Vol. 38 No. 9 Total 12 Pages BANGALORE Single Copy Rs. 3/- DECEMBER - 2019

Editorial

END OF THE DECADE

This will be the last issue of the Common Bond of this tumultuous decade, whom we will bid a good-bye on 31st December, 2019. This gives us an opportunity to look back to the decade, learnt a lesson from the success and failures and to draw our own new year resolution with which we will come before you in the first issue of third decade of the 21st century. Before we proceed, Common Bond pays its profound regards to all the stalwarts of the bank officers and employees movement who left us during this decade. We will be failing in our responsibility if we do not mention the names of Comrade S. R. Sengupta and Comrade R. N. Godbole the founder President and General Secretary of AIBOC.

We recall that the international community is smarting from the impact of the economic crisis that had gripped the world post collapse of Lehman Brothers in 2008. Despite wait of many a sleepless nights, the typhoon of economic crisis did not hit the Indian shores with all its destructive capacity. We all know that the public sector banking and dominancy of the public sector in the financial sector of the country put up a strong firewall of resistance to the incoming economic doomsday.

Unfortunately, the role played by the public sector banks in warding off the impending crisis was under estimated and the very structure of the public sector banking is at stake as we are gearing up for the next decade. There are a series of announcement of the merger of public sector banks reducing their number to 12. Public sector banks are forced to make huge provisions for NPA by tweaking the guidelines for the identification of such impaired assets in utter disregard of sound economic principles governing provisioning norms.

Such actions of compelling public sector banks to post enormous loss under the guise of assets quality review mechanism of the regulator has naturally put these banks in poor light before the citizenry of the country. Taking advantage of such so called dismal performance, not only the process of merger and amalgamation is initiated but a host of measures like setting up of payment banks, encouragement to non-banking financial sector, increase in speculative activity in the share market unrelated with the real time economy of the country are all set in motion during the last part of the decade. Even the largest lender in India, State Bank of India has joined hand with Reliance Group for setting up Reliance Payment Bank expected to be functional shortly.

The logic behind such action is apparently hazy. On the one hand merger and amalgamation will lead to closure of bank branches depriving next door trusted banking facility to the millions of common man. At the same time, both private sector banks and such small payment banks are being encouraged to open their retail outlet providing not so trusted truncated banking facility.

In a country like India where the penetration of the financial sector has not reached its peak, such decision can only have a negative impact on the savings habit of the countrymen and will have multiplier effect on growth, employment and credit flow to the targeted sector.

Such open door policy for private sector financiers with simultaneous choking of PSB lenders does not complete the circle of new economic dispensation. Government has decided to take off its hand from such iconic public sector undertakings such as BPCL, SCI, CONCOR, THDCIL and NEEPCO. This may be just the beginning as we roll into the new decade and at this rate there may not be any public sector by the time we complete the incoming decade for welcoming the fourth decade of the 21st century. Such an eventuality will have a cascading impact on the service conditions and superannuation benefits now being enjoyed, though being scanty, by the organised sector. Grapevine is that efforts will be again made for re-introducing the FRDI Bill with some cosmetic changes apart from further changes in labour laws in an anti-cyclical manner with the interest of the working class.

Such rapid changes in the economic management of the country with growing divisive tendencies in the society in the name of caste, creed and religion may finally ensure emergence of an India hither to unknown to the organised trade union movement and millions of countrymen. It is in this backdrop, it is absolutely imperative that the trade union movement and more particularly the vanguard contingent of the bank employees trade union in general and AIBOC in particular has to reinvent themselves for drawing up an appropriate strategic road map for meeting the emerging challenges.

It is well appreciated that the movement has to coin new slogans, new form of resistance and ensure that the consciousness level of the entire fraternity particularly those who have joined with dreams in their eyes are razed so that a true militant movement capable of negotiating the challenges may be built up. This is where that attention should now be given or else, whatever gains that may emerge from the impending wage settlement both for the serving as well as the retirees may wither away along with the commanding role of the public sector in Indian economy and in Indian financial market.

Naturally the challenges are manifold. But the response should be unique. Response should be centred around one theme that come what may, we will not allow wholesale privatization of the economy not only for our own interest but also to ensure growth of the economy and to make the country a major player in the international economic domain. The struggle for public sector, the struggle for defeating the wrong direction of economic policies, the struggle for blocking the inroads of the crony capitalists in the financial sector in the form of rolling out of so called payment banks and efforts to dis-intermediate the entire financial spectrum is actually a struggle for sovereignty of an inclusive self-reliant India. We owe to our own founders, to the millions who sacrificed their lives and youth for the independence and for participating in post independent democratic struggle for an inclusive tolerant India that we keep our own gun powder dry for overcoming any eventualities.

