

*Editorial***HEADING TOWARDS A NECROPOLIS**

"It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness, it was the epoch of belief, it was the epoch of incredulity, it was the season of Light, it was the season of Darkness, it was the spring of hope, it was the winter of despair, we had everything before us, we had nothing before us, we were all going direct to Heaven, we were all going direct the other way - in short, the period was so far like the present period, that some of its noisiest authorities insisted on its being received, for good or for evil, in the superlative degree of comparison only." Thus wrote Charles Dickens in his 'A Tale of Two Cities'. We wonder what words a litterateur, venturing into portraying today's India in the grip of pandemic, would use, about a century hence. The time Dickens described was a time of conflict between family and love, rich and poor, utter despair and a new hope. But today's times, sadly, are not really those of hope, belief, light and wisdom. These are the times of abject despair, incredulity, evil, darkness and colossal ineptitude.

India today is in the grip of a pandemic and so is the rest of the world. In that way, we ought not to be better off or worse off than anyone else across the globe. However, the situation in India following the resurgent second wave has exposed the shortcomings of the healthcare system of the entire country. The bizarre and

grotesque visuals people dying on the streets for want of oxygen, the queues at the crematoria and the burial grounds, the mass pyres, scores of bodies found floating on the Ganges has left the citizens in a state of despair fomenting deep resentment and anger.

The lesson of the first wave of Covid-19 was not learnt as we basked in the glory of defeating the dreaded virus and we dropped our guard. Instead of preparing for a second wave as was witnessed in the western countries, election and politics took centre stage. The result was devastating. The daily infections kept rising exponentially and it crossed 4 lakh in May'21. The daily death toll too kept rising with each passing day. Every day, we come across news of the death of a bank employee. It took the Government a long time to declare the bankers as Frontline Covid Warriors in recognition of the yeoman service rendered during difficult times. Yet, the wheels of the economy have been kept moving due to the continuous struggle and sacrifice of the bankers. Reports indicate that over the past two months, nearly a thousand bankers have laid down their lives in the line of duty; over a lakh have been infected.

Repeated attempts in prioritizing vaccination for bankers and their family members have yielded limited results. The loss of hundreds of our workforce, who were in the age group 30-45,

Editorial Board of Common Bond regrets that we could not reach our esteem well-wishers for the month of June 2021 due to pandemic and resultant lockdown. 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 safe, Stay Healthy.

A JUG FILLS DROP BY DROP

could perhaps been avoided, had the bankers been included in the list of FLWs in time.

Common Bond salutes the frontline warriors including the bankers who are the real heroes of our time. This is a time when we are in the battle to conquer the pandemic and we are confident that we will overcome. But, another battle looms large. The electoral setbacks and

the pandemic may have temporarily put a brake in the move to privatise the public sector. But, we know that the government will again start the unfinished agenda sooner or later. Let us, therefore, brace ourselves for a prolonged fight to thwart the nefarious attempts to sell off the national assets to a chosen few crony corporate houses.

ORGANISATION

We are reproducing the full text of the AIBOC Circular No. 2021/48 dated 08.05.2021 and 2021/51 dated 20.05.2021 on the joint communique from four officers' organisations addressed to the Chairman, IBA dated 07.05.2021 on the Pending

and Residual Issues of the 8th Joint Note for expediting resolution and to the Secretary, DFS, Govt. of India dated 20.05.2021 on the removal of embargo on enhancement of perquisites in Banks respectively:

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

The Chairman
IBA, Mumbai.

Date: 07.05.2021

Dear Sir,

8TH JOINT NOTE PENDING AND RESIDUAL ISSUES- EXPEDITING RESOLUTION.

This is to bring to your kind attention that a number of issues are pending, which has created confusion in many banks. You are aware that nearly six months have elapsed since signing of the 8th Joint Note on 11th November 2020 and the supplementary minutes on 4th January 2021.

1. Family Pension Revision: Subsequent to the execution of the 8th Joint Note on 11.11.2020 at Mumbai, there was a commitment from IBA for the introduction of the Family Pension without ceiling. We understand that the necessary documents have been duly sent to the Ministry on 25th Jan 2021 as per the reply in the floor of Parliament. The necessary clearance needs to be obtained without any further delay.

2. Medical Aid for the Year 2017: Some banks have interpreted pro rata payment of Medical Aid to officers for Nov'17 and Dec'17. However, a provision of ₹ 64 crore has been made from the allocated amount to officers for the full payment with effect from

01.01.2017. Hence, such misinterpretation needs to be clarified at the earliest and an advisory to be sent to all banks except to SBI.

3. ENCASHMENT OF 7 days Privilege leave for the year 2020: An officer who retired from service in the year 2020, and had more than 240 days to his credit, should be paid to the extent of the leave up-to a limit of 7 days. Also, any officer who completes 55 years of age during the tenure of the 8th Joint Note is entitled to encash 7 days Privilege leave. Necessary advisory should be sent to all banks forthwith.

