



**“WE ARE LIKE ISLANDS IN THE SEA,
SEPARATE ON THE SURFACE BUT CONNECTED IN THE DEEP.**

.....*William James*

The disturbing trend that was set in the year 2019 with chaotic situation prevailing across the country be it unrest in the political front or downward economic trend, wrongful government policies disturbing the social fabric of the country bifurcating the citizenry on caste, creed and religious lines unfortunately continued in the year 2020

The whole country is on turmoil due to CAA, NRC and other sensitive decisions taken by the government. A large section of the citizenry believes that the very foundation of the Indian Union is under siege. We strongly feel that all stake holders should engage in meaningful exchange so that a synthesis of ideas may emerge and the largest participating democracy can negate all the challenges on its very fabric.

There is a concerted attack on the very edifice of public sector in general and that of public sector banking in particular. There are delays in wage settlement with a stubborn stand by IBA denying and delaying the legitimate rights of the officers' community including retirees. Mega merger of banks are taking place. Efforts are on to de-unionise the public sector undertakings. A wholesale privatization of public sector units including the profitable ones are on the agenda including those engaged in strategic areas of national economy. The government announced the first public offering of shares in LIC causing deep concern in the minds of common people. The announcement in the budget for having two types of tax regime wherein in one system all deductions admissible, with actually

encourage savings propensity, is proposed to be withdrawn. Published data suggests that for the first time the savings as a ratio of GDP is coming down. There is no uptick in credit flow from the bank including deceleration in the growth of bank credit to MSME and retail. Unfortunately, the Policy makers are looking at the problems from the supply side without taking any tangible measures to increase the aggregate demand which can only lift the economy from its current sorry state.

The economy itself is in a tailspin. GDP is showing a declining rate of growth. Unemployment is on the rise. NPA in the banking sector is mounting. There is no tangible result out of IBC and NCLT mechanism for redressal of NPAs as banks are being forced to take massive "haircuts". 76,000 employees of BSNL had walked out from their occupation on 31st January, 2020. The Supreme Court verdict has seriously undermined the viability of other 2 major telecom players, namely, Vodafone and Airtel. If no honourable solution is found, the banking system may have to take a fresh hit of nearly ? one lakh crore (Fund and non-fund exposure) destabilizing the entire financial sector. Inflation is rearing its ugly head while index of industrial production is fluctuating.

The challenges are numerous and daunting. Let us also admit that our responses will be multi-dimensional. We have to find new avenues of resistance. New attacks require response in a manner which the attacker cannot apprehend. While formulating such strategies, we cannot compromise with our basic foundation of unwavering

FACTS ARE MANY BUT THE TRUTH IS ONE

commitment to the ideals of equal distribution of wealth, building up of an inclusive tolerant India and ensuring a decent service life for the membership while zealously upholding all the hard earned rights.

The membership has responded magnificently to the strike call of 31st January and 1st February, 2020 giving a fitting rebuff to the malicious propaganda launched by the IBA. The membership has shown that demand for a 5 day week is dear to their heart. They cannot accept the mischievous argument of IBA that introduction of 5 day week will affect the onward march of our country towards a dream ? 5 trillion economy. Elsewhere in this issue we have reproduced a brilliant analysis by Comrade General Secretary and President of our Confederation which will effectively put the last nail in the coffin of false propaganda initiated by the management denying this rightful aspiration.

Naturally the challenges are manifold. But the response should be unique. Let our unity remain consolidated and our response be centred on one theme 'Let's Connect'. Our contemplations should be like the thoughts of William James, where though we seem to be like islands in the sea, separate on the surface but remain connected underground. We shall overcome all the hurdles this year in 2020 which also happens to be the beginning of the second decade of this century with grit and gumption that we will fight against all divisive forces and stay united in all the struggles lying ahead be it our bi-partite settlement, our work-life balance, against humiliation of our colleagues. Let us enthuse ourselves by cognizance of huge power that lies within us, the immense strength that we possess along with our Confederation which has the competence to take us to unfathomable heights.

WE APOLOGISE

The editorial team of Common Bond is really sorry that a Supreme Court judgement in a court case involving State Bank of India and Ors., Vs. Atindra Nath Bhattacharyya and Anr., has been wrongly carried in both the issues of January 2020 and February 2020.

The editorial team is also grateful to Comrade Y. Sudhindra, President of Corporation Bank Officers' Organisation for drawing the attention to this unfortunate inadvertent mistake. It's a privilege to have avid readers like him. The editorial team is confident that it will receive his encouragement for all future issues. We take this opportunity in requesting all our readers, well-wishers and sympathizers to contribute articles on contemporary banking and challenges before the Confederation including sharing of their anecdotes on their organizational life. This will enrich Common Bond and make it a real organizer and propagator.