This is the lesson from this decade. This is the task for the coming decade. Common Bond assures that it will play the role of a true organizer of the impending struggle by decimating the counter ideological offensive of the ruling class within its limited means. It requires the blessings and intellectual support by way of contributory article and new round up from the entire membership so that it can really emerge as an organ of such an enriched movement represented by AIBOC. This is the dream of the editorial team of Common

THERE IS NOTHING PERMANENT EXCEPT CHANGE

Bond and it will leave no stone unturned to translate this dream into reality. Thank you comrades for all the support during this challenging time. We shall overcome in the coming decade. Have a brilliant X-mas and wintry holidays and capture enough fresh air in your lung so that the evil forces can be squarely defeated and we can ensure a real quality life for our own family members and members of the extended family i.e., our motherland India.

SHARED ARTICLE

THE BUBBLE IS IMPLODING

This article is reprinted from "MINT' with due acknowledgement to Shri Ashoka Mody, visiting professor at Princeton University's Woodrow Wilson School, USA. The editorial team thinks that this is an excellent yet simple analysis of the economic journey of the country ever since Dr. Manmohan Singh took over as Finance Minister of the country in 1991. This painstaking analysis validates the stand of AIBOC from day one after the initiation of the models of economic liberalization. (Editorial Team Common Bond).

India's gross domestic product (GDP) growth has slowed sharply from 8% a year last year to 5% in the second quarter this year. Optimists, Indian and international, say growth will pick up soon. The International Monetary Fund (IMF) projects the Indian economy will hum at 7.5% a year by 2021. Such optimism is dangerous.

GDP growth could, in fact, fall and languish in the 3-to-5% a year range. The ongoing slowdown is not a short-term disruption. Rather, a financial bubble that began inflating nearly three decades ago is finally fizzling out.

Indian policymakers have patted themselves on the back during these post growth years. They have relied on a narrow vision of economic liberalization, which could do little to generate long-term growth but which did create deep financial pathologies and inequalities.

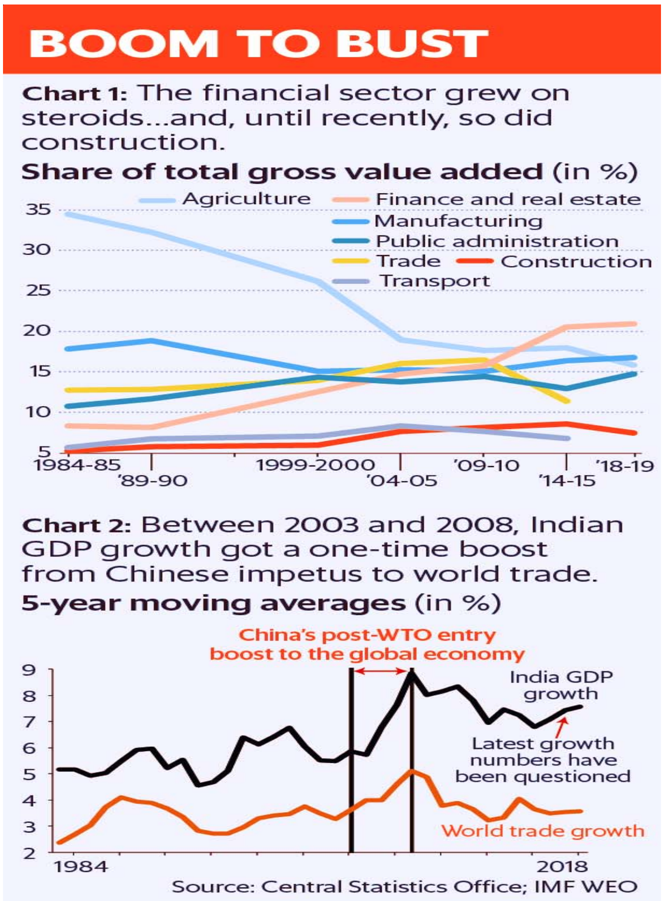
Meanwhile, India has lagged woefully in creating the human capital and urban infrastructure needed for a modern, competitive economy. Without these prerequisites, India is bereft of a growth model. Here's how India lost its way:

Liberalization misses its mark

On 24 July, 1991, the newly-appointed finance minister Manmohan Singh declared in rhythmic sentences: "Let the whole world hear it loud and clear. India is now wide awake." India is an "idea," he said, whose "time has come."

Singh's goal was to rejuvenate Indian industry. The two-pronged strategy included the carrot of a 20% rupee devaluation (bringing it to ?26/dollar) and the stick of lower import barriers and more liberal rules for entry of foreign investors to "expose Indian industry to international competition." Indian producers would need to pay attention to "cost, efficiency, and quality," making them sturdier global competitors.

