Vol. 39 No. 4 Total 12 Pages BANGALORE Single Copy Rs. 3/- JULY - 2020

AIBOC SALUTES THE MEMORY OF THE FRONTLINE BANKERS WHO LAID DOWN THEIR LIVES WHILE DISCHARGING THE RESPONSIBILITY OF KEEPING THE ECONOMY MOVING DURING THE PANDEMIC. BANKERS HAVE PROVED THAT THEY ALWAYS REMAIN IN THE FOREFRONT, BE IT DEMONETISATION, IMPLEMENTATION OF GOVERNMENT SCHEME, RESPONSIBILITY OF TURNING ROUND THE FINANCIAL SECTOR AND ECONOMY, WITHOUT WAITING FOR RECOGNITION FROM THE POWER THAT BE.

EDITORIAL TEAM OF COMMON BOND AND AIBOC BOWS DOWN ITS HEAD IN REVERENCE AND ASSURE THAT IT WILL CARRY FORWARD THE STRUGGLE IN THEIR SACRED MEMORY.

HOMAGE THROUGH REMEMBRANCE TO SOME OF THE BANKERS WHO HAVE DIED WITH COVID-19 SYMPTOMS:

1. UDAY KAMAT, IDBI, MUMBAI
2. VISHAL SONAWANE, IDBI BANK
3. L K PARMAR, E-SYNDICATE BANK/ CANARA BANK, AHMEDABAD
4. JASHUBHAI SOLANKI, UNION BANK OF INDIA, AHMEDABD
5. RAJU SHER BAHADUR, FEDERAL BANK, MUMBAI
6. SHIV DIVE, CENTRAL BANK, MUMBAI
7. ARUN SHIRSAT, CENTRAL BANK, THANE
8. H K NAYAK CENTRAL BANK OF INDIA, MUMBAI
9. SADASHIV DOL, PNB, MUMBAI
10. GANSHYAM PAWAR, BANK OF INDIA, MUMBAI
11. PRABHAKAR PAWAR, BANK OF INDIA, MUMBAI
12. SANDU BORDE, SBI, MUMBAI
13. SANKARAIAH, SBI, HYDERABAD
14. ANIRBAN DATTA, SBI
15. A. SWAMINATHAN, INDIAN BANK, TAMILNADU
16. LATA BEHRA, UNITED BANK, WEST BENGAL
17. RAJENDRA SAWANT, BANK OF MAHARASHTRA, MUMBAI
18. MANIK DEY, UCO BANK, WEST BENGAL
19. SACHIN KSHIRSAGAR IDBI BANK MULUND
20. Y K NANDA, PNB, DELHI
21. ARJUN KAKKD, PNB, AHMEDABAD.

WE PRAY THAT WE NEED NOT HAVE TO INCLUDE FURTHER NAMES IN THE LIST. HOWEVER, THERE MAY BE SOME OMMISSIONS BECAUSE OF INTERRUPTED COMMUNICATION DURING THIS EXTRAORDINARY TIME.

STAY ABSOLUTELY SAFE WITH YOUR FAMILY.

Editorial Board of Common Bond regrets that we could not reach our esteem well-wishers for the last three months due to pandemic and resultant lockdown. Possibly this has not happened earlier. Readers will appreciate that we cannot compromise with the health of our editorial team and all others involved in publication, printing and distribution of this journal. We are confident that we will be regular overcoming the threat of pandemic. Stay absolutely safe.

COMMON BOND PAYS ITS DEEP RESPECT TO THE SUPREME SACRIFICE OF OUR BRAVE SOLDIERS WHO LAID DOWN THEIR LIVES IN PROTECTING THE SOVERIGNITY OF THE MOTHERLAND. THEIR SACRIFICE WILL NOT GO IN VAIN

WASH YOUR HANDS OFTEN

Editorial

REBUILD INDIA

Little did we anticipate that our prayer 'Let our unity remain consolidated and our response be centred on one theme "LET'S CONNECT"' will be answered so deleteriously in the form of worldwide spread of COVID-19 pandemic forcing countries after country to declare lockdown and disrupting our own publication for a quarter. Many amongst us had the occasion to read "The Plague" by Albert Camus. In our own local literature, there are mentions of epidemic, loss of life and employment. But neither possibly we nor our earlier generation had witnessed the pandemic of this magnitude. We are yet to come out of the trauma. We are waiting with trepidation for a second wave of pandemic and a possible vaccine. But the pandemic, lockdown and the attack on life and livelihood have raised more questions than answers known to us. The pandemic has caused a huge loss of employment both in the organised and unorganized sector. In India we have seen, a large sea of humanity moving from the city of their work to their native village exposing in the milieu an unsympathetic social system.