4. Additional 90 days Sick Leave: As per annexure VI, an officer who has completed 30 years of service, is entitled to have additional 30 days of sick leave with a maximum of 90 days, not exceeding 720 days in the entire service. We seek a clarification from IBA for availing the additional 90 days on commutation basis, as it is provided /existing in the service regulations.

IN THE SKY THERE IS NO DISTINCTION OF EAST AND WEST

5. LFC ENTITLEMENT A/C FIRST CLASS: Officers in Scale I in the last stage of salary was entitled to travel by A/C First Class as per the PCR recommendations and was brought to stay as part of the Service conditions. In 1989, the said provision was modified as a part of the Joint Note.

In the current exercise, there was insistence on monetisation as available in RBI. However, the matter was referred to the MC. It is a logical demand from our side that since upgradation of class of travel has been accorded for workmen, all officers' irrespective of Grade/Scale should be entitled to A/C first class travel. The reduction of distance from 1000 km to 500 km should be accorded approval as Udaan service is available for shorter distance.

6. REIMBURSEMENT OF EXPENSES ON TRAVEL BY ROAD: In the recently concluded discussion the rate per km has been enhanced. Necessary advisory

should be sent to all banks forthwith.

7. OTHER BENEFITS DURING LFC: Within the overall eligibility of LFC, the charges paid for sightseeing, donga charges etc. were considered for workmen. Similarly, separate LFC for both spouses working in the same bank has been accorded approval. In this connection, extension of the same should be made available to officers. Necessary advisory to be sent forthwith.

8. STAGNATION INCREMENT: There is widespread misinterpretation of the re-working of the stagnation increment due to the changes in the periodicity from three years to two years/introduction of an additional stagnation for Scale I to Scale IV and the newly introduced stagnation increment for Scale-V officers. A suitable clarification/advisory needs to be issued by IBA forthwith.

SUPPLEMENTARY MINUTES SIGNED ON 04.01.2021 WITH IBA:

1. FIVE DAY WEEK : The issue was discussed threadbare and incorporated in the supplementary minutes and it was mentioned that "matter will continue to be deliberated with all the stakeholders i.e. Govt., RBI etc". It is time that the issue needs to be resolved at the earliest in the backdrop of the introduction of 5 day week in LIC, as a part of the wage declaration by Government of India and in the backdrop of second wave of the pandemic sweeping across the country.

2. UPDATION OF PENSION: We understand that IBA has initiated steps for updation of pension. A committee of the representatives from the organisations should be constituted, as it was done at the time of extension of the option to PF optees and also to retirees in 2010.

3. DISCUSSION ON D&A REGULATIONS AND STAFF ACCOUNTABILITY: A virtual meeting was

held with all the four officers' organisations on 18th January 2021 to enable us to present our views on Accountability issue. The progress in the matter should be shared with all the four officers' organisations at the earliest. A separate discussion needs to be held on a virtual mode in view of the present situation on D&A Regulations and a comprehensive document to be finalised, as the issue is hanging on fire at least for the past 9 years.

4. PAYMENT OF BOARDING AND LODGING TO DEFENCES ASSISTANTS: Although the issue has been agreed and also duly incorporated in the supplementary minutes on 04.01.2021, the advisory from IBA is awaited. This issue brooks no delay.

We urge upon you to convene a meeting for a meaningful discussion on other issues listed in supplementary MOU at the earliest.

With regards,

Yours sincerely,

Sd/-
(Soumya Datta)
General Secretary
AIBOC

Sd/-
(Nagarajan S)
General Secretary
AIBOA

Sd/-
(Prem Kumar Makker)
General Secretary
INBOC

Sd/-
(Viraj Tikekar)
General Secretary
NOBO

THERE HAS TO BE EVIL SO THAT GOOD CAN PROVE ITS PURITY ABOVE IT

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

Date: 20.05.2021

Shri Debasish Panda

Secretary, Department of Financial Services
Ministry of Finance, Government of India, New Delhi

Dear Sir,

REMOVAL OF EMBARGO ON ENHANCEMENT OF PERQUISITES IN BANKS

Subsequent to the spread of Covid-19 pandemic since March 2020 across the country, Government has placed embargo on PSBs on enhancement of entitlement of ceiling of various perquisites like Furniture & Fixtures et al for officers to curtail overhead expenses.

2. However, it has been amply established during the pandemic situation that the bankers have put in yeoman service in keeping the wheels of the economy moving and thereby implementing various schemes of the government to provide relief to the citizens and also to boost the economy. As Frontline Covid Warriors, the toll on bankers has been heavy as everyday news of our employees and officers succumbing to the disease are trickling in across the country. In the wake of the resurgent pandemic and the loss of lives of bankers across the country several banks have included some essential items like Oxygen Concentrators/Cylinders, air purifier etc. in the list of eligible Furniture & Fixtures to enable them to retain at their home covid support and other utility items. These items have become essential lifesaving equipment and owning them reduces the pressure on public medical infrastructure, and helps timely treatment and possible loss of lives.