It was an important moment in global economic history. The East Asian "tigers," especially Korea and Taiwan, had left India in the dust in the 1970s and 1980s during the first wave of international competition for labour-intensive production—electronics goods, garments, shoes. The tigers were now graduating to technologically sophisticated products. Could India fill the space opening up in labour-intensive production?



The economist Paul Krugman issued a warning. The Singh type of liberalization could improve the efficiency of resource use and, hence, give a "one-time economic boost," but they could not generate long-term growth. The World Bank noted pointedly, East Asia grew through "broadly based educational systems" that "invested in people."

Hence, under Singh's liberalization, the action took place elsewhere. The stock market soared. The Sensex rose from about 1,400 on the day before Singh's speech in July 1991 to 4,467 on 22 April, 1992—a three-fold rise in nine months. It was tempting to believe that the reforms were paying off. But the rise was fuelled by a financial scam perpetrated by the stockbroker Harshad Mehta, who borrowed illegally from banks to push stock prices up. The market stopped dead on 23 April when Sucheta Dalal of the The Times of India exposed the fraud.

Financial Magic

The pattern was set: quick riches through financial magic. In May 1994, Morgan Stanley established an Indian liaison office, employing the 37-year old, Harvard Business School-educated Naina Lal on the breathtaking annual salary of ?1 crore (over $300,000 a year). Naina Lal's income was about 40 times that of a secretary to the Government of India. Four new private sector banks entered the market in the early 1990s: Axis Bank, HDFC Bank, ICICI Bank, and IndusInd Bank.

The man who captured the moment was Ravi Parthasarathy, a graduate of the Indian Institute of Management at Ahmedabad and a former Citibank employee. Starting in 1987, he headed (under various titles) the Infrastructure Leasing and Finance Services (IL&FS). IL&FS was financed principally by government-owned or government-supported institutions. Because it did not receive deposits from the public, the Reserve Bank of India (RBI) did not regulate it as a bank. The RBI did have oversight over the IL&FS because it was a "systemically important" financial institution.

But, charitably, the oversight was light. By the early 1990s, Parthasarathy figured out that real money lay in infrastructure construction projects funded by the central and state governments. Therein lay cozy deals, padded to make everyone happy—the politicians, bureaucrats, and IL&FS. No one was looking.

The bubble began to inflate. For the nearly three decades after Manmohan Singh's economic reform, "finance and real estate" was India's fastest growing sector. The other growth sector, construction, matched financial growth until recently (Figure 1).

In contrast, the manufacturing, at which Singh directed his reform effort, tread water. Through the 1990s, India steadily ceded ground to China, the emerging global export powerhouse of labour-intensive products.

The result: the Indian economy did a poor job of creating jobs. Labour-intensive manufacturing is the only source of good, steady jobs that create the prospect of upward mobility for workers and their children. Finance is glamorous and a few people receive outrageously large compensation, but the sector employs few people.

Construction did open up jobs for those moving out of low-productivity agriculture. But construction workers were low-wage casual labourers, who worked episodically in brutal conditions. No one looked under that hood either.

'Shining India' years

Domestic policymakers and international observers celebrated the high headline growth numbers. Indian software producers gained disproportionate spotlight as markers of success. In March 1999, the Bengaluru-based Infosys became the first Indian-registered company to be listed on the Nasdaq stock exchange. In March 2000, the then US President Bill Clinton visited India, making a stop in Hyderabad, dubbed "Cyberabad" under the tech-savvy chief minister Chandrababu Naidu. Clinton spoke in awe of India's dazzling diaspora in the US Silicon Valley; he applauded India's young multimillionaires.

Some months before Clinton's visit, in October 1999, a BJP-led coalition had gained a stable majority in the Lok Sabha. But the essential philosophy established by Manmohan Singh—more open markets, financial deregulation—remained unchanged.

India now decisively missed the second wave of global competition in labour-intensive products. When, on 11 December, 2001, China became a member of the World Trade Organization, Chinese exporters powered into the new markets opened up to them.

India's finance-construction growth model continued apace. In 2003 and 2004, two new private banks, Kotak Mahindra and Yes Bank, joined the crowded financial field. The BJP built more highways, which created more need for private finance and gave more fillip to construction. The barely hidden nexus of politician, bureaucrat, and financier became tighter. India steadily became one of the world's most unequal economies. The BJP's 2004 Lok Sabha campaign with the slogan "Shining India" felt hollow and cynical to far too many people.

Human Capital

Losing to international competition in this second wave failed again to bring home the message that India lacked a core ingredient of success: human capital. From the time of the industrial revolution in the late 18th century, economic growth and human capital development had been closely related. Each round of successful new entrants on to the global stage had pushed the human development frontier further.