A fundamental question is what is really meant by pillaging? Millions of people suddenly lost their job. There are millions other, who are waiting for the sword of elimination of their jobs. Irregular/reduction in the payment of salaries and wages has become a common feature. The situation is really encouraging for the corporates for they know that every increase in the unemployment rate ensures a steady supply of cheap labour. Is not such prowling of job more detrimental than occasional burglary in a showroom?

This question has been raised by a veteran US economist Mr. Richard Wolf. No, Mr. Wolf has not supported burglary. He is simply correcting the background of the picture that is in front of us. We had seen arson, organised loot, sporadic robbery and even now popular cyber hacking by fraudsters but we are failing to recognize the loss of jobs due to pandemic as pillaging. We are failing to recognize that the so called economic package for revival will put further strain on the Balance Sheet of the banks. What other words we can use except plundering to sum of the government move to privatize all the sectors from space to sea including public sector banks. The government has decided to put banking in the strategic sector which permits only four units to stay in PSU category. This has immediately put into uncertainty the fate of at least eight other banks.

But do such unprecedented measures is really necessary for overcoming the economic challenges of COVID-19. It is near normal in a neo-liberal capitalist economic structure to have a cyclical movement of recession, unemployment, job loss which finally resulted in consolidation, more profit and lower living standard for the millions, while the billionaires made fortune out of the crisis. We had seen that how Reliance Industries Ltd., mobilized resources during this pandemic which in turn spiked the net worth of its owner possibly by a few billion rupees while the migrants are walking down the national highway bereft of food, shelter and minimum security.

Where lies the remedy? A very popular answer is the development of a socialist pattern of society which ensure an exploitation free economic system where the workers will decide about production and distribution of surplus amongst different stake holders. But let us admit, how much we like such model of economic management, in reality we are thousand miles away from such an arrangement. We have to look for an answerin

ALWAYS WEAR A FACE MASK

the existing world setup. Let us look at Germany. They are facing recession but their unemployment rate is under control. This is true of many other European countries like Denmark, France or Holland. They are all having a capitalistic economic structure. But how they differ from USA or the economic model they are pursuing. These European countries recognize the importance of state in regulating the market economy rather than selling the last silver coin in the chest in the open market. These European countries recognize the importance of trade union and its positive contribution in warding off economic crisis.

It is true that there is renewed interest in left leaning economic literature after the great meltdown of 2008-09. It is equally important to find an answer beyond the accepted domain of conflict. This answer has to be pursued by building up a movement for throwing new ideas for nation building beyond traditional debate between nationalization and privatization. Time has come for building an alternative resistance movement which can tell the state power that the workers will not tolerate the action of dumping them with the slightest signal of crisis. A movement that will tell the state power that handing over the public sector to the greedy private owners through subvention to achieve their individual aspirations is far less important than building up the primary health care system by spending a substantial part of GDP.

It is difficult to write an alternative narrative to retain the earned privileges. It is very easy to lose that. COVID-19 exposes the superficiality of our resistance when the working class is losing one hard earned right after another. There is state sponsored pillaging on the life and livelihood of the working people. The inadequacy in our health care system is exposed. The big capitalists are swallowing the small businesses. We need to rebuild it. Trade union is for dreamers. Since the state apparatus has pushed the movement to the wall, there is a greater need for building up our consolidation, write new pages of resistance movement beyond the traditional thought process. This is required for rebuilding the country. And who else can rebuild the country other than the workers and their trade unions. Obviously, the leadership in this endeavor of nation building has to be provided by the unique organization of managerial class the AIBOC. The power is desperate as we are slow in building the alternative narratives quickly. Let us unlock ourselves and reclaim the glory to which we are logically entitled.

STAY SAFE. SALUTE ONCE AGAIN TO ALL BANKERS FOR THEIR DEVOTED CONTRIBUTION TOWARDS THEIR EFFORTS IN STRENGTHENING THE ECONOMY.

Article

COVID-19 AND GLOBAL RECESSION

We are publishing an edited excerpt of the Executive Summary from the Global Economic Report compiled by IMF. The article is shared to give our readers a panoramic view of the likely impact of COVID-19 on the world economy.