ARTICLE

We are reproducing a news item from the Times of India, Kolkata edition dated 01.02.2020 for information of our readers. Common Bond is humbly initiating a debate on this subject by our own observations.

PSU BANKS INEFFICIENT ON EVERY PARAMETER

In a steady critique of the performance of public sector banks (PSBs), the Economic Gaze stated whereas ? 4.3 lakh crore of taxpayers' cash has long past into PSBs, every rupee invested has misplaced 23 paise as on 2019. The survey additionally described Indian banks as suffering 'dwarfism', with totally one bank within the high 100, whereas six are wished for

an economy esteem India's dimension.

PSBs wants to be requested to fragment corporate files among themselves through a GSTNlike entity (PSB network) and undertake analytics of the files using fintech. PSB workers also can simply still abet stake through Employee Inventory Option Plan all the

THERE IS NOTHING PERMANENT EXCEPT CHANGE

method through all ranges. "Phase-possession of PSBs by workers will slice company complications. Here's because workers who bear shares are incentivised to lift market mark of equity."

Assessing the performance of executive banks after completion of 50 years of nationalisation in July 2019, the executive's chronicle card on economy stated on every performance parameter 'PSBs are inefficient when put next to their ogle groups'.

As of January 2020, every rupee of a taxpayer's cash invested in PSB is fetching a market mark of ₹ 71 paise. As against that every rupee invested in a non-public bank fetches a market mark of ₹ 3.7, which is five times of the return in PSBs.

Per the chronicle, if the market-to-e book ratio of every PSB becomes equal to that of the 2d-worst contemporary non-public bank, the enhancement would attain the executive ₹ 9.1 lakh crore, which is set 8.5 times the disinvestment funds for 2019.

Highlighting the significance of banks, the survey stated historically the high-five economies possess continually been supported by their banks. "India changing into a \$5-trillion economy will require on the very least eight Indian banks to be tidy ample to belong within the high 100 globally." Nonetheless, credit rating enhance in PSBs has been sluggish, largely on memoir of their tidy stock of low loans. In 2019, PSBs reported inferior non-performing sources (NPAs) of ₹ 7.4 lakh crore, which is 11.9% of their loans. "NPAs of Indian banks, namely PSBs, also can had been prevented if files and analytics had been employed in corporate lending."

While there had been arguments of the social influence of bank nationalisation, the survey stated there had been a pair of factors at work. Noting that rural branches possess increased 10-fold and credit rating to rural areas rose 20-fold within the first decade after nationalisation, it stated some warning is critical in decoding the above trends as being entirely attributable to nationalisation.

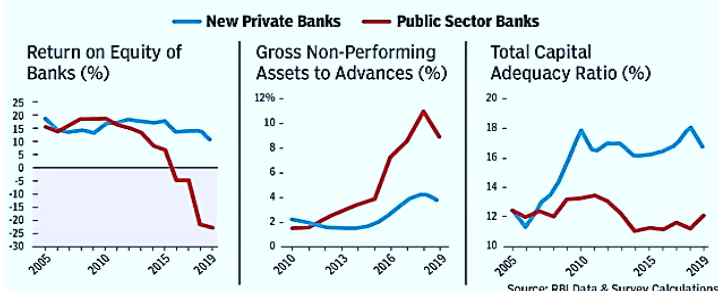
"A key confounder in such an interpretation is the purpose conducted by varied interventions around bank nationalisation. To illustrate, the executive initiated a green revolution and anti-poverty programmes." To additional confound issues, the RBI had offered directed lending programmes, which space priority sector targets for banks and the RBI outmoded both formal methodology and easily suasion to affect lenders to entire its targets.

Explaining causes for disproportionate fragment of low loans among PSBs, the chronicle card stated a believable explanation also can simply be that in Indian economy's enhance section between 2004 and 2011, PSU banks grew their mortgage portfolio but this credit rating enhance became of suspect quality.

On outlook for banks, the survey highlighted the nation's demographics and the Jan Dhan-Aadhaar-Cell combine as the 2 huge riding forces.

As against the sooner stories that made a push for dilution of executive stake, the survey made a steady pitch for employee possession of PSBs. At the same time as the Indian Banks Affiliation is negotiating a wage settlement with unions, it stated the contemporary flat compensation contracts and pressures from ex-publish monitoring by the vigilance companies, it is infrequently ravishing that the workers snatch security and conservatism over risk-taking.

