



Editorial

FESTIVITY AND BEYOND

By the time this issue will reach your hand, the autumn festivals which began with Navaratri and drew its curtain with Deepavali has officially come to an end. But the spirit of festivity, the message of festivity will linger as usual for the full year till we welcome another autumn and submerge ourselves in festivals that are observed in different forms in this vast country. We trust that you have enjoyed the days peacefully with your family.

However, like festivals, the struggle of the working class also roles in from year to year. Its form may change responding to the concrete prevailing situation but its content never changes. As we all know that the content of the movement is to ensure the wellbeing of the working people and to drive out the ideas and forces which are inimical to the interest of the working people. The Indian mythology tells that the festival of light, the Deepavali, is celebrated to mark the return of Rama to his kingdom in Ayodhya after his victory against the demon king Ravana. But for us the end of the festive season signals the beginning of a fresh long march for protecting our legacy and for expanding the horizon of our victory.

We accept that this is a period of despondency. But we have seen the glorious struggle of BSNL

employees many of them being deprived of timely payment of salaries with news appearing that the BSNL will be put up for sale like Air India. Systematic campaign was launched in the social media favouring privatization or dismantling of BSNL. Protagonist of such idea of course never refers to time bound that is ticking by the name Airtel and Reliance Jio not to speak of the other player Vodafone. The balance sheet of Airtel shows as on 30.06.2019 that the company has an outstanding liability of nearly ₹ 1,84,000/- crore a substantial part of which is the unsecured loan mobilized by them either from the market or from lenders (hopefully from private sector). The story is the same for both Reliance Jio and Vodafone. The time bomb, that they are, is enough to explode the financial system unless a proper regulatory check is put in place for controlling such unrestricted market borrowing not only of these private sector telecommunication companies but for the bunch of crony capitalists operating in the market.

The season of festivity also brings the refreshing news that Shri Abhijit Binayak Bandyopadhyay professor of economics in MIT, USA is the co-winner of the Nobel Memorial prize in economics for 2019. We are proud and join the entire country in congratulating the Nobel laureate. But we are pained to see an observation attributed

FACTS ARE MANY BUT THE TRUTH IS ONE

to him by the media that privatization of Indian banking is the answer to the problems that are affecting its growth today. If the newspaper report is true, being a part and believer of trade union economic school, we like to join issues with him.

The real problem of the Indian banking sector is not the piling up of NPAs but the background reason for which it has piled up. We have argued earlier that due to liberalization in FDI inflow, the speculative money that has entered the Indian shores has played the twin role of popping up of the sensex and injecting unmanageable liquidity in the banking system. The Lehmann crisis in 2008 had led to relaxation in lending norms and the banks find an easy outlet for deployment of surplus fund bypassing the normal diligence that are required to be observed in dealing with such exposure. With the risk associated with such lending along with slowdown in real sector of the economy, the banks faced the problem of delayed payment of installment and interest. After 2014, RBI suddenly started tightening the NPA identification norms forcing bank after bank to declare losses after provisioning. This story is still unfolding. But the message is clear. The initial headache starts with the liberalization of FDI inflow norms and the cause of the headache assumed a malignant proportion initially with reckless lending followed by unimaginative tightening of NPA identification norms. So the real issue is not with the ownership but with the very control and regulation of the Indian banking system. The crisis is not only of the PSBs but has also affected all private sector lenders including operators in NBFCs and Co-operative sector. So the solution lies neither in

the dilution of government ownership as reportedly suggested by the Nobel laureate but in structural reforms of the Indian banking system ensuring a healthy match in the growth of both assets and liabilities side of the balance sheet with emphasis on quality lending, mobilization of low cost deposits, stringent enforcement of recovery laws, exemplary punishment of the willful defaulters and such changes in the economic policy which are detrimental to the entire banking system be it public or private.

It is for this reason we humbly differ with the Nobel laureate. We fail to appreciate that how the same private sector which have failed to repay the bank loan and are the creator of humungous amount of NPA running into ₹ 13 million crore, can salvage the Indian banking by taking up the ownership right. No Sir, it is not the vigilance over activism, (though from the date of our birth, we are demanding that CVC should takes its hands off from PSBs), but structural economic issues which have brought in the current disaster in Indian banking. Sir, we also do not believe that the very Dracula who have sucked the blood of Indian banking, will transfuse it back if the ownership is handed over to them. Or is it a prescription for white washing the entire bad loan portfolio? Is it a good economics for the corporate defaulter and bad economics for the financial system?