The Americans achieved near-universal high school education in the early 20th century and they followed it up after the Second World War with the spread of state-financed universities. The East Asians understood this historical lesson well.

Even for labour-intensive manufacturing, quality and timely production required a high degree of industrial literacy. East Asian—including by now Chinese—schools got steadily better; the governments there began the task of building world-class universities.

In India, the illusion continued. The years 2003 to 2008 were heady. Although China was chewing up export market shares, it was also a major importer of raw materials and industrial products. Thus, the Chinese boom fuelled extraordinary global trade volumes. The entire world rode that rising global tide—and so did India.

When the global financial crisis made its impact in 2008, Indian policymakers steadied the domestic economy through fiscal stimulus, and the fiscal boost continued for a few years, creating the sense that India had escaped the damage. India's growth momentum had, however, lost steam—the apparent pick up after 2014 being a statistical artifact of a new methodology that paints a rosy picture completely at odds with the reality.

Chinks in growth model

Without the boost to world trade between 2003 and 2008, the cracks in the finance-led growth model would likely have become evident much earlier. After about 2004, the employment situation, already grim, became dire. Between 10 and 12 million young Indians enter the workforce every year. However, recent data from the National Sample Survey Office suggests that the Indian labour market has produced no new net jobs since 2004.

Construction has continued to offer men some new jobs. But women, especially from financially vulnerable households, have withdrawn from the workforce, given limited opportunities in agriculture and rural industry.

By the mid-2000s, a vast swathe of Indian manufacturers had given up. Rana Dasgupta, in Capital: The Eruption of Delhi, interviewed a young auto parts producer in a grotesquely lavish Delhi farmhouse, who said, "What you see in front of you is the wealth from my real estate. Not from my automotive business."

As China moved upscale, India lost out in the third wave of international competition in labour-intensive products. Vietnam began taking over China's space in electronics, garments, and textiles. Bangladesh's garment exports zoomed ahead of India's garment exports. The magic ingredient, Still human capital. Vietnamese children are among the very best in the world in science in tests conducted by the Organisation for Economic Co-operation and Development (OECD) under its Programme for International Student Assessment; in mathematics, they are at the OECD average, above France.

Bangladesh has entered a virtuous cycle of labour-intensive production, greater female labour force participation, and better educated children, especially girls. Indian school performance results make for depressing reading: even in advanced states like Tamil Nadu, only about one-third of 5th grade children can read at the second-grade level; only about a quarter can divide. And there is no evidence that performance is improving over time.

Financial bubble is imploding

No surprise. The implosion started with IL&FS, now a behemoth with several dozen subsidiaries shrouded in opaque financial accounts.

As Sucheta Dalal documents, the infrastructure lender IL&FS spread its tentacles in mysterious ways, employing civil servants in "special purpose vehicles" administering the infrastructure projects it financed. The civil servants and IL&FS executives enjoyed an extravagant lifestyle, enjoying the patronage of powerful politicians while avoiding the scrutiny of the RBI. IL&FS is the most egregious example of the finance-construction-politics nexus. The rot though is widespread and is chewing the entrails of many public sector banks, whose accounting is also hidden from view. Despite recent recapitalization of these banks by the government, their stocks trade at between 0.3 and 0.6 of their book values, implying the market's judgment that large chunks of their assets are worthless.

Many observers predict—hope—that the current economic slowdown is temporary, and that growth will resume soon. Those more concerned call mind-numbingly for more "labour-market reforms," not recognizing that increasing numbers of organized-sector workers are on precarious short-term contracts.

No, as the finance-led growth model inevitably collapses, India must invest in its future.

There are no easy fixes: India will need at least a generation to build necessary human capital alongside safer and more productive urban spaces. Or else, we will be looking down an abyss.

ORGANISATIONAL NEWS

1ST TRIENNIAL CONFERENCE OF CHHATTISGARH STATE UNIT

12th November, 2019 witnessed a saga of the stunning and elegant manifestation of strength and unity in the 1st Triennial Conference of Chhattisgarh State Unit of AIBOC at "Shaheed Smarak Bhavan" Raipur. The meeting took place in the presence of the esteemed public personalities, Trade union luminaries like Sri Pramod Dubey, Mayor Raipur City, Com Debasis Ghosh, President AIBOC, Com Soumya Dutta, General Secretary AIBOC.

It has left behind chronicles of lasting impressions of a memorable Conference which was outstanding and magnificent in its conduct and remarkable for its content. Each bit of the event was a testimony and manifestation of rock-built solidarity and resolute commitment.