COVID-19 has triggered a global crisis like no other—a global health crisis that, in addition to an enormous human toll, is leading to the deepest global recession since the Second World War. While the ultimate growth outcome is still uncertain, and an even worse scenario is possible if it takes longer to bring the health crisis under control, the pandemic will result in output contractions across the vast majority of emerging market

WASH YOUR HANDS BEFORE AND AFTER COOKING

and developing economies (EMDEs). Moreover, the pandemic is likely to exert lasting damage to fundamental determinants of long-term growth prospects, further eroding living standards for years to come. The immediate policy priorities are to alleviate the ongoing health and human costs and attenuate the near-term economic losses, while addressing challenges such as informality and weak social safety nets that have heightened the impact on vulnerable populations. Once the crisis abates, it will be necessary to reaffirm credible commitment to sustainable policies—including medium-term fiscal frameworks in energy-exporting EMDEs suffering from the large plunge in oil prices—and undertake the necessary reforms to buttress long-term growth prospects. For these actions, global coordination and cooperation will be critical.

Global Outlook: Pandemic, Recession: The Global Economy in Crisis. The COVID-19 pandemic has, with alarming speed, delivered a global economic shock of enormous magnitude, leading to steep recessions in many countries. The baseline forecast envisions a 5.2 percent contraction in global GDP in 2020—the deepest global recession in eight decades, despite unprecedented policy support. Per capita incomes in the vast majority of EMDEs are expected to shrink this year. The global recession would be deeper if bringing the pandemic under control took longer than expected, or if financial stress triggered cascading defaults. The pandemic highlights the urgent need for health and economic policy action—including global cooperation—to cushion its consequences, protect vulnerable populations, and improve countries' capacity to prevent and cope with similar events in the future. Since EMDEs are particularly vulnerable, it is critical to strengthen their public health care systems, to address the challenges posed by informality and limited safety nets, and, once the health crisis abates, to undertake reforms that enable strong and sustainable growth.

Regional Macroeconomic Implications of COVID-19. The rapid rise of COVID-19 cases, together with the wide range of measures to slow the spread of the virus, has slowed economic activity precipitously in many EMDEs.

Economic disruptions are likely to be more severe and protracted in those countries with larger domestic outbreaks, greater exposure to international spillovers (particularly through exposure to global commodity and financial markets, global value chains, and tourism), and larger pre-existing challenges such as informality. Growth forecasts for all regions have been severely downgraded; Latin America and the Caribbean (LAC) and Europe and Central Asia (ECA) in particular have large downgrades partly because of the size of their domestic outbreaks and exposure to global spillovers, while South Asia's substantial downgrade is primarily the result of stringent lockdown measures. Many countries have avoided more adverse outcomes through sizable fiscal and monetary policy support measures. Despite these measures, per capita incomes in all EMDE regions are expected to contract in 2020, likely causing many millions to fall back into poverty.

Lasting Scars of the COVID-19 Pandemic. The COVID-19 pandemic has struck a devastating blow to an already-fragile global economy. Lockdowns and other restrictions needed to address the public health crisis, together with spontaneous reductions in economic activity by many consumers and producers, constitute an unprecedented combination of adverse shocks that is causing deep recessions in many advanced economies and EMDEs. Those EMDEs that have weak health systems; those that rely heavily on global trade, tourism, or remittances from abroad; and those that depend on commodity exports will be particularly hard-hit. Beyond its short-term impact, deep recessions triggered by the pandemic are likely to leave lasting scars through multiple channels, including lower investment; erosion of the human capital of the unemployed; and a retreat from global trade and supply linkages. These effects may well lower potential growth and labor productivity in the longer term. Immediate policy measures should support health care systems and moderate the short-term impact of the pandemic on activity and employment. In addition, a comprehensive reform drive is needed to reduce the adverse impact of the pandemic on long-term growthprospects by improving governance and business environments, and expanding investment in education and public health.

Adding Fuel to the Fire: Cheap Oil during the Pandemic. The outbreak of COVID-19 and the wide-ranging measures needed to slow its advance have precipitated an unprecedented collapse in oil demand, a surge in oil inventories, and, in March, the steepest one-month decline in oil prices on record. In the context of the current restrictions on a broad swath of economic activity, low oil prices are unlikely to do much to buffer the effects of the pandemic, but they may provide some initial support for a recovery once these restrictions begin to be lifted. Like other countries, energy-exporting EMDEs face an unprecedented public health crisis, but their fiscal positions were already strained even before the recent collapse in oil revenues. To help retain access to market-based financing for fiscal support programs, these EMDEs will need to make credible commitments to a sustainable medium-term fiscal position. For some of them, current low oil prices provide an opportunity to implement energy-pricing policies that yield efficiency and fiscal gains over the medium term.