Beyond festivity, we have to carry on our fight against all odds. Festival carries the message of the ultimate victory of the truth over deception. Let us ensure it in our daily organizational activities. ■

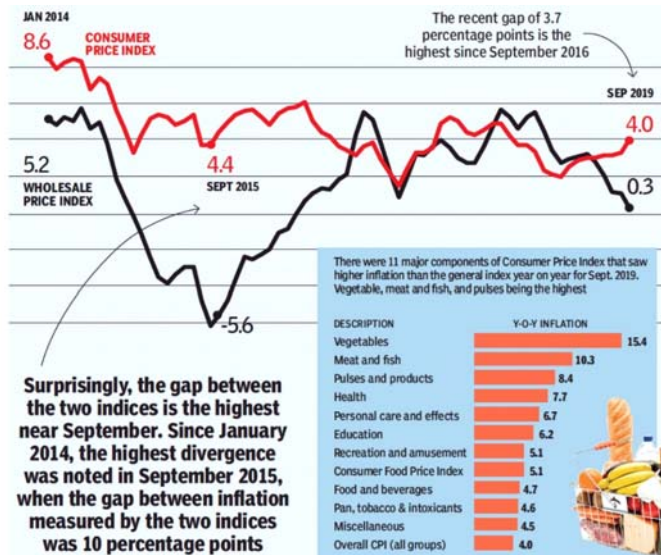
THERE IS NOTHING PERMANENT EXCEPT CHANGE

SHARED ARTICLE

CONSTRUCTION OF INDEX AND DIVERGENCE BETWEEN WPI AND CPI REMAINS A MATTER OF INQUISITE ENQUIRY.

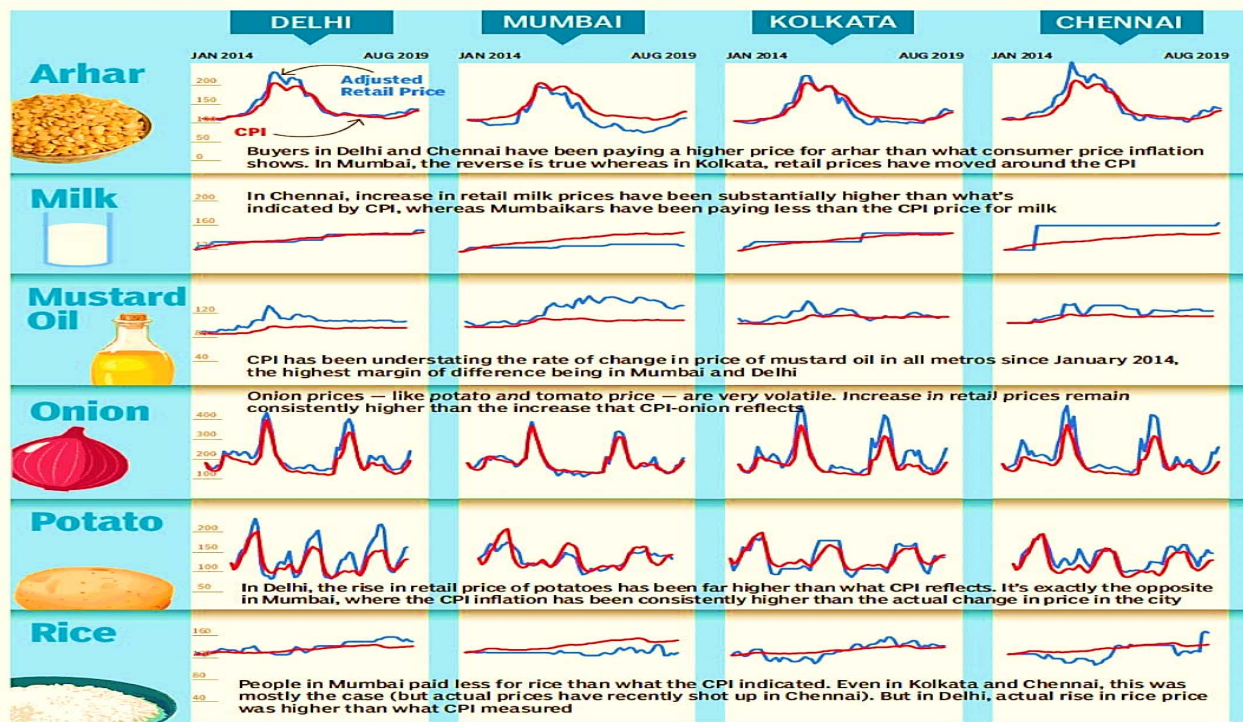
For the benefit of our readers, we are sharing this article with acknowledgement to Times of India.