LAGGING THEIR PRIVATE PEERS



Sorry Sir! We disagree with the observation made by the Economic Survey placed before the Parliament and thought that the entire line of wrong reasoning of painting PSBs in poor light should be factually

LEARNING NEVER EXHAUSTS THE MIND

countered:

- i) Economic Survey observed that ₹ 4.3 lakh crore of public money has gone into PSB, every rupee invested has lost ₹ 0.23 as on 2019. It was not made clear that how exactly this was measured. We guess that the loss is being measured by looking at the price fluctuation of PSB share prices in the Stock Market. Sorry! We again disagree with this methodology. We raise a question that why this recapitalization measures are initiated? This is because of diversion of funds by promoters to unrelated business, failure of the legal system including NCLT to address the problems of NPA, pressure exerted on the banks for financing infrastructure sector like power, road, etc. If we take the example of the power sector, the coal mining licenses given to the private sector operators was cancelled due to Supreme Court intervention putting a question mark on the very viability of the sector in the absence of the most critical input, the coal. How the PSBs are responsible for such government decisions, court intervention and blocking of its fund as a direct consequence of such policy paralysis. Or, let us take the example of the Telecom sector. It is apprehended that more than ₹ 50,000 crore of bank loans besides an undisclosed amount of non-fund exposure may become sticky due to the ongoing battle between TRAI, DOT and Supreme Court. Who is responsible?
- ii) Our pertinent question is who is deciding about the quantum of capitalization required? India is not a signatory to any Treaty that made the Basel norms operational for the whole spectrum of public sector banking. PSBs are backed by implied sovereign guarantee and many of them do not have a significant exposure in the international market. The so called recapitalization is being done for cleansing the Balance Sheet blotted by corporate defaults and to let off such willful defaulters by writing off their liabilities to banks by using

tax payers' money. The tax payers' money is lost for the failure of the government to put in place a legally sound recovery mechanism instead of floating the so called IBC mechanism for settling dues at a throw away price. The failures of the government to bring back the fugitive crony capitalists from Shri Nirav Modi to Shri Vijay Mallya back to the country and recover the amount by confiscation of their properties have also contributed for the loss of tax payer's money.

- iii) It is pertinent to mention that composition of NPA of PSBs shifted for non-priority sector from priority sector between 1995 to 2017. In 1995 the amount locked in priority sector accounts for 50% of total reported NPA, while it was 23.5% in 2017. The percentage share of non-priority sector increased from 46.5% in 1995 to 76.5% in 2017 and touched a whopping 83% in 2019. The share of the public sector has declined during the same period from 3.4% to 2.3% in 2017. It is clear where the tax payers' money is going.
- iv) The government report card said that on every performance parameter PSBs are inefficient compared to their peer groups. The share of rural deposits rose from 6% to over 15% during this period. More than 50 million additional loan accounts were nursed by the PSBs of which nearly 90% accounts have a credit limit of around ₹ 10,000/-. If it is not "SAAB KA SAATH SAAB KA VIKAS" what else it is? The government and the power that be wants to know about the performance of banks for industrial sector. Post reform there has been significant change in the sectorial distribution of credit and retail sector are the major beneficiaries. The expansion of auto, housing, real estate and education are all financed mostly by public sector and today nearly 25% of the total credit is blocked in retail segment. Regarding industry and infrastructure, the share of credit going to industry remains broadly at pre-reform level while significant share of this lending went to infrastructure. Who is responsible for dismantling of

development financial institutions and encouraging the commercial banks, particularly the PSBs to lend to the infrastructure sector? Such structural mismatch between the tenor of deposit and long term loans to infrastructure created the problems for public sector banks due to faulty policy initiative. This is where the tax payers' money is going.

- v) The Survey admitted that the top economies of the world have always been supported by their large sized banks. For undermining the role of PSBs the Survey observed that the social impact of bank nationalization could be achieved due to a multiplicity of factors like, a) green revolution, b) anti-poverty programme, c) Directed lending programme of RBI setting priority sector targets for banks and use of both formal means as well as moral suasion to persuade lenders to achieve the target. But Sirs, who achieved these? It is thousands of bank officers' toiling in far flung areas divorced from their home comforts and burning their midnight oil, achieved these targets for the nation building. Today for undertaking such patriotic work, they are being branded as inefficient. Had they not been asked to undertake such functions known as social banking, which is unfamiliar to their private sector peers, the so called market to book ratio of PSBs would be thousand times better than the best performing private sector lenders. We can derive emphatically that the dream of a ? 5 trillion economy rest on the

foundation so assiduously built by public sector bankers over the years. Such work cannot be measured by employing the tools used by share market speculators. This is bad economics in a bad time.

- vi) The Survey however could not overlook the contribution of the bank in ensuring transformation through Jan Dhan – Aadhar – Mobile combine again ensured by the PSBs. They have concluded as against the earlier reports that made a push for dilution of government stake, the Survey made a strong pitch for employee participation in ownership and management. Sir, denial of the role of participative management from 2014 to officers' representative has also contributed to the problems.