This Executive Summary highlights the macro-economic challenges that COVID-19 has thrown before the world economy. India is no exception. It is now feared that more time will be required to get free from the pandemic and possibly it has not reached its peak. In a situation of economic turbulence, banking became the first and major victim. The economic disruption will impair the assets quality further straining the Balance Sheet of the banks. There are apprehensions that liberal doses of financing may create further problems for the sector in the years to come. The decision of the government to rely more on monetary policy measures without employing the weapons of fiscal policy changes may create additional problems for the banking sector.

We have reasons to apprehend that the problems for the Indian banking sector may remain even after the reminiscences of the pandemic fades away from the peoples mind. This may be used by the power that be, to malign the bankers for a crisis which they are not responsible for. It is absolutely important to follow the course of economic upheaval and remain strict to the lending guidelines of the banks while discharging daily responsibilities that of a frontline soldier.

Economy

'Biggest Corporate bound to be Biggest Beneficiary'

The decision of the central bank and banking regulator to increase the group exposure limit that banks have in calculating the quantum of loans given to a particular corporate conglomerate as a proportion of the total loans given by the specific bank, will benefit the big corporates only.

Over the past few weeks, Newsclick has documented and analysed how India's biggest private corporate entity has benefitted from changes in government policies. In this, article, the implications of a recent policy change by the Reserve Bank of India (RBI) are examined.

On May 22, the country's central bank and apex monetary authority hiked the group exposure limit of banks to a single corporate group from 25% to 30% till June 30, 2021. The limit will be restored to 25% after the deadline unless the RBI decides otherwise. The group exposure limit determines the maximum amount a bank can lend to one corporate group, ostensibly to prevent loan repayment troubles in one group entity spilling over to the entire group leading to systemic risks for banks.

What the Parliamentary Committee Said

On January 3, 2019, the 31-member, multi-party Parliamentary Standing Committee on Finance's submitted its report. Here are excerpts from the report relating to group exposure of banks:

"Currently, the concerns arising from concentration risk due to banks' exposures towards their single and group

CONSULT A DOCTOR IF YOU HAVE COUGH OR FEVER

borrowers are addressed by way of limits on such exposures. However, in order to converge the current prudential norms on "banks' exposures" with the BCBS (Basel Committee on Banking Supervision) standards on 'Supervisory framework for measuring and controlling large exposures', RBI has issued the final guidelines on 'Large Exposures Framework' vide circular dated December 1, 2016. The Framework would be fully applicable by January 1, 2019."

The parliamentary committee's report added: "Under the framework, the LE (large exposure) limit in respect of each counter party and group of connected counter parties, under normal circumstances, will be capped at 20 percent and 25 percent respectively of the eligible capital base i.e. Tier 1 capital of the bank as against 'Capital Funds' at present."

In the section titled, 'Guidelines on Framework for Enhancing Credit Supply for Large Borrowers Through Market Mechanism', the report stated: "With a view to mitigating the risk posed to the banking system on account of overleveraging of a single corporate, RBI has issued guidelines on Framework for enhancing Credit Supply for Large Borrowers through Market Mechanism vide circular dated August 25, 2016. The Framework has come into effect from the financial year 2017-18 and will be applicable to all banks in India as well as branches of Indian banks abroad.

"Under the Framework, incremental bank credit to borrowers having aggregate sanctioned fund-based credit limits (ASCL) in excess of a threshold, from the banking system, will invite additional risk weights and higher standard asset provisions. This should encourage larger borrowers to access more of their financing needs from market sources, e.g. bond issuance."

Bankers' React to RBI Decision

A top source in the public sector State Bank of India (SBI), the country's largest bank, observed that the increase in the group exposure limit will only help the corporates. Speaking to one of the authors of this article on condition of anonymity, he said: "Exposure limits of banks to corporate groups should be in the public domain, just as industry-wise exposure limits are. There should also be greater clarity on the criteria for including an entity as a part of a group, especially in the case of entities where the promoters may have a minority shareholding but a controlling interest. The shareholding threshold limits for inclusion of an entity in a group should be clearly stated, as well as what constitutes 'controlling interest' for multi-layered entities in a group that has complex cross-holdings.

(Edited article of Shri Pranjoy Guhathakurtha in NEWSCLICK.)