3. Incidentally, the monetary ceiling for purchase of

standard items of furniture and fixtures were fixed long ago and the cost of such items has gone up considerably during the past couple of years. As almost all the officers have already utilized 100 percent of their monetary ceiling, now they are not able to purchase such covid support and other utility items provided by the bank. However, owing to the embargo placed by Government, Banks are unable to revise the monetary entitlement ceiling which is highly necessary at this hour of crisis thus depriving most of the officers to avail the provisions of these essential items. Further, the officers are seriously inconvenienced with the non-revision of leased rental ceiling as a large section of officers are finding it difficult to find suitable accommodation within the overall entitlement. It is pertinent to mention that nearly 50% of the entire officers' fraternity is compelled to stay in leased accommodations on account of the transferability of their job profile.

4. We, therefore, request you to revisit the decision with a pragmatic approach and lift the embargo placed on the Banks to enhance the ceiling of perquisites especially of Furniture & Fixture and Leased rentals, which would be hailed by the entire fraternity as a just recognition of the yeoman service rendered to the nation in times of national crisis.

With regards,

Yours sincerely,

Sd/-
(Soumya Datta)
General Secretary
AIBOC

Sd/-
(Nagarajan S)
General Secretary
AIBOA

Sd/-
(Prem Kumar Makker)
General Secretary
INBOC

Sd/-
(Viraj Tikekar)
General Secretary
NOBO

OVERCOME ANGER BY LOVE, EVIL BY GOOD

SHARED ARTICLE

COVID PUTS FINANCES IN ICU

We share this article published in the Business Line Portfolio of 16th May, 2021 by Parvatha Vardhini C on how the pandemic has exposed holes in people's money management skills. Here are some takeaways which we find very much pertinent for our readers.

As the second wave of the pandemic rages on, one thing is sure for those of us who survive this fury — our lives will inevitably be divided into pre and post-pandemic era. Apart from the lasting effects of this outbreak on our mental and emotional state — for some of us, unfortunately, on our physical state too — Covid has also permanently altered the way we approach our savings and spends. This catastrophe has exposed the holes in our money management skills, and also taught us many financial lessons for the future, reveals a survey conducted online for a period of one week from 6th May to 12th May, 2021 and promoted through Business Line website and social media, the survey drew



408 responses from the young, the middle-aged and the retired as well as the salaried and the self-employed. Respondents were asked five questions. Multiple responses were allowed for each question. Here are the key takeaways and the collective wisdom we gain from this survey. Where it hurt (See chart: 'In what ways has the pandemic impacted your finances?') It hurts the most when your loved ones fall sick and the financial strain to ensure that they get the best medical care makes the hurt a double whammy. This blow, at a time when a large section of the working population has witnessed pay cuts and job losses too, adds to the pressure. Out of the 271 salaried respondents, 124 or almost one in every two people reported either a pay cut or a job loss. The situation is similar for the self-employed (37 out of 71 respondents). A quarter of the respondents had to incur home care and/or hospitalisation expenses for their family during this period. In some cases, the financial burden has been huge. Take Mridula Krishna* from Chennai, who is middle-aged, is self-employed and

has also faced a pay cut over the last year. Mridula's mother, aged 78, contracted Covid about a year ago. What followed were an unexpected 65-day hospitalisation and a huge bill of ₹34 lakh. "Starting with ₹40,000 a day, the bill sometimes moved up to over ₹1 lakh a day when she was on ventilator and when more consultants would see her", says Mridula. "When she was no longer dependent on ventilator, we decided to bring her back home. We didn't have any more money to spend", she adds. Till date, Mridula runs a hospital like set-up at home, complete with fowler bed, oxygen concentrator, suction machine and 24*7 critical care nursing for her mother, who has not yet fully recovered. This has added ₹1-1.5 lakh every month to her expenses now. While 60-something Chandrakanth* (self-employed) was fortunate to not have any medical issues, his dealership (trading) business for consumer durables in a tier-2 city in Tamil Nadu is going through tough times. His turnover last fiscal was reduced to nearly half of what it was prior to the Covid outbreak. Fixed costs such as salaries for staff, rent for the showroom premises as well as interest on working capital loans are a significant burden now. He has decided to cut down the showroom size to reduce his rent outgo and is also working on bringing down borrowings.