Since the purpose of public ownership of banks is that of social banking, it is not enough that they must be made viable: It is also crucial that they must be guided and judged by different set of standards rather than profitability. PSBs should be allowed to reach unbanked population, ensure credit allocation to certain targeted sectors and bringing in its folds the persons who have difficulty in arranging the collaterals. We accept transparency in operation and accountability for our actions. We have no objection to a democratic oversight but against ex-post monitoring by the vigilance agencies which are demotivating the workforce. It is important to accept the contribution made by the PSBs without dwarfing its role. Sir, Economic Survey 2020 has miserably failed in that score and reads like a syndicated column of a financial daily. *(Editorial Team of Common Bond)*

ORGANISATIONAL NEWS

Circular No. 2020/19

Dated: 19.02.2020

Dear Comrade,

CONCILIATION MEETING HELD ON 17.02.2020

A conciliation meeting was held in the office of the Chief Labour Commissioner (Central), Ministry of Labour, Government of India in connection with the strike call given by United Forum of Bank Unions

on 17th February 2020, between all constituents of UFBU, representatives of IBA, Department of Financial Services (DFS) in presence of the Chief Labour Commissioner (Central).

A MAN CAN BE DESTROYED BUT NOT DEFEATED

Common Bond, March - 2020

At the very outset, we registered our strong protest in connection with the retrograde, shambolic and malicious notification issued by IBA before the strike dated 31.01.2020 and 01st February 2020, wherein they had branded the Trade Union leaders as "irresponsible" and also provided baseless and false information on the quantum offered to show the UFBU leaders in poor light to public. We also made clear that it was an irresponsible act on the part of IBA to commence the Bipartite wage revision talks with a meager offer of 2% way back in May'2018. Further, we also protested against the current offer of IBA with a rider that the offer of 15% stands only if the strike action is called off/ deferred. We made it abundantly clear that we were not a party to any online sales portal offers which have a limited period of validity. We urged upon the Central Labour Commission to impress upon IBA to display the necessary will and resolve to settle the long pending 11th Bipartite wage settlement. We further told the Chief Labour Commissioner that IBA should have fixed the next date of Bipartite talks in advance as was advised by the Chief Labour Commissioner on 27.01.2020 before coming for the conciliation

meeting.

IBA officials expressed that they were willing to continue the discussion further and urged upon the UFBU to withdraw the strike action. After hearing both the parties, the Chief Labour Commissioner (Central) stated that the discussion should continue with an open mind so that the issues could be resolved to the mutual satisfaction of all concerned and urged upon IBA to fixed the next date of wage revision talk at the earliest to which the IBA officials agreed readily. The next date of conciliation proceeding was fixed on 5th March'2020 at Shram Shakti Bhavan, the office of Chief Labour Commissioner (Central).

A copy of the minutes of the proceedings is attached.

With greetings

Yours sincerely,

Sd/-

(Soumya Datta)

General Secretary

54TH ANNUAL GENERAL BODY MEETING OF THE KARUR VYSYA BANK OFFICERS' ASSOCIATION



The 54th Annual General Body Meeting of the Karur Vysya Bank Officers' Association was held at KVBOA Matriculation Higher Secondary School at Kothai Nagar, Karur on 25.01.2020. The General Secretary, AIBOC and AISBOF Com Soumya Datta while delivering the key note address acknowledged the role played by the founders Shri M. A. Venkatarama Chettiyar and Shri Athi Krishna Chettiyar. In his speech he expressed his happiness to see the unique between SBIOA and KVBOA both associations started in the year 1965 and celebrated 54th conference during this month.

He further condemned that some unscrupulous foreign investors make efforts to acquire many private sector banks through back door. He felt that the move of government to disinvest in central government undertakings like Air India, BSNL, etc. to be totally opposed by the working force.

Common Bond greets KVBOA for its 54th Annual General body meeting and welcome the following newly elected principal office bearers for the year 2020:

Com CH.V.D.Prasad - President; Com S. Rengan - General secretary and Com S. Raghu - Treasurer

WHOEVER IS HAPPY WILL MAKE OTHERS HAPPY TOO

WHY WE DEMAND A 5 DAY WEEK? GENERAL SECRETARY & PRESIDENT EXPLAIN THE RATIONALE

After the stupendous success of the 2 days strike on 31st January and 1st February, 2020, in the next two phases, the UFBU has threatened a three-day strike from March 11 and an indefinite strike from April 1, if there is no settlement to the long-pending wage issue. Another major demand by the unions is introduction of five-day banking, outright refusal by the IBA in this matter reflects the management's attitude to the cause of employee welfare.

It was the previous (10th) bipartite settlement that made history by introducing holidays on second and fourth Saturdays, marking a new beginning in the working of the banking system. After approved by the RBI and the Government, this was brought into effect through an executive order. There was a promise of a review after six months of implementation and a likely push to a five-day week, which has not happened.