AFFILIATE NEWS

33RD NATIONAL CONFERENCE OF FEDERAL BANK OFFICERS' ASSOCIATION

The 33rd National Conference of FBOA was held on 27 October 2019, at Municipal Town hall, Aluva, Kerala. The venue wore a festive look with banners, arches and festoons with the resonance of 'panchavadyam'. The inaugural session was attended by distinguished guests, well-wishers, executives, FBOA educational award winners, media representatives, retired members and our members. President of FBOA, Com. Jenib J Kachapilly presided over the meeting. General Secretary, Com. Paul Mundadan delivered the welcome address.

Kerala Upalokayuktha, Hon'ble Justice Babu Mathew P Joseph inaugurated the conference by lighting lamp and delivered inaugural address. In his inaugural speech, Hon'ble Justice strongly opinioned that the purpose of independence of our country was to achieve equality of its citizens. The purpose is not yet fully achieved. Nationalisation of banks in 1969 was the policy of the government to make bank credit available to common man. Banks play a pivotal role in controlling the economic system of the country. There is scope for providing credit at lower interest rates and achieving these goals. However, the policies of the government are now moving away from these concepts and price rise and unemployment are on the rise in the country.

Common Bond welcomes the newly elected Executive Committee with Comrade Aneesh Kumar R as President and Comrade Anitha P as General Secretary while appreciating the role of outgoing General Secretary Comrade Paul Mundadan, who will be retiring from the service of the Bank in May 2020.

INDEPENDENCE IS HAPPINESS

18th Biennial Conference of Dhanalakshmi Bank Officers' Organisation

It was a refreshing experience for all those who attended the 'Eco-Friendly' 18th Biennial Conference of Dhanalakshmi Bank Officers' Organisation held on 10th November 2019 at Thrissur. The Conference was attended by Com Soumya Datta, Com Dilip Saha and Com Abraham Shaji John from AIBOC level. Mr. Sajeev Krishnan, the Chairman of Dhanalakshmi Bank was the Chief Guest of the conference. The conference was billed as 'A Green Initiative by DBOO' that will be held under the 'Go Green Protocol. The organisers were aiming to completely avoid creation of any non-biodegradable waste out of this conference.

We are glad to report that the conference really lived up to the expectations. More than 2000 seeds were distributed amongst the participants. Even if one fourth of them pick up growth, it would be a great achievement.

CIRCULARS

69 dated 31st October, 2019: D.A. Payable from November 2019 to January 2020.

70 dated 04th November, 2019: Text of Letter No. AIBOC/2019/89 dated 04.11.2019 on online facility for recording / modifying employee mandate for deduction of union membership subscription written to the Secretary, Dept. of Financial Services, Ministry of Finance, Govt. of India

71 dated 16th November, 2019: Text of the letter submitted from four officers' organisations to IBA on 15th November 2019, enclosing joint notes on five non-financial issues related to the officers' community on wage negotiation – non financial issues

72 dated 16th November, 2019: Text of the letter submitted from four officers' organisations to IBA on 15th November, 2019 on the Notional benefit of additional stagnation increment to officers retired from bank between 01.11.2012 and 30.04.2015

73 dated 16th November, 2019: Text of UFBU Circular No. UFBU/2019/10 dated 15.11.2019 on talks with IBA on 15.11.2019

74 dated 21st November, 2019: Massive dharna before Parliament on 10.12.2019 opposing mergers of banks and anti-common man banking reforms by 6 (six) constituents of UFBU, viz. AIBOC, AIBEA, AIBOA, BEFI, INBEF and INBOC

COMING TOGETHER IS BEGINNING, WORKING TOGETHER IS SUCCESS

Judicial Verdict

2019 LLR 1181
SUPREME COURT OF INDIA
Hon'ble Mr. L. Nageswara Rao, J.
C.A. No. 7279/2019 (Arising out of SLP (C) No. 25909/2013, Dt/-16.09.2019
Karnataka Power Transmission Corpn. Ltd.
Vs.
Sri C. Nagaraju & Anr.

A. ACQUITTAL IN CRIMINAL TRIAL VIS-À-VIS DEPARTMENTAL PROCEEDINGS – Entirely different – Charges against delinquent employee was of illegal gratification – Criminal case was filed against him – Workman was acquitted in criminal case since prosecution witnesses turned hostile – After holding enquiry the workman was dismissed from his services – He challenged his dismissal order – Held, acquittal by criminal court does not debar employer from exercising power to conduct departmental proceedings in accordance with Rules and Regulations – Both proceedings are entirely different – Objective of both proceedings is different – in departmental proceedings, on finding guilty, the punishment of removal from service or lesser than it is imposed – in criminal proceedings quantum of sentence is to be imposed upon the accused – Standard of proof in both proceedings are significantly different – Disciplinary Authority is not bound by criminal court judgment – Order of dismissal on the basis of evidence recorded by the Enquiry Officer is different from the evidence recorded by the criminal court – Departmental, proceedings and criminal trial can proceed simultaneously as there is no bar – Hence, departmental action is justified – No interference is required by High Court.