There have been several instances when the Consumer Price Index and Wholesale Price Index have diverged. The divergence is attributed to various factors including the divergence in the weights of various items in the two indices. For instance, food articles have a higher weight in retail inflation than in wholesale inflation and, so, movement in food prices would have a bigger impact on the CPI. Manufactured products have a much higher weight in WPI. Though consumer price inflation has been within RBI's comfort zone, the fall in WPI is worrying, because it shows manufactured products are doing poorly — and manufacturers are gradually losing their pricing power. Look at the numbers for the last five years.



Variance between consumer price & price consumers pay

Often, when inflation numbers are released, people in metro cities complain that national retail inflation measured by CPI is out of sync with the actual rise in prices. Here's why



LEARNING NEVER EXHAUSTS THE MIND

**AIBOC Circular No. 2019/64
To All Affiliates**

Date: 29.09.2019

Dear Comrade,

WHY WE HAVE DEFERRED THE 48 HRS. STRIKE?

We reproduce below text of the joint circular no. 06 dated 29.09.2019 of four officers' organisations on the captioned subject for your information. Incidentally, AIBOC was represented by Com Sunil Kumar, Chairman; Com Debasis Ghosh, President and the undersigned, in all the discussions mentioned in the text circular.

With greetings,

Sd/-
(Soumya Datta)
General Secretary

Text of the Joint Circular No. 06 dated 29.09.2019

**ALL INDIA BANK OFFICERS' CONFEDERATION (AIBOC)
ALL INDIA BANK OFFICERS' ASSOCIATION (AIBOA)
INDIAN NATIONAL BANK OFFICERS' CONGRESS (INBOC)
NATIONAL ORGANISATION OF BANK OFFICERS (NOBO)**

Ref: Joint Circular No. 06

Date: 29th September 2019

To, All Affiliates of AIBOC/AIBOA/INBOC/NOBO

Dear Comrades,

WHY WE HAVE DEFERRED THE 48 HRS. STRIKE?

We, the four officers' organisations, after the conclusion of the UFBU meeting held at Delhi on 11.09.2019 decided to launch the programmes of action, culminating in 48 hours strike on 26th and 27th September, 2019. Accordingly, efforts were made to enlarge the participation by taking up with workmen organisations on 11th and subsequently also on 12th morning.

2. After a reasonable and patience wait, adhering to the provisions of law for giving notice for strike on 12th September, 2019, we served the notice to Chairman, IBA, copy of which was endorsed to Government of India, Delhi, CLC(Central) and MDs of all banks. On 17th September, 2019, IBA invited the nine organisations for the wage revision discussions conducted in two parts. The first one was power point presentation on the proposed Performance Link Incentive [PLI] and the subsequent one on wage revision. The four officers' organisations

THE JOURNEY OF A THOUSAND MILES BEGINS WITH ONE STEP

have decided not to concede to the PLI scheme as it is essentially bank specific and will not be going to benefit the total workforce in the industry uniformly.

Further, IBA had clearly indicated on 29th August, 2019, that the mandate issue was interlinked with wage revision and PLI. Subsequently, on 17th September, 2019, Team IBA assured to take up with each of the five individual bank's Board for a meaningful resolution. On 19th September 2019, CLC[C] conducted the conciliation proceedings and advised the parties concerned to the strike, to form a high-power committee to deal with the proposed merger of banks and also restriction on wage revision issues besides the other issues listed. On 17th September and also on 19th September 2019, there were appeals from IBA and CLC[C] to revisit the decision of the proposed 48 hours strike. There was also an advice from CLC[C] to meet and apprise him on further developments and our stand on the strike.