A whopping 75 per cent of the respondents are making do with the least in such times by cutting down on unnecessary expenses. However, be it hospitalisation, pay cut/job loss or higher spends, only 36.5 per cent of the respondents seem to have had emergency funds as one of the means to fight a crisis. Among the 102 people who had hospitalisation/home care expenses, only 62 people had a corpus for contingencies. Usually, an emergency fund of at least six months' expenses is recommended to be held such that it can be easily converted into cash. This money should be besides your regular investments for the long-term, planned goals such as retirement or children's education. Mridula is among the more systematic individuals and she, along with her dad, did have a few lakhs for contingencies. Beyond that, she managed to meet much of her mother's hospitalisation expenses by selling part of her long-term debt portfolio; 17-20 per cent of the respondents also sold FD, bonds and post-office savings along with stocks and mutual funds. "I would anticipate a certain demand by the hospital and sell some of my

THREE THINGS CANNOT BE LONG HIDDEN: THE SUN, THE MOON AND THE TRUTH

investments some days in advance so that the amount would reach my bank account in time for the payment”, says Mridula. In contrast, Vijay Varma, a 20-something Cost Accountant from Visakhapatnam, did not have any earmarked emergency corpus. He used his credit card, instead. “My father works in a PSU and was admitted to a hospital with which his employer did not have a tie-up. To meet the expenses of about ₹2.5 lakh, selling stocks was something I thought of. But he was admitted on a Friday evening. I could place a request to sell the stocks only the following Monday and the funds got credited on Wednesday or Thursday. Hence, I found my credit card quite useful as I could pay right away and mobilise the funds later”, says Vijay; 75 others used credit card as a means to meet unforeseen expenses, shows the survey. Vijay has since obtained one more credit card, thanks to its handiness. However, this can be a double-edged sword and he understands that he must be judicious in its use. Many a slip (Did you face any problems, delays or losses in liquidating investments or making health insurance claim? Elaborate in a line or two) with hospitalisation/medical expenses taking centre stage, affected participants felt short-changed on a few things. Vighna Vinodh, an IT professional from Bengaluru, is eligible for a corporate medical cover. When she fell sick, she was under home quarantine and consulted a doctor on phone. She took the help of her security guard or a volunteer to buy medicines from a nearby pharmacy. “The need for prescription and bill for every reimbursement turned out to be quite frustrating. You never think of paperwork when you are ill. I had to give up claiming a few thousand rupees worth of medicines” she says. Vighna feels that norms could be eased during the pandemic by making reimbursements up to a certain threshold automatic, on submission of test/scan reports. In almost all cases, patients don’t end up in their insurer’s networked hospitals. This implies the absence of ‘cashless’ facility. While some did not face any issues with reimbursement procedures and time lines, some did. A few trips to the hospital later on to obtain signature, seal, etc., and to the insurer, were required, they lament, as the process was not entirely online. Another grievance voiced by a few participants is that, with so many limits and sub limits and disallowances, though the sum insured was high, the actual insurance amount received was way behind what was spent. Mridula’s parents, for instance, are covered under the CHSS (Contributory Health Service Scheme) run by the Central

government. Her mother was admitted into a non-network hospital and Mridula got only ₹11 lakh as reimbursement as against the over ₹30 lakh spent. “The hospital never provided bills”, says one survey participant. “Getting a breakup of the bill is a challenge” says another. These factors also affect the insurance amount received. Those who tried to liquidate investments too met with some roadblocks. It took 15 days for Bhaskar Rachuri*, whose family member was hospitalised, for EPF withdrawal. Although the process was online, issues such as Aadhaar not being linked with UAN, non-activation of UAN, and non-updation of bank account details were among common reasons for the delay in receiving the advance for some EPF subscribers. Giridhar Deshmukh*, who had to take a pay cut, says that he had saved emergency money in some Franklin Templeton debt funds. It did not help that the funds were stuck. A change for the better (See chart: ‘Has your savings pattern changed after Covid outbreak?’) The pandemic experience indeed has prompted everyone to take a hard look at their savings pattern. 65 per cent of those surveyed say they have changed the way they save. Almost 30 per cent participants are saving more than what they used to, before Covid. Salaried folks have gone all out, enhancing health cover (71/271 salaried participants) as well as life cover (33/ 271). Fifty of them are willing to take higher risk for higher return, so that they get a bigger corpus for future expenses. In contrast, out of the 66 retired folks, 65 of them don’t want to take high risk for higher return, and rightly so. Ten of them enhanced health insurance cover for self and family. Among the self-employed, participants such as Koshy* and Lokesh Chaudhary* who took pay cuts, were willing to take higher risk for higher returns. Koshy, for instance, says he sold stocks and mutual funds to tide over his difficulties in the last year and believes that these investments will supplement his needs in future too. Lessons for the future (What is the most important money lesson you have learnt from the pandemic? Elaborate in a line or two) ‘Set aside emergency funds’ is one lesson that resonates across age groups and work profiles. Some suggest a cover for 1–2 years’ expenses, rather than the 6-month thumb rule. The most conservative recommend holding this in a savings bank account itself while the seniors vouch for fixed deposits. One can consider flexi–deposit and sweep-deposit options offered by most banks. Here, the amounts will be in a deposit, earning higher than SB a/c interest, as long as you don’t need the funds.