B. ACQUITTAL FROM CRIMINAL CASE – When would effect adversely the dismissal from service – Held, when charges in both the proceedings are same – Evidence recorded is of same witnesses and on same footings – Employee is acquitted in criminal case honourably – Departmental proceedings are ex-parte.

IMPORTANT POINTS

1. Acquittal by criminal court does not debar employer from exercising power to conduct departmental proceedings in accordance with Rules and Regulations against the delinquent employee.

2. Criminal as well as departmental proceedings are entirely different. Objectives of both proceedings are different. In departmental proceedings, the punishment of removal from service or lesser than it is imposed whereas in criminal proceedings quantum of sentence is to be imposed upon the accused as per criminal law.

3. Standard of proof in criminal proceeding is 'strict proof' whereas in departmental proceedings standard of proof is not strictly based on the rules of evidence but on the basis of 'preponderance of probabilities'.

4. Disciplinary Authority is not bound by criminal court judgment. Order of dismissal on the basis of evidence recorded by the Enquiry Officer is different from the evidence recorded by the criminal court.

5. Departmental proceedings and criminal trial can proceed simultaneously as there is no bar.

6. When charges in both the proceedings criminal as well as departmental are same, evidence recorded is of same witnesses and on same footings, the employee is acquitted in criminal case honourably and departmental proceedings are ex-parte, punishment of dismissal from service on the basis of departmental enquiry would not be justified.

JUDGMENT

L. NAGESWARA RAO, J. Leave granted.

1. The judgment of the High Court by which the order of dismissal of Respondent No.1 from the service was set aside is the subject matter of this Appeal. Respondent No.1 was appointed as a Meter Reader-cum-Clerk in the Karnataka Power Transmission Corporation Limited (KPTCL) in the year 1974. He was promoted as a Junior Engineer in the year 1997. On 21.06.2003, Additional Registrar of Enquiries-I, Karnataka Lokayukta, Bangalore [1] framed a charge against the Respondent which is as follows: "Charge: That you DBE Sri. C. Nagaraju, while working as Junior Engineer (Elecl.,) at KEB, VV-

1 (O&M) South Zone, Vidyaranyapuram Circle, Mysore during the year 1998, one Sri. K. Chandrasekhar, Class II Electrical Contractor, Resident of Vidyaranyapuram, Mysore, (hereinafter called as 'Complainant') had approached you for obtaining electrical power supply to the house and shop of his customer Smt. Savithramma, on 14-5- 1998, and you demanded a sum of Rs.1,250/- as illegal gratification, and on 16-5-1998 you once again demanded and accepted illegal gratification of Rs.750/- as advance amount, from the complainant for doing the said work of giving electrical power supply, and thereby you being a public servant failed to maintain absolute integrity and devotion to duty and did an act which was unbecoming of a Government servant and thereby [2] you have committed an act of misconduct as enumerated under Rule 3(1)(i) & (iii) of K.E.B. Employees Service (Conduct) Regulation Rules, 1988."

2. The Respondent submitted his explanation to the charge. After conducting an inquiry, Additional Registrar of Enquiries-I, Karnataka Lokayukta, who was nominated as the Inquiry Officer, held that the charge against Respondent No.1 was proved. The Lokayukta examined the inquiry report and approved the findings of the Inquiry Officer. Having regard to the serious misconduct committed by Respondent No.1, the Lokayukta imposed the penalty of dismissal from service under Clause VIII of Regulation No.9 of Karnataka Electricity Board Employees (Classification, Discipline, Control and Appeal) Regulations, 1987.

3. The final notice was issued by the Appellant seeking an explanation from Respondent No.1 as to why the report of the Inquiry Officer should not be accepted. The reply submitted by Respondent No.1 was considered, and [3] by an order dated 23.03.2007, Respondent No.1 was dismissed from service. The said order was affirmed by the Appellant Authority on 24.06.2008. Aggrieved by the order of dismissal from service, Respondent No.1 filed a writ petition in the High Court of Karnataka which was allowed by a learned single Judge by a judgment dated 08.09.2011. The Writ Appeal filed by the Appellant was dismissed by the Division Bench. Dissatisfied with the judgment of the High Court, the Appellant is before this Court.

4. It is relevant to note that Respondent No.1 was tried by the Court of Special Judge, Mysore (hereinafter referred to as "the Criminal Court") for committing offences under Sections 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 ("the PC Act"). He was acquitted by the Criminal Court as the prosecution witnesses turned hostile and did not support the case of the prosecution.