3. In view of the foregoing, we had called on CLC[C] to know the stand of IBA on wage revision on 23rd evening, who once again appealed to us to reconsider the strike call and assured to favour us with his written appeal containing IBA responses. CLC[C] confirmed this through a subsequent communiqué.

4. IBA in its reply submitted to CLC[C], made amply clear that the proposed merger of Banks was the policy decision made by the Government of India. We thereafter proceeded to meet Dr. M. K. Mishra, Joint Secretary, DFS, who was present during the CLC meeting held on 19th September, 2019 and explained our stand on the strike call.

5. Sensing the gravity of the situation, Dr. M. K. Mishra, took our delegation to meet Shri Rajeev Kumar, Finance Secretary immediately. The meeting

with Finance Secretary, Shri Rajeev Kumar, centred around the proposed strike. Shri Rajeev Kumar was candid and positive to respond to all our issues.

A) Merger of Banks – It was agreed to constitute a high-power committee of all stakeholders in the banks to address the concerns of all. Needless to emphasise that in the history of bank mergers / amalgamations, proposition for constituting such a committee has no precedence.

B) Unconditional mandate – It was clearly indicated that the mandate to cover all officers upto Scale VII will be ensured as a part of the wage negotiation for officers. At the time of issuing this circular we have information that in few banks it is already cleared and in the rest is in process. We expect it would be cleared in another few days. It is our steadfast resolve which ensured that after 1 and ½ years of commencement of negotiation, the impasse has finally been cleared.

C) Section 17(A) of Prevention of Corruption Act (Amendment), 2018 – We elaborately discussed the devastating effect of a recent letter issued by the DFS to all the PSB Heads as well as the concerned CVOs on giving sanction for conducting investigation by CBI under Sec. 17 (A) of the Act, and making it a part of service conditions under D/A Regulations. According to the text of the letter when an alleged irregularity/lapse is found as actionable and when IAC of individual banks find vigilance overtone, such cases would automatically become eligible for sanction to CBI for investigation and such drastic change would create havoc in the life of officers of PSU banks. It was candidly expressed by Shri Rajeev Kumar that CVC – on whose suggestion the said DFS direction is based – will be approached to give a clear clarification on the said position communicated to DFS.

D) Pressure on bankers on 3rd party product selling – We have highlighted the pressure exerted on field

A MAN CAN BE DESTROYED BUT NOT DEFEATED

level officers by the banks in promoting unethical practices to sell third party products of private companies and the payment of incentives and other rewards being encouraged by PSU banks. We categorically emphasised this one of the main pain points of the bankers, who were losing focus on core business of the banks due to the pressure created by the top management. It was assured that concrete steps would be initiated to address this issue. At the time of issuing the circular, we have received information that payment of incentives has been put on hold in few banks. This could possibly be a direct consequence of our meeting with the Finance Secretary.

E) 5 day week and Reduction of cash transaction hours – The issues were presented in an emphatic way highlighting the need for providing work-life balance to the officers and also focusing on compliance and recovery of monies lent by the banks during the post cash transactions period of the day. He was open to take both of our demands forward as other stakeholders were involved in the matter of offering services to the clientele.

F) Issues of retirees – We also took up the issues of revision of family pension and updation of pension with facts and figures. We were assured that the same would be considered.

Thus, the issues were presented in a very much cogent way and the responses to the same were also positive and workable solutions emanated from our hour long discussion with the Finance Secretary, who also

expressed his concerns of motivating bank personnel working at grass root level. We then suggested that a delegation of our four organisations can always provide the actual feedback from ground level at regular intervals and the Finance Secretary agreed to our proposal of arranging such meetings once in every quarter. He was also agreeable to our proposal of presenting our views on “Converging Ideas”. While we always have the right to revive the organisational programmes in case our issues are not resolved, we also need to take a pragmatic stand considering the development in totality.

We, representatives of the four officers’ organisations, had due consultation and over the offers / positive stand taken by the topmost official of the Finance Ministry and thereafter took a considered collective decision to defer the strike call.