CIRCULARS

20 dated 26th February, 2020: AIBOC issues press statement objecting the derogatory statement of Hon'ble Finance Minister about public sector banks and the banking fraternity

21 dated 28th February, 2020: Tax on perquisite value of accommodation W.P.NO. 14126/2008 in the matter of AIBOC VS. UNION OF INDIA AND OTHERS

22 dated 28th February, 2020: Tax on perquisite value under Section 17(2) of Income Tax Act, 1961 as amended by Finance Act, 2007 Appeal against final Judgement Order dated 20.04.2016 in W.P. NO. 10053 of 2008 of Madras High Court AIBOC appeal in Supreme Court of India, Special Leave Petition No. 4327/2017

23 dated 28th February, 2020: AIBOC issues press statement objecting the derogatory statement of Hon'ble Finance Minister about public sector banks and the banking Fraternity

24 dated 29th February, 2020: Text of UFBU Circular No. UFBU/2020/07 dated 29.02.2020 on Bipartite talks with IBA on 29.02.2020

THERMAL SCANNERS CAN DETECT IF PEOPLE HAVE A FEVER BUT CANNOT DETECT WHETHER OR NOT SOMEONE HAS THE CORONAVIRUS

25 dated 05th March, 2020: Text of the Press Release dated 05.03.2020 by AIBOC opposing cabinet decision on mega consolidation of ten public sector banks into four

26 dated 06th March, 2020: Text of the Press Release dated 06.03.2020 by AIBOC denouncing the proposed bail out of YES Bank

27 dated 07th March, 2020 : International Women's Day 2020 #EachForEqual

28 dated 11th March, 2020 : Agitation Programme against Amalgamation of PSBs

29 dated 18th March, 2020 : Text of the Letter No. AIBOC/2020/13 dated 18.03.2020 addressed to Shri Ajay Bhushan Pandey, Finance Secretary, Govt. of India on Coronavirus Threat – Review of proposed bank mergers

30 dated 18th March, 2020 : Text of Letter No. AIBOC/2020/14 dated 18.03.2020 addressed to Deputy Secretary (Fin-I), A&N Administration, Port Blair, South Andaman on the advisory issued by A&N Administrations – Our response

31 dated 20th March, 2020 : Text of Letter No. AIBOC/2020/15 dated 20.03.2020 to the Governor of RBI On COVID-19 – Wellbeing and protection of employees and officers of the banking sector

32 dated 23rd March, 2020 : Text of Letter No. AIBOC/2020/16 dated 22.03.2020 addressed to the Governor, RBI on Nationwide fight against coronavirus by country's financial army

33 dated 25th March, 2020 : Text of Letter No. AIBOC/2020/17 dated 25.03.2020 addressed to the Hon'ble Prime Minister of India to revisit the decision of merger of 10 PSBS

34 dated 27th March, 2020 : Text of Letter No. AIBOC/2020/18 dated 27.03.2020 - AIBOC writes to the Hon'ble Finance Minister of India proposing a slew of critical measures to be adopted for the bankmen and business correspondents workers

35 dated 29th March, 2020 : Text of Letter No. AIBOC/2020/19 dated 29.03.2020 - Implementation of various Schemes and measures announced by the Hon'ble FM – a way forward

36 dated 31st March, 2020 : Text of Letter No. AIBOC/2020/20 dated 31.03.2020 to the Secretary Department of Financial Services, Ministry of Finance, GOI, expressing strong resentment on how Bankers are forced to deviate from 'Break the Chain'

37 dated 01st April, 2020 : AIBOC condemns the amalgamation of Public Sector Banks

38 dated 03rd April, 2020: COVID-19 Donation to PM-CARES Fund 39 dated 15th April, 2020 : Text of Letter No. AIBOC/2020/22 dated 15.04.2020 to the Secretary Department of Financial Services, Ministry of Finance, GOI, expressing concern and seeking essential measures on extension of Lockdown till 3rd May'20

40 dated 23rd April, 2020 : Text of joint letter dated 23.04.2020 to IBA Chairman by AIBOC, AIBOA, INBOC and NOBO on Extension of lockdown period : Disciplinary Proceedings

41 dated 28th April, 2020 : Text of joint letter dated 28.04.2020 to IBA Chairman by AIBOC, AIBOA, INBOC and NOBO on COVID-19 Pandemic - Classification of Leave of Absence

42 dated 30th April, 2020 : International Workers' Day : Challenges Ahead

43 dated 30th April, 2020 : Dearness Allowance

44 dated 05th May, 2020 : Text of Letter No. AIBOC/2020/23 dated 05.05.2020 to the Secretary Department of Financial Services, Ministry of Finance,