5. The learned single Judge of the High Court allowed the Writ Petition relying upon the judgments of this Court [4] in Captain M. Paul Anthony v. Bharat Gold Mines Ltd. 1 and G.M. Tank v. State of Gujarat. 2 It was held that the charges in the departmental inquiry and the criminal case are the same and Respondent No.1 ought not to have been dismissed from service after he was found not guilty by the Criminal Court. The Division Bench upheld the judgment of the learned single Judge by observing that an order of dismissal from service could not have been passed once the Respondent was honourably acquitted by the Criminal Court.

6. The learned counsel appearing for the Appellant submitted that the charges framed against Respondent No.1 in the Criminal Court and the Departmental Inquiries were different. He submitted that the complainant resiled from his statement and turned hostile before the Criminal Court. He further submitted that the evidence which was the basis of the order of dismissal was different from the evidence before the Criminal Court. By relying upon the judgments of this Court, the learned counsel emphasized that an acquittal 1 (1999) 3 SCC 679 2 (2006) 5 SCC 446 [5] by a Criminal Court does not bar a departmental proceeding. According to him, the standard of proof in a criminal trial is different from what is required for a departmental proceeding. Strict rules of evidence are followed in criminal proceedings whereas preponderance of probabilities is what is taken into consideration in a departmental inquiry. Reliance was placed by the learned counsel for the Appellant on the judgments of this Court in Depot Manager, A.P. State Road Transport Corporation v. Mohd. Yousuf Miya 3 and Ajit Kumar Nag v. General Manager (PJ), Indian Oil Corpn. Ltd., Haldia. 4

7. The learned counsel for Respondent No.1 justified the judgments of the High Court by arguing that an order of dismissal cannot be passed by the Appellant after he was honourably acquitted by the Criminal Court. He stated that the essence of the charge in the criminal trial and the departmental inquiry is the same. He supported the judgment of the High Court by submitting that the Departmental Authorities were bound by the 3 (1997) 2 SCC 699 4 (2005) 7 SCC 764 [6] judgment of the Criminal Court. He urged

that there is no truth in the allegation of demand and acceptance of illegal gratification against Respondent No.1. He further submitted that the evidence adduced in the departmental inquiry is not sufficient for warranting the imposition of the penalty of dismissal from service.

8. Mr. Chandrasekhar who was an electrical contractor submitted a complaint in which it was stated that he made an application for an electrical connection in favour of his client, Mrs. Savithri. He alleged in the complaint that Respondent No.1 demanded a bribe of Rs.1250/- for giving the electricity connection. After negotiation, the amount of bribe was reduced to Rs.750/-. Unwilling to pay the illegal gratification, Mr. Chandrasekhar lodged a complaint before the Lokayukta Police on 15.05.1998. A case was registered under Sections 7, 13(1)(d) read with Section 13(2) of the PC Act. A trap was laid and Respondent No.1 was caught accepting the amount of Rs.750/- from Mr. Chandrasekhar. The right hand of Respondent No.1 was washed in Sodium Carbonate solution and it turned into pink colour. The complainant [7] appeared before the Inquiry Officer and deposed against Respondent No.1 about demand and acceptance of illegal gratification. That apart, the complainant Mr. Chandrasekhar also gave details about the trap laid down by the Lokayukta Police. Mr. Santhosh Kumar, Deputy Superintendent of Police who conducted the trap was examined as PW3. After taking into account the evidence, the Inquiry Officer held Respondent No.1 guilty of the charge. Considering the gravity of misconduct in demanding and accepting illegal gratification, the Disciplinary Authority found Respondent No.1 not fit to continue in service.

9. Acquittal by a criminal court would not debar an employer from exercising the power to conduct departmental proceedings in accordance with the rules and regulations. The two proceedings, criminal and departmental, are entirely different. They operate in different fields and have different objectives.5 In the disciplinary proceedings, the question is whether the Respondent is guilty of such conduct as would merit his 5 Ajit Kumar Nag (supra) [8] removal from service or a lesser punishment, as the case may be, whereas in the criminal proceedings, the question is whether the offences registered against him under the PC Act are established, and if established, what sentence should be imposed upon him. The standard of proof, the mode of inquiry and the rules governing inquiry and trial in both the cases are significantly distinct and different.6