Comrades, we are aware of the aspirations and expectations of the members. Let us assure you that our organisational agitational programmes against the proposed mergers will continue, for the reason that such unwarranted move underlies the larger threat of dilution of government stake in the state run banks thus leading to takeover of their very public sector character. At the same time, no stone will be left unturned to realise all our genuine demands including wage revision and improvement of service conditions and also the superannuation benefits.

We shall inform the developments in due course.

With revolutionary greetings,

Comradely yours,

Sd/-
(SoumyaDatta)
General Secretary
AIBOC

Sd/-
(Nagarajan S)
General Secretary
AIBOA

Sd/-
(K K Nair)
General Secretary
INBOC

Sd/-
(Viraj V Tikekar)
General Secretary
NOBO

WHOEVER IS HAPPY WILL MAKE OTHERS HAPPY TOO

AFFILIATE NEWS



It is a great pleasure that Catholic Syrian Bank Officers' Association has launched a newsletter E-Sandesh, a monthly news bulletin of CSBOA. E-Sandesh will be sharing various developments in CSB and also other news of significance for the banking community. Common Bond welcomes this pioneering outreach programme of CSBOA and wish it all success. ■

ARTICLE

PRIVATE SECTOR LEADERS IN PSBs: FAILURE OF AN EXPERIMENT

The data are from published sources in www.fortuneindia.com

The government's experiment in hiring talent from the private sector to head public sector banks has ended with former Citibanker P.S. Jayakumar leaving Bank of Baroda.

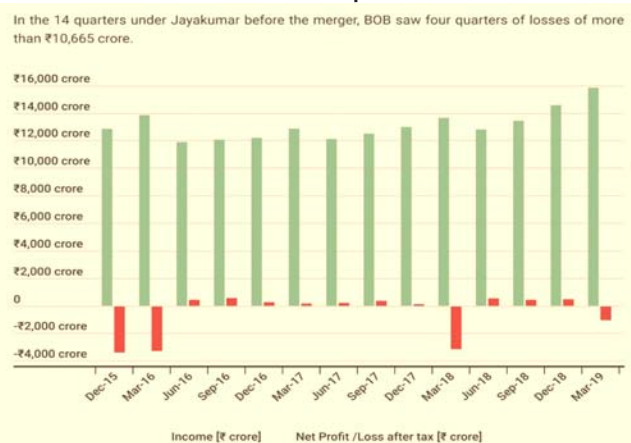
When P.S. Jayakumar was made managing director and chief executive officer of Bank of Baroda (BOB) four years ago, BOB had been going through a rough patch. Its name had been sullied by an alleged fraud and money laundering to the tune of ₹6,000 crore.

The appointment of P. S. Jayakumar who had spent more than 23 years at Citibank was in line with the government's decision to bring in executives from the private sector to helm public sector banks with the so called objectives to improve management system—a crucial reformative step at the time. Jayakumar had his task cut out.

Jayakumar's four-year term ended this October 12. It was supposed to end last year, but he had got a one-year extension primarily due to the amalgamation of Vijaya Bank and Dena Bank with BOB which was notified by the government on January 2 this year, and which took effect on April 1. Since there was no communication from the government as to another extension, BOB, in an

exchange filing on October 14, notified the cessation of Jayakumar's role at the bank with effect from October 12. Let us have a look at the financials of BOB during the period in which P. S. Jayakumar was in charge:

Bank of Baroda's financial performance

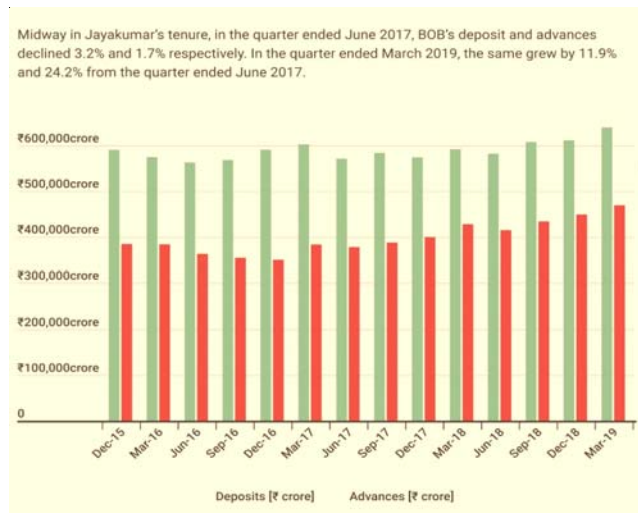


During the 14 quarters from December 2015 to March 2019 that Jayakumar helmed BOB, the bank saw an uptick in business. While the bank is yet to announce the results for quarter ended September 2019, the performance of quarter ended June 2019 is not comparable owing to the effect of the mega merger.