ANTIBIOTICS DO NOT WORK AGAINST VIRUSES, ANTIBIOTICS ONLY WORK AGAINST BACTERIA

GOI, on Mega amalgamation of 10 banks into 4 - HR related issues

45 dated 11th May, 2020 : Text of joint letter dated 23.04.2020 to the Central Chief Vigilance Commissioner by AIBOC, AIBOA, INBOC and NOBO on CVC Guidelines – transfer of bank officers

46 dated 20th May, 2020 : Text of Letter No. AIBOC/ 2020/24 dated 20.05.2020 to the Secretary Department of Financial Services, Ministry of Finance, GOI, on discrimination to the retirees of erstwhile Allahabad Bank

47 dated 26th May, 2020 : Join hands to rebuild West Bengal

48 dated 11th June, 2020: Text of Letter No. AIBOC/ 2020/25 dated 11.06.2020 to IBA Chairman regarding COVID-19 ailment - Hospitalisation: Reimbursement under medical insurance Scheme

49 dated 13th June, 2020 : Com Shashidhar Shetty, Joint General Secretary, AIBOC and President Syndicate Bank Officers' Association passes away

50 dated 17th June, 2020 : Text of Letter No. AIBOC/ 2020/26 dated 17.06.2020 to the Hon'ble Minsiter of Railways, GOI, on resumption of suburban train services in Mumbai: Bankers to be permitted to avail the facility as essential service providers

51 dated 24th June, 2020 : Text of Letter No. AIBOC/ 2020/27 dated 24.06.2020 to the Hon'ble Finance Minister, GOI, on Assault on Bankers - Incident at Saroli Branch of Canara Bank (e-Syndicate bank) at Surat

JUDICIAL VERDICT

[2017 (155) FLR 75]
(SUPREME COURT)
SUDHIR AGARWAL and MUKHTAR AHMAD,JJ.
W.A.No. 33687 of 2006
April 24, 2017
Between
PRAMOD KUMAR SINGH SISHODIA
And
STATE OF U.P and others

Disciplinary Proceedings-Dismissal-Charge sheet given to petitioner and departmental enquiry-proceeded-show cause notice issued and punishment of dismissal imposed-In case of imposing major penalty, charges must be proved passing the impunged order of punishment-Impugned punishment therefore, cannot be sustained. [Para 20]

JUDGMENT

SUDHIR AGARWAL and MUKHTAR AHMAD,JJ.- Punishment order of dismissal and recovery dated 29.3.2006 passed by Managing Director U.P. Cooperative Federation Limited is under challenge.

It is contended that petitioner received a charge-sheet dated 13.6.2005, pursuant whereof a departmental inquiry proceeded. However relied on documents were not supplied to petitioner. Petitioner submitted reply to charge-sheet on 11.12.2005 denying all the charges. Inquiry Officer thereafter submitted inquiry report on 20.12.2005 which shows that no oral inquiry at all was conducted and only on the ground since petitioner has not submitted reply to charge-sheet charges were treated proved.

THERE IS NO EVIDENCE THAT COMPANION ANIMALS/PETS SUCH AS DOGS OR CATS CAN TRANSMIT THE CORONAVIRUS

2. Disciplinary Authority thereafter issued a show cause notice on 21.12.2005 alongwith inquiry report dated 20.12.2005 and thereafter punishment orders dated 20.2.2006 was passed imposing punishment of dismissal as also recovery.

3. Learned Counsel for petitioner has assailed entire proceedings mainly on the ground that though major penalty of dismissal has been imposed but no oral inquiry was conducted before holding the charges proved and hence entire proceedings are vitiated.

4. We find force in the substance.

5. In ***Meenglas Tea Estate v. The Workmen*** the Supreme Court observed "It is an elementary principle that a person who is required to answer a charge must know not only the accusation but also the testimony by which the accusation is supported. He must be given a fair chance to hear the evidence in support of the charge and to put such relevant questions by way to cross-examination as he desires. Then he must be given a chance to rebut the evidence led against him. This is the barest requirement of an enquiry of this character and this requirement must be substantially fulfilled before the result of the enquiry can be accepted.

6. In ***State of U.P. v.C.S.Sharma*** Court held that omission to give opportunity to the officer to produce his witnesses and lead evidence in his defence vitiates the proceedings. The Court also held that in the enquiry witnesses have to be examined in support of the allegations and opportunity has to be given to the delinquent to cross-examine these witnesses and to lead evidence in his defence.

7. In ***Punjab National Bank v. A.I.P.N.B.E. Federation*** (vide para 66) Court held that in such enquiries evidence must be recorded in the presence of the charge-sheeted employee and he must be given an opportunity to rebut the said evidence. The same view was taken in ***A.C.C. Ltd. v. Their Workmen and in Tata Oil Mills Co. Ltd., v. Their Workmen.***

8. In ***S.C.Girotra v. United commercial Bank*** Court set aside a dismissal order which was passed without giving employee an opportunity of cross-examination.