BETTER THAN A HUNDRED YEARS OF IDLENESS IS ONE DAY SPENT IN DETERMINATION

When the need arises, the sums can be swept back to your SB s/c seamlessly even as you swipe your debit card or withdraw from an ATM. The younger people swear by holding emergency funds in stocks or mutual funds, for easy liquidity. One must do adequate research before choosing these options and should also actively monitor one's portfolio. A few participants disclosed that their stock market investments ended up in losses when they actually needed to withdraw the money. The self-employed, who have taken a harder knock, have a common refrain — 'Always have alternative sources of income'. A third lesson, according to some, is to have limited or no debt. Sudha Narain* from Delhi says, "I have liquidated savings to foreclose loans (home and car). I feel it is important for me to be debt free so that my child does not suffer any liabilities in case something happens to me". It is

noteworthy that about 11.5 per cent of our respondents have resorted to loans to tide over the pandemic. For seniors who had a certain amount of risk appetite earlier, the pandemic has taught them to play safe, though many rue the lack of inflation beating returns. Says Vani Rao* from Chennai, "As the pandemic hit at the same time as retirement, a lot of thought had to go into how to judiciously invest my retirement funds for lowest risk and optimal gain". To sum up, money is a big deciding factor for all our needs and wants, and it does pay to manage it wisely. But at the end of the day, a survey participant is bang-on when he says, "Even if you have money today, you cannot buy health and oxygen. Money shouldn't be the indicator of 'status' in future. It should rather be good health, (access to) food and how many trees you have planted." (*Either name or surname has been changed to protect identity).

ECONOMY & BANKING

WHERE IS THE IBC MECHANISM HEADING?

(Siva group-IDBI Bank deal divides bankers, triggers debate on weakening bankruptcy law)

Dinesh Unnikrishnan in Money Control dated 19th May, 2021

Under the agreed one-time settlement with Sivasankaran's SIHL, banks will get 10 percent of their money owed which they say is better than liquidation value. Some experts say defaulting promoters could use this way to take back control of their companies at a pittance.

The one-time settlement deal between Siva Industries and Holdings Ltd (SIHL) and its lenders has sparked a debate on whether it sets a bad precedent for defaulting promoters to regain control of their companies by undermining the Insolvency and Bankruptcy Code.

SIHL, the holding company of the Siva group, owed around ₹ 5,000 crore to lenders. It was dragged to NCLT in July 2019 and with no successful suitors yet, the company was heading to liquidation. In April this year, its promoter C Sivasankaran managed to convince majority of the lenders to withdraw the company from the corporate insolvency resolution process and go in for a one-time settlement of ₹ 500 crore. In effect, banks sacrificed 90 percent of their outstanding loans—about ₹ 4,500 crore—to SIHL.

"This is completely defeating the purpose of the

much trumpeted IBC system," observed a senior Trade Union leader. "This is devoid of transparency. Besides, this will encourage more wilful corporate defaulters to pressurise banks to retain their ownership by repaying a small portion of the loan taken."

Dealing with powerful and influential corporate defaulters is always a tough game for bankers. When IBC was legislated in 2016, it was touted to be a game changer since, unlike previous legislation, it put creditors in control of a defaulting company until a resolution was achieved. Thus, it would help banks in making time-bound and meaningful recoveries from big corporate defaulters.

However, as this case indicates, big defaulters could now find a way of using out-of-court settlements to wrest back management control of their company before it goes into liquidation, paying a fraction of what they actually owed to banks.

SIHL's promoter Sivasankaran is a well-known Chennai-based businessman with investments spanning real estate, hospitality, shipping, minerals and agro exports. At one time, he also controlled companies such as Aircel and Barista, and had a stake in Tamilnad Mercantile Bank.

YOU WILL NOT BE PUNISHED FOR YOUR ANGER, YOU WILL BE PUNISHED BY YOUR ANGER

To be clear, this deal does not violate any law. Section 12 A of the IBC allows insolvency cases to be withdrawn with the approval of the members of the committee of creditors (CoC) with 90 percent voting share. In SIHL's case too, creditors voted in favour of the settlement in the first week of April and National Company Law Tribunal (NCLT) approval is awaited, IDBI Bank, the lead lender said on Twitter.

But some experts believe the deal still violates the spirit of the code and prompt banks to keep pushing for more OTS deals outside the IBC court, thus undermining the law.

"This is a significant digression or dilution from the principles of IBC, the judicial pronouncements, the amendments in the last four years, although this may make commercial sense to banks," said Prem Rajani, Managing Partner of Rajani Associates. "While this may be good for the honest promoters, on the flip side this could set a precedent for crony promoters to use the same method, which could very well defeat the purpose of Section 29A."

According to the Section 29A of IBC, an insolvent, a wilful defaulter or a person who was a promoter or was in the management of the corporate debtor, among other conditions would not be allowed to bid for the insolvent company concerned. A recent Supreme Court judgment also made it clear that promoters cannot even participate in the liquidation of a company under IBC.