INDEPENDENCE IS HAPPINESS

In terms of top-line and bottom-line, BOB under Jayakumar saw a muted rise in standalone income—muted because the bank suffered four quarters of heavy losses as the cumulative loss exceeded ₹10,665 crore.

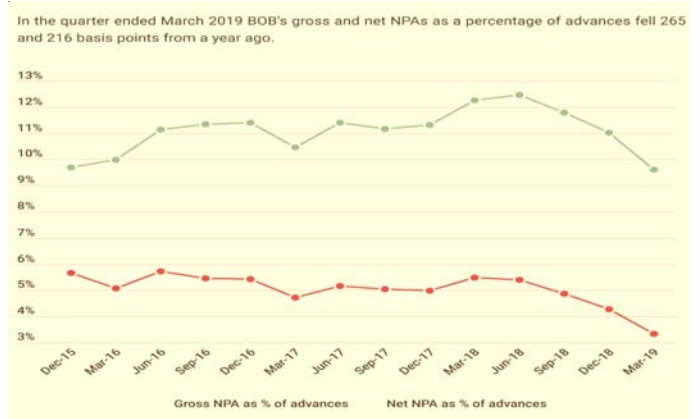
Bank of Baroda's deposit and advances growth



As of the quarter ended March 2019, BOB's deposits and advances look much better when compared to the figures at the end of the quarter ended June 2017, which was ₹5,70,608 crore and ₹3,77,607 crore respectively. This was when Jayakumar had completed almost two years at BOB. In the quarter ended March 2019, BOB registered an absolute growth of 11.9% in deposits and 24.2% in advances compared to the quarter ended June 2017.



The scourge of non-performing assets that plagued most public sector banks did not spare BOB, too. BOB's gross and net NPAs stood in excess of ₹38,934 crore and ₹21,806 crore in the quarter ended December 2015. In the quarter ended March 2018, the parameters crossed ₹56,480 crore and ₹23,483 crore—the highest during Jayakumar's tenure. These would decline over 14.6% and 33.5% to over ₹48,233 crore and ₹15,610 crore in the quarter ended March 2019.



As a percentage of advances, gross NPAs were in double digits in 11 out of the 14 quarters that Jayakumar helmed BOB. And there were 10 quarters out of 14 when net NPAs as a percentage of advances breached the 5% mark. At 9.61% and 3.33%, gross and net NPAs as a percentage of advances in the quarter ended March 2019 reflect a reduction of 265 and 216 basis points (100 basis points equals 1%) respectively compared to 12.26% and 5.49% in the quarter ended March 2018.

BOB is now bigger and stronger thanks to the merger. During Jayakumar's time, the whole banking sector went through phases of big churn—demonetisation, burgeoning NPAs, and the Nirav Modi scam being some of the major causes. His performance is neither great but comparable to any other peer bankers. The analysis shows that BOB itself is suffering from problems and cannot be a candidate for taking over two more entities of which at least one i.e., Vijaya Bank is much more healthier. This is a unique story of a patient nursing a healthy nurse reversing the accepted orders presided over by an average doctor. So much so, for big ticket banking reforms. ■

COMING TOGETHER IS BEGINNING, WORKING TOGETHER IS SUCCESS

CIRCULARS

- 63 dated 27th September, 2019** Formation of a committee of all stakeholders on proposed bank Mergers. Text of the Joint Letter No. 10/2019 dated 27.09.2019
- 64 dated 29th September, 2019** Why we have deferred the 48 hrs. strike? Text of the Joint Circular No. 06 dated 29.09.2019
- 65 dated 05th October, 2019** 34th Foundation Day of AIBOC
- 66 dated 09th October, 2019** Formation of a committee of all stakeholders on proposed bank Mergers. Text of the Joint Letter No. 11/2019 dated 09.10.2019
- 67 dated 19th October, 2019** Wage revision – talks held with IBA on 18-10-2019. Text of UFBU Circular No. UFBU/2019/09 dated 19.10.2019
- 68 dated 21st October, 2019** Fraternal Support to Nationwide Bank Strike on 22nd October, 2019 called by AIBEA and BEFI. ■