9. This Court in ***Subhas Chandra Sharma v. Managing Director and another*** said:-

> In our opinion after the petitioner replied to the charge-sheet a date should have been fixed for the enquiry and the petitioner should have been intimated the date, time and place of the enquiry and on that date the oral and documentary evidence against the petitioner should have been led in his presence and he should have been given an opportunity to cross-examine the witnesses against him and also he should have been given an opportunity to produce his own witnesses and evidence. If the petitioner in response to this intimation had failed to appear for the enquiry then an ***ex parte*** enquiry should have been held but the petitioner's service should have not been terminated without holding an enquiry. In the present case it appears that no regular enquiry was held at all. ***All that was done that after receipt of the petitioner's reply to the charge-sheet he was given a show-cause notice and thereafter the dismissal order was passed. In our opinion this was not the correct legal procedure and there was violation of the rules of natural justice. Since no date for enquiry was fixed nor any enquiry held in which evidence was led in our opinion the impugned order is clearly violative of natural justice."***

10. The above judgment was followed by a Division Bench in ***Subhash Chandra Sharma v. U.P.Co-operative Spinning Mills and others*** the Court held thus:

> ***"In case where a major punishment proposed to be imposed an oral enquiry is a must whether the employee request for it or not.*** For this it is necessary to issue a notice to the employee concerned intimating him date time and place of the enquiry as held by the Division Bench of this Court in ***Subhash Chandra Sharma v. Managing Director*** against which SLP has been dismissed by the Supreme Court on 16.8.2000."

KEEP YOUR WORKPLACE HYGENIC. USE SANITIZERS FREQUENTLY

11. In the ***State of Uttar Pradesh v. Saroj Kumar Sinha*** Court held that:-

> "An inquiry officer acting in a ***quasi-judicial*** authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/disciplinary authority/Government. His function is to examine the evidence presented by the Department even in the absence of the delinquent official to see as to whether the unrebutted evidence is sufficient to hold that the charges are proved. In the present case the aforesaid procedure has not been observed. ***Since no oral evidence has been examined the documents have not been proved, and could not have been taken into consideration to conclude that the charges have been proved against the respondents.***

When a departmental enquiry is conducted against the Government servant it cannot be treated as a casual exercise. The enquiry proceedings also cannot be conducted with a closed mind. The inquiry officer has to be wholly unbiased. The rules of natural justice are required to be observed to ensure not only that justice is done but is manifestly seen to be done. The object of rules of natural justice is to ensure that a Government servant is treated fairly in proceedings which may culminate in imposition of punishment including dismissal. Removal from service."

12. Similar view was taken in ***Roop Singh Negi v. Punjab National Bank***, as under:-

> "Indisputably a departmental proceeding is a ***quasi-judicial*** proceeding. The enquiry officer performs a ***quasi-judicial*** function. The charge levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the investigating officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. ***No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance inter alia was placed by the enquiry officer on the FIR which could not have been treated as evidence.***"

13. One of us (Justice Sudhir Agarwal) in ***Rajesh Prasad Mishra v. Commissioner Jhansi Division Jhansi and others*** observed as under after detail analysis:

> "Now coming to the question what is the effect of non-holding of oral inquiry I find that in a case where the inquiry officer is appointed oral inquiry is mandatory. The charges are not deemed to be proved ***suo motu*** merely on account of levelling them by means of the charge sheet unless the same are proved by the department before the inquiry officer and only thereafter it is the turn of delinquent employee to place his defence. Holding oral enquiry is mandatory before imposing a major penalty as held by Apex Court in ***State of U.P. and another v. T.P.Lal Srivastava*** as well as by a Division Bench of this Court in ***Subhash Chandra Sharma v. Managing Director and another.***

14. In another case in ***Subhash Chandra Gupta v. State of U.P***. the Division Bench of this Court after survey of law on this issue observed as under:

> 'It is well settled that when the statute provides to do a thing in a particular manner that thing has to be done in that very manner. We are of the considered opinion that any punishment awarded on the basis of an enquiry not conducted in accordance with the enquiry rules meant for that very purposes is unsustainable in the eye of law. We are further of the view that the procedure prescribed under the inquiry rules for imposing major penalty is mandatory in nature and unless those procedures are followed any outcome inferred thereon will be of no avail unless the charges are so glaring and unrefutable which does not require any proof. The view taken by us find support from the judgement of the Apex Court in ***state of U.P. and another v. T.P.Lal Srivastava*** as well as by a Division Bench of this Court in ***Subash***

Chandra Sharma v. managing Director and another.

