some valid objection to their regularisation like misconduct etc.

12. The impugned judgment and order passed by the High Court is set aside in view of our conclusions. The State should take a decision within four months from today on regularisation of the status of the appellants.

13. The appeals are accordingly disposed of.

14. We may add that that it would be worthwhile for the State of Jharkhand to henceforth consider making regular appointments only and dropping the idea of making irregular appointments so as to short circuit the process of regular appointments.

Appeals disposed of.

**"COMMON BOND" APRIL 2019
(FORM IV RULE 8)**

1. Place of publication : Bangalore -560 001.
2. Period of the publication : Monthly
3. Printer's Name : **Shri. Ranga Reddy R.K.**
(L.V. Graphic)
Whether citizen of India : Yes
Address : L.V. Graphic,3968, 7th Cross,
2nd Main, Gayatri Nagar,
BANGALORE-560 021.
4. Publisher's Name : **Shri Soumya Datta**
Whether citizen of India : Yes
Address : SBI Bldgs.,St. Mark's Road,
BANGALORE-560 001.
5. Editor's Name : **Shri Soumya Datta**
Whether citizen of India : Yes
Address : 6th Floor, E Block,
Samriddhi Bhavan 1, Strand Road,
Kolkata - 700001
6. Names and addresses of individuals who own the Newspaper and partners or shareholders holding more than one percent of the total capital : **All India Bank Officers' Confederation**
6th Floor, E Block,
Samriddhi Bhavan 1, Strand Road,
Kolkata - 700001
- I. Soumya Datta, hereby declare that the particulars given above are true to the best of my knowledge and belief.

Sd/-
Bangalore (SOUMYA DATTA)
25.4.2019 PUBLISHER

..Subscribe.....Establish....."Common Bond"

An Official Publication Of AIBOC

EDITORIAL BOARD

Editor: Soumya Datta

Members: Sunil Kumar & Debasis Ghosh

RATES OF SUBSCRIPTION: ANNUAL: ₹ 30/-

Drafts Should be Drawn

IN FAVOUR OF AIBOC AND MAILED TO

ALL INDIA BANK OFFICERS' CONFEDERATION

**C/O STATE BANK OF INDIA OFFICERS' ASSOCIATION
(Bengal Circle)**

**6th Floor, E-Block, Samriddhi Bhavan, 1, Strand Road,
"Kolkata - 700001" ☎ 2210-1234, Fax (033)2210-2210**

E-mail: aiboc.sectt@gmail.com

Web site: http://www.aiboc.org

REGISTERED NEWS PAPER

TO

**LICENSED TO POST
WITHOUT
PREPAYMENT**

If Undelivered Please Return To

The All India Bank Officers' Confederation

SBI Buildings, St.Mark's Road, Bangalore - 560 001.

Printed & Published/Edited by Shri Soumya Datta on behalf of AIBOC. at State Bank Building, St.Mark's Road Bangalore- 560 001.
Printed by Shri. Ranga Reddy, at L. V. Graphics 3968, 7th Cross, 2nd Main, Gayathri Nagar, Bangalore - 560 021.