Judicial Verdict

2019 LLR 1082
Punjab and Haryana High Court
Hon'ble Mr. Krishna Murari, CJ.
Hon'ble Mr. Arun Palli, J.
LPA No. 1821/2018 (O&M)
Sarva Haryana Gramin Bank (SHGB)
Vs.
Rajpal Singh Sangwan

PAYMENT OF GRATUITY ACT, 1972 – Section 4(6)(b) – Forfeiture of Gratuity – only to the extent of loss – Scope of – During pendency of disciplinary proceedings, employee attained age of superannuation – in writ petition filed by employee, High Court directed management to release gratuity with interest @ 6% per annum – Management challenged order of Learned Single Judge in writ appeal – Held, gratuity can be forfeited only to the extent of loss suffered by the management due to proven misconduct of the delinquent employee and not otherwise – Charge-sheet shows that none of the charges has been alleged to have caused any financial loss – No justification to withheld gratuity till conclusion of disciplinary proceedings - impugned order is not having any infirmity. Appeal dismissed.

IMPORTANT POINTS

Forfeiture of gratuity may be effected by complying with the provisions of Section 4(6) (b) of the Payment of Gratuity Act, 1972 but only to the extent

of loss suffered and proved in the enquiry.

For invoking provisions of Section 4(6) (b) of the Payment of Gratuity Act, 1972, not only termination of services of the concerned employee

THE ONLY JOURNEY IS WITHIN

is imperative but such a termination is to be effected on the basis of enquiry finding in the chargesheet having allegation of specific financial loss caused to the employer, show cause notice for termination of services as well as forfeiture of gratuity, satisfying requirements of Section 4(6) of the Act.

Since the charge-sheet shows that none of the charges has been alleged to have caused any financial loss to the management, there is no justification to withheld gratuity till conclusion of enquiry.

1. This intra court appeal, under clause X of the letters patent, is directed against the interim order dated 23.10.2018, passed by the learned Single Judge directing the appellant to release gratuity along with interest @ 6% per annum to the respondent-petitioner.

2. Undisputed facts relevant for the purpose for adjudication of the controversy required to be noticed are limited.

3. During the pendency of the disciplinary proceeding initiated against the respondent-petitioner he was retired on attaining the age of superannuation on 29.04.2017. Learned Single Judge after analyzing the regulation known as Pudukkottai Bharathiar Grama Bank (Officers and Employees) Service Regulations, 2010 (Annexure-P6), governing the service conditions of the employees of the bank and particularly Regulations 45 and 72 came to the conclusion that the gratuity cannot be withheld and the same is liable to be paid to the respondent- petitioner.

4. Learned counsel for the appellant vehemently contends that in view of the provisions of Regulation 45 no post retiral benefits are liable to be paid during the continuance of the disciplinary proceedings. Regulation 45 read as under:-

“45. Disciplinary proceedings after retirement.- (1) An officer or employee who is under suspension on a charge of misconduct and who attains the age of

superannuation, shall be deemed to be in service even after the age of superannuation for the specific purpose of continuation and conclusion of the disciplinary proceeding and issue of final orders thereon.

(2) The officer or employee who is under suspension shall not be eligible for any subsistence allowance for the period beyond the date of superannuation.

(3) The officer or employee against whom disciplinary proceeding has been initiated shall cease to be in service on the date of superannuation but the disciplinary proceeding shall continue as if he was in service until the proceedings are concluded and final order is passed in respect thereof.

(4) The officer or employee against whom disciplinary proceedings has been initiated shall not receive any pay and/or allowances after the date of superannuation and also not be entitled for the payment of retirement benefits till the proceeding is completed and final order is passed thereon except his own contribution to Contributory Provident Fund (CPF).

Explanation: For the purposes of this regulation, the normal retirement benefits such as encashment of privilege leave and Gratuity may be withheld till the completion of the disciplinary proceeding and passing of final order by the Competent Authority and the release of benefits shall be as per the final order of the Competent Authority.”