A Division Bench decision of this Court in the case of ***Salahuddin Ansari v. State of U.P. and others held that non holding of oral inquiry is a serious flaw which can vitiate the order of disciplinary proceeding including the order of punishment has observed as under:-***

10. ....Non holding of oral inquiry in such a case is a serious matter and goes to the root of the case.

11. A Division Bench of this Court in ***Subash Chandra Sharma v. Managing Director and another*** considering the question as to whether holding of an oral inquiry is necessary or not, held that if no oral inquiry is held it amounts to denial of principles of natural justice to the delinquent employee. The aforesaid view was reiterated in ***Subash Chandra Sharma v. U.P.Cooperative Mills and others and Laturi Singh v. U.P. Public Service Tribunal and others*** Writ Petition No. 12939 of 2001 decided on 6.5.2005.

15. Even if the employees refuses to participate in the enquiry the employer cannot straightaway dismiss him, but he must hold and ***ex parte*** enquiry where evidence must be led vide ***Imperial Tobacco Co. Ltd. v. Its Workmen Uma Shankar v. Registrar.***

16. The Division Bench of this Court in the case of ***Mahesh Narain Gupta v. State of U.P. and others*** had also occasion to deal with the same issue. It held.

"At this stage we are to observe that in the disciplinary proceedings against a delinquent the department is just like a plaintiff and initial burden lies on the department to prove the charges which can certainly be proved only by collecting some oral evidence or documentary evidence in presence and notice charged employee. Even if the department is to rely its own record/document which are already available then also the enquiry officer by looking into them and by assigning his own reason after analysis will have to record a finding that those documents are sufficient enough to prove the charges.

In no case approach of the Enquiry Officer that as no reply has been submitted, the charge will have to be automatically proved can be approved. This will be erroneous. It has been repeatedly said that disciplinary authority has a right to proceed against delinquent employee in ***ex parte*** manner but some evidence will have to be collected and justification to sustain the charges will have to be stated in detail. The approach of the enquiry officer of automatic prove of charges on account of non filing of reply is clearly misconceived and erroneous. This is against the principle of natural justice fair play fair hearing and thus enquiry officer has to be cautioned in this respect."

17. Recently the entire law on the subject has been reviewed and reiterated in ***Chamoli district Co-operative Bank Ltd., v. Raghunath Singh Rana and others,*** and court has culled out certain principles as under:

(i) The enquiries must be conducted ***bona fide*** and care must be taken to see that the enquiries do not become empty formalities.

(ii) If an officer is a witness to any of the incidents which is the subject matter of the enquiry or if the enquiry was initiated on a report of an officer then in all fairness he should not be the Enquiry Officer. If the said position becomes know after the appointment of the Enquiry Officer during the enquiry steps should be taken to see that the task of holding an enquiry is assigned to some other officer.

(iii) In an enquiry the employer/department should take steps first to lead evidence against the workman/delinquent charged and give an opportunity to him to cross-examine the witnesses of the employer. Only thereafter, the workman/delinquent be

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asked whether he wants to lead any evidence and asked to give any explanation about the evidence led against him.

(iv) On receipt of the enquiry report before proceeding further it is incumbent on the part of the disciplinary/punishing authority to supply a copy of the enquiry report and all connected materials relied on by the enquiry officer to enable him to offer his views if any."

18. The principal of law emanates from the above judgments are that initial burden is on the department to prove the charges. In case of procedure adopted for inflicting major penalty the department must prove the charges by oral evidence also.

19. So far as case in hand is concerned learned Standing Counsel despite repeated query could not produce anything before us to show that before passing impugned order of punishment any oral inquiry was conducted.

20. In view thereof and applying the above expositions of law to the facts in the case in hand impugned punishment order cannot be sustained.

21. Writ Petition is allowed. Impugned order dated 29.3.2006 is hereby set aside.

22. It is made clear that normally we would have permitted respondents to initiate fresh proceedings, but subsequent events do not permit us to do so for the reason that petitioner-employee Pramod Kumar Singh Sishodia during pendency of this writ petition has died and substituted by his legal heirs and this writ petition is being pursued by his legal heirs for consequential monetary benefits. Therefore there is no occasion for giving liberty to respondents to hold fresh inquiry from the stage of charge-sheet.

Petition Allowed.

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