Now, other promoters could potentially take the same path to retain control of their bankrupt companies as buyers typically stay away from companies embroiled in investigations. In the absence of a buyer, the company will be pushed to liquidation, giving way to the old promoter make a counter offer. Already, the IDBI-SIHL deal has sparked a rush among promoters to their lenders seeking general bail outs, reported the Business Standard on May 16.

What has also added fuel to the controversy is the allegation by Royal Partners, a bidder for SIHL, that IDBI had derailed the sale of Siva Industries by vetoing its bid despite not having the requisite voting share in the consortium.

In its Twitter note, IDBI Bank, which itself was bailed



out by the Life Insurance Corporation of India two years ago, said that the OTS made sense for the lenders as they would have got an even lower amount had SIHL gone into liquidation considering the valuation of the assets available as security.

"The idea of NCLT itself is to get maximum financial recoveries possible. When the company is heading for liquidation, accepting the offer made sense to lenders," said a banker who didn't want to be named. Even with ₹ 500 crore, banks would be happy since they would be able to write back some part of earlier provisions (money set aside against loss) and show as profit.

Apart from IDBI which has an exposure of ₹ 876.07 crore, SIHL owed money to Union Bank of India, State Bank of India, Yes Bank and Bank of India, and International Asset Reconstruction Company (IARC), among others.

On the other hand, there are industry experts who don't find anything wrong with such deals. They are of the view that banks took the right decision by accepting the offer as there was no scope to recover money through liquidation.

"Banks would take commercial decisions based on realisable value of available rights and securities post defaults. Usually, in terms of profitability, if the loans are fully written off, any inflows would be booked as profits," said Sanjay Agarwal, head BFSI, CARE.

"Banks could have lost all money if they didn't accept this and wait for liquidation. I think similar approach can be done in other NCLT cases also where there is no scope for recovery through resolution," Agarwal said.

Indeed, it isn't as if banks have gone along with all such offers by promoters. There have been a few prominent cases in the past where banks have refused to entertain the offers of defaulted promoters for OTS or similar settlements. The most recent example is Kapil Wadhawan's bid for Dewan Housing Finance Corporation (DHFL). Wadhawan had repeated his offer to pay off the dues to all creditors over a period of seven to eight years. But

THE FOOL WHO KNOWS HE IS A FOOL IS MUCH WISER THAN THE FOOL WHO THINKS HE IS WISE

banks didn't accept the offer. Eventually, the company went to Piramal Group. Wadhawan owed around ₹ 90,000 crore to lenders.

Though not an NCLT case, a similar thing happened in the Kingfisher-Vijay Mallya case as well. Mallya who has defaulted around ₹ 9,000 crore to an SBI-led consortium and escaped to UK in March, 2016, has made offers several times to settle principal amount to lenders. But banks rejected the offer in this case too.

Veteran banking industry expert Ashvin Parekh too believes that banks have made a smart move in this

case.

"Banks would have considered the present value of the assets. Banks do have a right to take the case back from the NCLT if they choose to," said Ashvin Parekh of Ashvin Parekh Advisory services.

Common Bond trust that the development is a music in the ears of Mallya, Modi, Choksey and their countless crony friends. "The fact is ₹ 4,500 crore is a loss. It is people's money. Who will bear this ₹ 4,500 crore loss?" This is really reverse socialization by absorbing the social cost of mismanagement by deploying people's money.

CIRCULARS

46 dated 30th April, 2021: Dearness Allowance is payable to Officers with effect from 01-05-2021.

47 dated 30th April, 2021: International Workers' Day: Challenges Ahead

48 dated 08th May, 2021: Text of the joint communiqué from four officers' organisations, i.e., AIBOC, AIBOA, INBOC and NOBO addressed to the Chairman, IBA dated 07.05.2021 on the 8th Joint Note - Pending and Residual Issues-Expediting Resolution

49 dated 11th May, 2021: Text of the joint communiqué from four officers' organisations, i.e., AIBOC, AIBOA, INBOC and NOBO addressed to the Chief Vigilance Commissioner, Central Vigilance Commission, Govt of India dated 11.05.2021 on CVC Guidelines – Transfer of Bank Officers

50 dated 12th May, 2021: Text of the communique addressed to the Secretary, Ministry of Health and Family Welfare; Govt of India no. AIBOC/2021/19 dated 12.05.2021 on the Appeal for Special Arrangement of Vaccination for Bank Employees (Front line Warriors of Covid-19).

51 dated 20th May, 2021: Text of the joint communiqué from four officers' organisations, i.e., AIBOC, AIBOA, INBOC and NOBO addressed to the Secretary, DFS, Govt. of India dated 20.05.2021 on

the removal of embargo on enhancement of perquisites in Banks.

52 dated 01st June, 2021: The text of the communiqué addressed to the Chairman, IBA vide letter no. AIBOC/2021/22 dated 01.06.2021 on the extension of One Time Ex Gratia in cases of death due to COVID-19 induced health complications for Additional welfare initiatives for the families of deceased bankers.