10. As the High Court set aside the order of dismissal on the basis of the judgments of this Court in Captain M. Paul Anthony (supra) and G.M. Tank (supra), it is necessary to examine whether the said judgments are applicable to the facts of this case. Simultaneous continuance of departmental proceedings and proceedings in a criminal case on the same set of facts was the point considered by this Court in Captain M. Paul Anthony's case (supra). This Court was of the opinion that departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar. However, it is desirable to stay departmental 6 State of Rajasthan v. B.K. Meena (1996) 6 SCC 417 [9] inquiry till conclusion of the criminal case if the departmental proceedings and criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact. On the facts of the said case, it was found that the criminal case and the departmental proceedings were based on identical set of facts and the evidence before the Criminal Court and the departmental inquiry was the same. Further, in the said case the departmental inquiry was conducted ex parte. In such circumstances, this Court held that the ex parte departmental proceedings cannot be permitted to stand in view of the acquittal of the delinquent by the Criminal Court on the same set of facts and evidence. The said judgment is not applicable to the facts of this case. In the present case, the prosecution witnesses turned hostile in the criminal trial against Respondent No.1. He was acquitted by the Criminal Court on the ground that the prosecution could not produce any credible evidence to prove the charge. On the other hand, the complainant [10] and the other witnesses appeared before the Inquiry Officer and deposed against Respondent No.1. The evidence available in the Departmental Inquiry is completely different from that led by the prosecution in criminal trial.

11. Reliance was placed by the High Court on a judgment of this Court in G.M. Tank (supra) whereby the Writ Petition filed by Respondent No.1 was allowed. In the said case, the delinquent officer was charged for an offence punishable under Section 5(1)(e) read with Section 5(2) of the PC Act, 1988. He was honourably acquitted by the criminal court as the prosecution failed to prove the charge. Thereafter, a Departmental Inquiry was conducted and he was dismissed from service. The order of dismissal was upheld by the High Court. In the Appeal filed by the delinquent officer, this Court was of the

COMMON BOND ENGLISH MONTHLY-R.N.I.NO:36648/82-TOTAL NO.OF PAGES 12 DECEMBER - 2019
REGN. NO. KRNA/BGE -1122/2017-2019 PUBLISHED ON 25-11-2019
POSTED AT BANGALORE PSO, MYSORE ROAD, BANGALORE - 560 026 / ON 2ND OF EVERY MONTH
LICENCED TO POST WITHOUT PRE-PAYMENT-LICENCE NO. WPP 330

opinion that the departmental proceedings and criminal case were based on identical and similar set of facts. The evidence before the Criminal Court and the departmental proceedings being exactly the same, this Court held that the acquittal of the [11] employee by a Criminal Court has to be given due weight by the Disciplinary Authority. On the basis that the evidence in both the criminal trial and Departmental Inquiry are the same, the order of dismissal of the Appellant therein was set aside. As stated earlier, the facts of this case are entirely different. The acquittal of Respondent No.1 was due to non-availability of any evidence before the Criminal Court. The order of dismissal was on the basis of a report of the Inquiry Officer before whom there was ample evidence against Respondent No.1.

12. In Krishnakali Tea Estate v. Akhil Bhartiya Chah Mazdoor Sangh 7 this Court was concerned with the validity of the termination of the services of workmen after acquittal by the Criminal Court. Dealing with a situation similar to the one in this case, where the acquittal was due to lack of evidence before criminal court and sufficient evidence was available before the Labour Court, this Court was of the opinion that the 7 (2004) 8 SCC 200 [12] judgment in Captain M. Paul Anthony's case (supra) cannot come to the rescue of the workmen.

13. Having considered the submissions made on behalf of the Appellant and the Respondent No.1, we are of the view that interference with the order of dismissal by the High Court was unwarranted. It is settled law that the acquittal by a Criminal Court does not preclude a Departmental Inquiry against the delinquent officer. The Disciplinary Authority is not bound by the judgment of the Criminal Court if the evidence that is produced in the Departmental Inquiry is different from that produced during the criminal trial. The object of a Departmental Inquiry is to find out whether the delinquent is guilty of misconduct under the conduct rules for the purpose of determining whether he should be continued in service. The standard of proof in a Departmental Inquiry is not strictly based on the rules of evidence. The order of dismissal which is based on the evidence before the Inquiry Officer in the disciplinary proceedings, which is different from the evidence available to the Criminal [13] Court, is justified and needed no interference by the High Court.

14. For the aforementioned reasons, the Appeal is allowed.

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An Official Publication Of AIBOC

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Editor: Soumya Datta

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RATES OF SUBSCRIPTION: ANNUAL: ₹ 30/-

Drafts Should be Drawn

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"Kolkata – 700001" ☎ 2210-1234, Fax (033)2210-2210
E-mail: aiboc.sectt@gmail.com
Web site: http://www.aiboc.org

REGISTERED NEWS PAPER

LICENSED TO POST WITHOUT PREPAYMENT

TO

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.