The unions are reiterating the demand in the context of the nature of banking operations having undergone a sea-change on line with the larger goal of digital banking. They point to the increasing numbers of ATMs/ CDMs in operation, passbook entry machines; coin dispensers; cheque truncation, electronic clearing, and immediate payment systems; mobile banking solutions and internet banking. Banks are actively campaigning to increase the usage of these alternative channels by making them user-friendly.

RBI data reveals that the number of point-of-sale (POS) machines increased to 42.5 lakh in July 2019, up 30 per cent from 32.7 lakh in the previous year.

The RBI data only show machine statistics from banks and does not include the number of devices from third-party player. In September 2019, the number of debit cards grew to 835.6 million, a 9.46 million increase over August. At the same time, a total of 52.6 million credit cards were in operation, with the addition of 0.82 million cards. Between July 2018 and July 2019, the country added some 1.01 crore credit cards and lost over 12.14 crore debit cards.

People need not come to branches to transact business as these alternate channels are available to them. So five-day banking would not cause any hassles for customers. Should they want it, there can be seven day branches also with adequate staff by rotation.

As for mobile banking transactions, the volume data was reported at 143.22 crore in December, 2019, up from the previous 136.23 crore for November, 2019. The volume data is updated monthly, averaging 2.51 crore from April 2011 to December 2019, with 105 observations. The number reached an all-time high of 143.22 crore in December, 2019 against a low of 10.8 lakh business correspondents function in rural and urban under banked areas, providing customers with basic banking services.

In the above backdrop the demand for 5 days a week at par with RBI and Ministry of Finance is justified for restoring a semblance of work-life balance in the arduous life of a bank officer. General Secretary and President AIBOC has correctly analysed the situation. We must use this data to explain the rationale of our just demand to our customers, the real patron of public sector banking.

ECONOMY

RETAIL INFLATION CLIMBED TO AN ALMOST SIX-YEAR HIGH OF 7.59%

A day after Finance Minister Nirmala Sitharaman listed a recovery in industrial output as one of the "green shoots" in the economy, government data showed industrial production contracted again in December 2019, even as retail inflation surged to an almost six-year high of 7.59%.

This is the highest inflation rate since the NDA

government came to power at the Centre in May 2014.

The Index of Industrial Production (IIP) recorded a negative growth of 0.3% in December in comparison to the same month the previous year, according to the National Statistical Office (NSO). The IIP had shown a positive growth of 1.8% in November, after three consecutive months of contraction. IIP

INDEPENDENCE IS HAPPINESS

contraction came largely on the back of a 1.2% slump in the manufacturing sector. In fact, 16 out of 23 industry groups in manufacturing saw negative growth. The production of capital goods fell by 18.2% in comparison to the previous year.

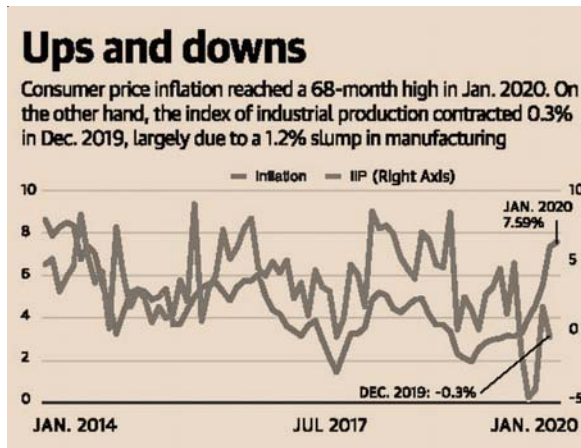
The electricity sector also contracted marginally. The mining sector, on the other hand, saw growth of 5.4%.

NSO's Consumer Price Index (CPI) data showed retail inflation had surged from 7.35% in December 2019 to 7.59% in January 2020, mostly due to costlier food items. The last time the inflation rate were higher than this was in May 2014, when retail inflation stood at 8.33%.

Food inflation lower

Food inflation for January 2020 was 13.63%, slightly lower than the previous month's rate of 14.19%. Vegetables remained costly, showing a

50% inflation rate, despite the recovery in onion prices. The high prices of proteins — pulses, meat, fish and eggs — also contributed to the high rate of food inflation. This is the fourth straight month that retail inflation has crossed the Reserve Bank of India's medium term target of 4%.



A MAN CAN BE DESTROYED BUT NOT DEFEATED

(Acknowledgement: The Hindu, Kolkata edition dated 13th February, 2020)

CIRCULARS

08 dated 23rd January, 2020: AIBOC'S clarion call to the members

09 dated 28th January, 2020: Text of UFBU Circular No. UFBU/2020/05 dated 26.01.2020- Agitation programmes and strike actions - representation to Prime Minster through Governors and District Collectors

10 dated 28th January, 2020: Text of UFBU Circular No. UFBU/2020/06 dated 27.01.2020- No positive comment from IBA in conciliation meeting - Go ahead with the strike

11 dated 28th January, 2020: Agitation to implement respectable wage revision and service conditions Time to be resolute – No threat shall deter us, till we succeed

12 dated 31st January, 2020: Let us stand resolute against ill-conceived attempts of management to foil the Two days' Strike call of UFBU on 13.01.2020

13 dated 31st January, 2020: Dearness

Allowance

14 dated 01st February, 2020: Two days nationwide bank strike - a thundering success...