53 dated 02nd June, 2021: Text of the communiqué addressed to the Secretary, DFS vide letter no. AIBOC/2021/24 dated 02.06.2021 on our concerns over the sophisticated hacking attack on ATMs its review of SOP.

54 dated 05th June, 2021: Text of the joint circular from four officers' organisations, i.e., AIBOC, AIBOA, INBOC and NOBO on the clarifications of Stagnation Increment - 8th Joint Note/11th Bi-partite Settlement: Joint Note dated 11.11.2020.

55 dated 10th June, 2021: Text of the communiqué from four officers' organisations, i.e., AIBOC, AIBOA, INBOC and NOBO addressed to the Hon'ble Finance Minister, Govt. of India on the sanction of family pension without any ceiling and enhanced contribution to NPS by the bank.

EVERY HUMAN BEING IS THE AUTHOR OF HIS OWN HEALTH OR DISEASE

2021 LLR 434
DELHI HIGH COURT
Hon'ble Mr. Rajiv Sahai Endlaw, J
Hon'ble Mr, Sanjeev Narula, J
LPA 400/2020 & CM Appl. 34530/2020 (delay in filing) Dt/- 22.2.2021
Rich Pal Singh
Vs.
Asst. General Manager, Syndicate Bank

A. DISMISSAL – From service – Misappropriation of money of Bank – On having found shortage of currency notes in two bags containing bundle of cash, petitioner was served with charge-sheet – After holding enquiry he was held guilty of misconduct – Disciplinary Authority dismissed his services – He raised an industrial dispute – Industrial Tribunal held the enquiry not fair and proper – Management was given opportunity to prove the charges in the court by a fresh enquiry – Management led evidence afresh – Industrial Tribunal held the punishment of dismissal proper – Workman challenged award in writ petition but failed – Then workman filed writ appeal – Held, contentions of appellant are purely factual which cannot be dealt in appellate jurisdiction – No gross perversity is found in the impugned order/judgment – Hence, Appeal is dismissed.

B. JUDICIAL REVIEW – Scope of – Re-appreciation of evidence does not lie within the purview of writ court – Writ court cannot venture into the factual controversies in the absence of error of law or perversity in impugned order – Appeal is dismissed.

IMPORTANT POINTS

I) Punishment of dismissal from service is proper when the delinquent employee is held guilty of misappropriation of money of the Bank.

II) If the enquiry held by the disciplinary authority is held not fair and proper, management may avail another opportunity to prove the charges by leading a fresh evidence before the Industrial Tribunal.

III) Plea relating to factual facts cannot be dealt in appellate jurisdiction unless there is gross perversity in the impugned judgment.

IV) Re-appreciation of evidence does not lie within the purview of writ court since it cannot venture into the factual controversies in the absence of error of law or perversity in impugned order.

ORDER

RAJIV SAHAI ENDLAW, J. [Via Video Conferencing]-
1. The present appeal under Clause 10 of the Letters Patent impugns the order dated 25th November, 2019 passed by the learned Single Judge in W.P.(C) 6521/

2015 whereby Appellant's writ petition impugning the award of the Industrial Tribunal rejecting reinstatement in service, has been dismissed.

2. Briefly stated, the facts of the case are that the appellant was working with the Respondent-Bank as an Attender. He was posted at the extension counter of the Bank at DTC Wazipur Depot Extension Counter. On 27th May, 2003 a shortage of ₹ 600/- was found in one packet of currency notes of ₹ 100 denomination, and further shortage of ₹ 700 in another packet, which the Appellant tried to cover up by mixing his own loose cash in the bundle. This led to issuance of a charge-sheet dated 5th April, 2004 on the counts of, inter alia, pilferage and destruction of evidence, followed by an enquiry which resulted in the report dated 19th October, 2004 holding the Petitioner guilty of gross misconduct. The said report was accepted by the Disciplinary Authority and punishment of dismissal of service was awarded to the Petitioner. This led to the petitioner raising an Industrial Dispute and the appropriate government referred the dispute for adjudication to the Industrial Tribunal. In the proceedings before the Tribunal, the preliminary issues as to whether enquiry conducted by the management was fair and just, was decided in favour of the claimant. It was held that the enquiry was violative of principles of natural justice and accordingly the Bank was given an opportunity to prove charge of misconduct against the workman before the Industrial Tribunal. Accordingly, the Bank adduced evidence and produced witnesses to prove

HE WHO SEEKS HAPPINESS BY HURTING WILL NEVER FIND IT

the charges, on consideration whereof, the Tribunal held that the award of punishment of dismissal from service does not warrant any interference.

3. In this background, the Appellant approached this Court by filing a writ petition impugning the decision of the Industrial Tribunal. The learned Single Judge examined the record and, concurring with the findings of the Industrial Tribunal, affirmed the penalty imposed.