5. A perusal of the aforesaid regulation goes to show that an officer or an employee shall be deemed to continue in service till conclusion of the disciplinary proceeding even if retired on attaining the age of superannuation during the pendency of such proceedings and he shall not be entitled to receive any pay or allowances after the date of superannuation as also the retirement benefits till the proceeding is completed and final order is passed thereon.

6. Learned counsel for the appellant in order to buttress his submission laid much stress on the explanation to Regulation 45 quoted here-in-above. According to him the gratuity was withheld in exercise of powers conferred upon the employer-bank. In view of the explanation to Regulation 45, the learned Single Judge has committed a manifest error of law in issuing the interim direction for making payment of the same as disciplinary proceeding is still pending. In order to resolve the controversy it is relevant to visit Regulation 72 as well, which reads as under:-

"72 Gratuity.- (1) An officer or employee shall be eligible for payment of gratuity either as per the provisions of the Payment of Gratuity Act, 1972 (39 of 1972) or as per sub- regulation (2), whichever is higher.

(2) Every officer or employee shall be eligible for gratuity on,-

(a) retirement,

(b) death,

(c) disablement rendering him unfit for further service as certified by a medical officer approved by the Bank, or

(d) resignation after completing 10 years of continuous service, or

(e) termination of service in any other way except by way of punishment after completion of 10 years of service:

Provided that in respect of an employee there shall be no forfeiture of gratuity for dismissal on account of misconduct except in cases where such misconduct causes financial loss to the bank and in that case to that extent only.

(3) The amount of gratuity payable to an officer or employee shall be one months pay for every completed year of service or part

thereof in excess of six months subject to a maximum of 15 month's pay:

Provided that where an officer or employee has completed more than 30 years of service, he shall be eligible by way of gratuity for an additional amount at the rate of one half of a month's pay for each completed year of service beyond 30 years:

Provided further that in respect of an officer the gratuity is payable based on the last pay drawn:

Provided also that in respect of an employee pay for the purposes of calculation of the gratuity shall be the average of the basic pay (100%), dearness allowance and special allowance and officiating allowance payable during the 12 months preceding death, disability, retirement, resignation or termination of service, as the case may be."

7. A perusal of the aforesaid provisions goes to show that in no case forfeiture of gratuity can be made except in case where the misconduct causes financial loss to the bank and in that case to that extent only.

8. At this stage, learned counsel for the appellant vehemently contended that proviso to Regulation 72 is applicable only in respect of an employee and not an officer. The distinction between employee and an officer has been sought to be drawn by pointing out that everywhere in Section 72, the word 'officer' or 'employee' has been used, and thus, there are two different cadres and the regulation intended the provision to apply only in case of an employee and not an officer and since the respondent- petitioner falls in the category of an officer, hence, the proviso does not stand attracted in this case. In our considered opinion, the argument is fallacious and liable to be rejected. There seems to be no rational to carve out a distinction in respect of an employee or officer only in respect of forfeiture of gratuity.

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Such an interpretation given to the proviso would make it arbitrary, unreasonable and liable to be hit by Articles 14 and 16 of the Constitution of India. Consequently, the proviso has to be read down in a manner so as to save it from the vice of arbitrariness and the word 'officer' has to be read in the said proviso especially when in Regulation 72, dealing with the gratuity, everywhere the word officer or employee has been used.

9. We find no justifiable reason to carve out a difference between an employee or officer in payment of forfeiture of gratuity.

10. Having interpreted the provisions of the proviso in the above manner we now proceed to analyze as to whether in the case in hand where the respondent-petitioner is facing disciplinary charges can the gratuity be withheld?

11. A perusal of the charge sheet goes to show that in none of the article of charges there is even any allegation of causing any financial loss to the bank. Once the article of charges do not contain any allegations in respect of the financial loss to the bank it is more than apparent that the petitioner cannot be held guilty of the same. Once he cannot be held guilty of the same, we see no reason to withhold the gratuity till conclusion of the disciplinary proceeding.

12. In view of the above facts and analysis we find no infirmity in the view taken by the learned Single Judge and directing the appellant- respondent-bank to release the gratuity to the respondent-petitioner along with interest @ 6% per annum. Thus, the appeal is devoid of merit and accordingly stands dismissed.■

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