15 dated 05th February, 2020: All India Bank Strike on 31st Jan & 1st Feb'20 a Stupendous Success Agitation continues.....

16 dated 06th February, 2020: AIBOC writes to the Hon'ble Chief Justice of the Supreme Court of India for postponing the national Lok Adalat scheduled on 08.02.2020

17 dated 12th February, 2020: AIBOC gives clarion call of Massive Agitation Programme on Merger/Amalgamation of PSBs

18 dated 19th February, 2020: AIBOC, AIBOA, INBOC and NOBO write to IBA on campaign for saturation of all PM-Kisan beneficiaries with Kisan Credit Cards (KCC): issues confronting bankers

19 dated 19th February, 2020: Conciliation Meeting held on 17.02.2020

COMING TOGETHER IS BEGINNING, WORKING TOGETHER IS SUCCESS

2020 LLR 164
KARNATAKA HIGH COURT
Hon'ble Mr. L. Narayana Swamy, J.
W.P. No. 44163/2011 (L-TER), Dt/-16.07.2019

Syndicate Bank, Udupi
Vs.
Smt. Meenakshi R. Shetty

- A. INDUSTRIAL DISPUTES ACT, 1947 – Section 11A – Discretionary power of Labour Court – Scope of – Bank employee misappropriated money proved in enquiry – He was dismissed from service – On raising industrial dispute, Labour Court awarded reinstatement with back-wages by using its power under Section 11-A of the ID Act – Management challenged the award in writ petition – Held, in a departmental enquiry requirement is preponderance of probability and not proof beyond reasonable doubt like a criminal case – When it is proved that amount was received but not deposited by the respondent-cashier, it is no ground that signature or seal is not legible – Nothing more was required to be proved – Tribunal has failed to assess the material properly – Hence, impugned award is set aside.**
- B. Dismissal – When justified – Held, bank is a public trust where public faith is involved – Misappropriation of money not only proved but admitted – In banking service, honesty and integrity are important factors to be considered – Hence, punishment of dismissal is justified.**
- C. Misappropriation – By bank employee - Grave and Serious misconduct – Held, considering dealing with public money, misappropriation is a grave and serious misconduct justifying dismissal from service.**

IMPORTANT POINTS

- ★ In a departmental enquiry requirement to prove guilt against the delinquent employee is preponderance of probability and not proof beyond reasonable doubt like in a criminal case.
- ★ When it is proved that amount was received but not deposited by the respondent – cashier, it is no ground that signature or seal is not legible.
- ★ In banking service, honesty and integrity are important factors to be considered.
- ★ In bank public trust is involved hence for misappropriation of public money, punishment of dismissal is justified.
- ★ Misappropriation of public money is a grave and serious misconduct.

ORDER

L. NARAYANA SWAMY. J. – 1. This writ petition is filed by the petitioner challenging the award dated 10.5.2011 in C.R.No.83 of 2001 passed by the Central Government Industrial Tribunal-cum-Labour Court, Bangalore, hereinafter referred to as 'the Tribunal' allowing the reference and directing reinstatement of the respondent with back wages and consequential benefits, while directing payment of cost.
2. The brief facts of the case are that the respondent

was working as a clerk at Kankanady Branch of the petitioner Bank from 5.8.1985 till 20.6.1998, when she was relieved on transfer to the Regional Office, Belgaum. The petitioner bank served the respondent with a charge sheet dated 31.07.1998 alleging commission of misconduct by the respondent, while, she was performing the duty of cashier on 05.01.1998 and 12.01.1998. The charges leveled against the respondent was that she received a sum of ₹ 5,492/- on 5.1.1998 from Sri Krishna Nayak towards water consumption charges pertaining to a

building standing in the name of Mr. Abdul Rahaman T. and for credit of the current account of Mangalore City Corporation. The respondent issued a counterfoil to the remitter duly initialed by her, but failed to account the said amount in the books of accounts of the petitioner bank. Later, the remitter approached the petitioner bank and made a grievance that the amount had not been remitted to the account of the Corporation of the City of Mangalore and hence, he had to pay amount of ₹ 5,492/- along with interest and thus, a total sum of ₹ 5,730/-. The said complainant was also enclosed with a copy of the customer portion's of the said challan dated 5.1.1998 in support of the complaint.

3. On being questioned, the respondent confessed before the Scroll Officer of the petitioner bank that she has received the amount from Sri Krishna Nayak, but has not accounted the said amount in the books of the petitioner bank. The respondent undertook to reimburse the amount to Sri Krishna Nayak directly.

4. The second charge was that on 25.5.1998, the Manager, Nagori Vyavasaya Seva Sahakari Bank, Kankanady, Mangalore vide his complaint dated 25.5.1998 complained that on 12.01.1998, he deposited a sum of ₹ 636/- at Kankanady Branch of the petitioner bank through one Sri Jagadish connected with the Sahakari Bank, being the water consumption charges covered bill No.190444 dated 15.12.1997 for being credited to the account of the Mangalore City Corporation and enclosed the photocopy of the counterfoil issued by the respondent, who was the cashier on that day bearing the seal of the petitioner bank 'cash received', but failed to credit the said amount to the account of Mangalore City Corporation. The said amount was claimed by the Corporation in the subsequent water consumption charges. On verification of the petitioner bank records, the respondent who was working as the Cashier on 12.1.1998, had not accounted for the same, but misappropriated the said amount and thus committed serious misconduct under clause No.19 of the Bi-Partite Settlement and is guilty of doing acts prejudicial to the interest of the petitioner bank within the meaning of Clause No.19.5(j) of the Bi-Partite Settlement.

5. The Enquiry Officer in the enquiry report recorded a finding that charges leveled against the respondent stood proved. The Disciplinary Authority issued a show cause notice dated 4.6.1999. The respondent

submitted her written submissions dated 10.7.1999. The Disciplinary Authority after affording personal hearing to the respondent on 14.9.1999, passed an order dated 22.9.1999 and held that the respondent had committed acts prejudicial to the interest of petitioner bank and imposed a penalty of dismissal from service.

6. The respondent preferred appeal and the appellate authority - General Manager (P). The appellate authority afforded a personal hearing to the respondent on 5.11.1999 and thereafter passed an order dismissing the appeal and confirmed the order of disciplinary authority by the order dated 1.12.1999.

7. Thereafter at the instance of the respondent, the matter was referred to the Tribunal, which was numbered as C.R.No.83/2001. The Tribunal by its award dated 10.5.2011 held that findings of the Enquiry Officer in respect of the charges against the respondent are perverse and hence set aside the order of punishment and allowed the reference. Being aggrieved, the present writ petition is filed.

8. I have heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the impugned orders.

9. The learned counsel for the petitioner submitted that the Tribunal has assumed jurisdiction in itself to re-appreciate the evidence on record as if it is an appellate court. The Tribunal ignored vital admissions made by the respondent during the course of her evidence as per MEX-16. The Tribunal has treated the domestic enquiry as if it is a proceeding in criminal trial and applied wrong yardstick to the proceedings. The impugned award ignoring proceedings on preliminary issue and recording contra findings is a non-application of mind by the Tribunal. The Tribunal has ignored the circumstances that is, respondent was a cashier, respondent admitted tendering of amount by Sri Krishna Nayak, and affixing seal of the petitioner bank, One Sri Jagadish, tendered ₹ 636/- on 12.1.1998 in cash at cash counter, which was received by the respondent as a cashier and acknowledged it by affixing seal of the petitioner bank. Both the amounts were not accounted in the books of petitioner Bank and the concerned parties paid the same to the Corporation of City of Mangalore. The respondent admitted the misappropriation and agreed to reimburse the amount to the respective remitters. The respondent

in the enquiry coupled with evidence of the Bank's staff, proved the misconduct of misappropriation by the respondent. The withdrawal of complaint by Sri Jagadish, did not dilute the misconduct on the part of the respondent. The doubt expressed by the Tribunal as to the endorsement issued by the Corporation has no basis. It is common knowledge that the Corporations function in peculiar way and issue bills in respect of previous periods at their own whims and fancies. The document MEX-3 bears the date as 15.12.1997 and was tendered for payment on 5.1.1998. The doubt expressed by the Tribunal has no bearing on the misconduct on the part of the respondent. The Tribunal ignored the fact that the Management had produced the entire scroll for the day and the case pleaded by the respondent did not fit in with the theory propounded.

10. On the other hand, the learned counsel for the respondent has supported the order passed by the Tribunal and prayed for dismissal of the writ petition.

11. The point that arises for consideration is, whether the Tribunal has acted illegally and with material irregularity in passing the order allowing the reference and setting aside the imposition of penalty as against the respondent? My finding would be in the affirmative for the following reasons.

12. MW-1 Sri P kV V Kamath, Deputy Chief Officer, Vigilance has deposed that he verified certified copies of identity attendance register of Kankanady Branch, copy of customer portion of water bill in the name of Sri Abdul Rahaman for ? 5492/-, carbon copy of bank's scroll for the collection account of water bill dated 5.1.1998, B-28 register page Nos.565, 566, 567, counterfoils/bankers portion of the slip bearing Nos.181141 for ? 366, etc., and recorded statement of Sri A Shivananda Karkere, Assistant Manager of Kankanady Branch and found that respondent having collected the amount from Sri Krishna Naik pertaining to water bill, failed to account the same.

13. MW-2 & MW-3 are Sri B N Baliga, Manager of Kankanady Brancyh and Sri Shivananda Karkere, Assistant Manager of Kankanady Branch. According to MW-3 he was working as the Scroll Officer, where the respondent was working as cashier, that on 4.5.1998 a person came to him along with a Xerox copy of the water bill, Ex.M3 for ? 5492/- and complained that he deposited the water bill and that it was bearing cash received seal of the bank and the initial of respondent. He verified the cash scroll of

5.1.1998 and as it was not reflecting in the bank books, after verification of the bank records, he took the person along with two other bank staff members to Father Muller's Charitable Institution E.C and there he approached the respondent and showed the photo copy of the voucher, MEX.3 and she recognized the person who deposited the money and agreed having received the amount and also having affixed the cash received seal and putting her initial certifying the cash being received by her, but she had failed to account the same.

14. It is in the evidence of MW-1 that when he went to the building in question, he ascertained that Sri Krishna Nayak was the Secretary of the apartment's Association and he was crediting amount to the bank but Sri Krishna Nayak refused to produce the original of the bill on which seal was affixed by the respondent putting her initial saying that as the cashier who received the amount has paid the amount in question and she would be in trouble, he shall not give his statement or produce the original as such his evidence/statement and the original of MEX.3 could not be secured or produced in the domestic enquiry.

15. Sri Jagadish, the other complainant was examined as MW-4 and his bill was marked as MEX.10. MW-4 was partly cross-examined and for further cross-examination he did not participate. He has stated in the cross-examination, it has come to his notice the amount of bill in question had been credited to the neighbouring building and that Hemant Kumar having returned the amount to him, there being no loss to his society, he withdrew the complaint filed on 24.9.1998.

16. The Tribunal has doubted the payment of money by Sri Krishna Nayak on the ground of some discrepancy in mentioning the handwritten endorsement 'received on 20.12.1997'. It is on the basis that MEX.3 indicated meter being read on 31.1.1997 in respect of supply of water for the period 28.2.1996 to 31.1.1997 and long delay in receiving it on 20.12.1997. It is also the reason to disbelieve the said transaction that author of the bill was not examined. So far as the complaint of Sri Jagadish, it is disbelieved in view of his cross-examination in which he has stated that the bill amount had been credited to the neighbouring building of Door No.4-48 and that Hemant Kumar having returned the amount to him, he withdrew the complaint and thus the second charge stated to hold no water. The

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reasons as stated above on which the Tribunal sought to disbelieve the transactions are not sustainable in view of the materials available on record. The evidence of MW-1 to MW-3 clearly prove that the respondent did receive the amount but failed to account the same. There is no reason to discredit the evidence of MW-1 who has stated that Sri Krishna Naik failed to produce the original bill saying that amount has been paid to him and if the original is given, the cashier would be in trouble. The evidence of MW-4 is that the amount was wrongly credited in respect of neighbouring building and amount was paid to him by Sri Hemant Kumar. If that is the case, nothing prevented him to participate in the further cross-examination and produce the said particulars to the Tribunal. On the contrary, MW-4 failed to participate in the further cross-examination. In a departmental enquiry what is required is preponderance of probability and not a proof beyond all reasonable doubt like a criminal case. It is not in dispute that respondent was cashier as on that dates in the petitioner bank. The counterfoil produced by Sri Krishna Naik did contain initial and the bank's seal. It is a fact that the amount was not accounted by the respondent. It is not a ground to discard copy of the counterfoil on

the sole basis that signature or seal is not legible. If has to be examined with the support of evidence of MW-1 to MW-3. The evidence of MW-1 to MW-3 shows receipt of the amount and failure on the part of the respondent to account the same. Therefore, nothing more was required to hold that the respondent has committed an act of misappropriation of the amounts. The Bank is a public trust where public faith is involved. The Tribunal has failed to properly assess the materials in proper perspective and has drawn incorrect conclusions.

The Enquiry Officer has submitted a detailed report and the Disciplinary Authority and the appellate authority have passed a reasoned order to accept the same.

17. In the circumstances, I am of the view that impugned order passed by the Tribunal is liable to be quashed. Writ Petition is accordingly allowed. The impugned Award dated 10.5.2011 in C.R.No.83 of 2001 on the file of Central Government Industrial Tribunal-cum-Labour Court, Bangalore at Annexure-A is hereby quashed.

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