4. Aggrieved with the aforesaid decision, the counsel for the Appellant in the present appeal argues that the Appellant has been falsely framed, and that the enquiry was not impartial or independent. Further, the Appellant was not allowed to lead defense evidence which resulted in gross miscarriage of justice. It is further urged that the senior bank officials, who were designated Custodian and Joint Custodian, were responsible for keeping the cash packets and have the keys of the double lock, and should therefore be held liable if a shortage was found during verification of cash. The charges leveled against the Petitioner were urged to be baseless and unfounded. It was also pointed out that the Appellant had no prior history of any such misconduct in his long service period of twenty years.

5. We have perused the record and given due consideration to the contentions of the learned counsel for the Appellant.

6. The learned Single Judge, on a detailed scrutiny of the order passed by the Industrial Tribunal, has observed that the findings of the Industrial Tribunal are in consonance with the law as well as the evidence adduced before it. Relevant part of the impugned judgment is extracted as follows:

“19. This Court is satisfied that the respondent has successfully proved the misconduct of the petitioner by examining five witnesses who are consistent in all respects. The testimony of all the witnesses of the petitioner is accepted as true. On the other hand, the testimony of the respondent and the witness does not pass the test of judicial belief. The statement of Subhash that the petitioner was beaten by Mr. Mittal and T. R. Rajgopal is false as the petitioner himself has not made such allegation against any of them. The whole case of the petitioner is based on falsehood and is hereby rejected. There is no merit whatsoever in the contentions urged by the respondent.

20. This court agrees with the well-reasoned findings of the Industrial Tribunal in the impugned award. This Court also agrees with the learned Tribunal that the punishment of removal from service imposed on the petitioner is commensurate with his misconduct. The penalty imposed on the petitioner does not warrant any interference. This petition is gross abuse and misuse of process of law.

21. This Court agrees with the learned Tribunal that the bank lost the confidence in the petitioner who cannot be retained in service. The law with respect to the loss of confidence is well-settled that the reinstatement cannot be ordered when an employee acts in a manner by which the management loses confidence in him. Reference be made to State Bank of Travancore (supra).”

7. The law relating to appreciation of evidence by writ court in matters pertaining to disciplinary proceedings is no longer res integra. The principles have been well-ensconced by the Supreme Court in Union of India v P. Gunasekara, (2015) 2 SCC 610, which are extracted as follows:

“13. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, re-appreciating even the evidence before the enquiry officer. The finding on Charge No. 1 was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Article 226/227 of the constitution of India, shall not venture into re-appreciation of the evidence. The High Court can only see whether:

- a. The enquiry is held by a competent authority;
- b. The enquiry is held according to the procedure prescribed in that behalf;
- c. There is violation of the principles of natural justice in conducting the proceedings;
- d. The authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;
- e. The authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;
- f. The conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;

DO NOT DWELL ON THE PAST OR FUTURE. CONCENTRATE ON THE PRESENT MOMENT

COMMON BOND ENGLISH MONTHLY-R.N.I.NO:36648/82-TOTAL NO.OF PAGES 12 JULY - 2021

REGN. NO. KRNA/BGE - 1122/2020-2022 PUBLISHED ON 25-06-2021

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

LICENCED TO POST WITHOUT PRE-PAYMENT-LICENCE NO. PMG BG/WPP 330/2020-2022

- g. The disciplinary authority had erroneously failed to admit the admissible and material evidence;
h. The disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;
i. The finding of fact is based on no evidence.

Under Article 226/227 of the Constitution of India, the High Court shall not:

- (i) Re-appreciate the evidence;
(ii) Interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;
(iii) Go into the adequacy of the evidence;
(iv) Go into the reliability of the evidence;
(v) Interfere, if there be some legal evidence on which findings can be based;
(vi) Correct the error of fact however grave it may appear to be;
(vii) Go into the proportionality of punishment unless it shocks its conscience."

8. Keeping in view the above, we have examined the decision of the Single Judge at the touchstone of the law laid down by the Supreme Court in the above judgment and find no perversity therein. It is noted that the contentions of the Appellant as pleaded before us are purely factual in nature, and cannot be dealt with by the court in appellate jurisdiction. The grounds urged herein by the Appellant are premised on the re-

appreciation of evidence recorded before the Industrial Tribunal, which does not lie within the purview of this Court. The findings of the Industrial Tribunal have already been appraised and affirmed by the learned Single Judge, and cannot be interfered with lightly.

9. Further, the counsel for the Appellant has not drawn our attention to any perversity or error manifest in the impugned judgment on the basis of which a case may be made out warranting our interference in the impugned findings. In the absence thereof, upon our own perusal of the impugned order, we are unable to find any manifest or palpable error in the findings of the learned Single Judge, who has rendered concurrent findings upon agreeing with the appreciation of evidence and the determination done by the Industrial Tribunal. The law with respect to interference of this Court, while entertaining an intra-court appeal, against the decision of a learned Single Judge in the exercise of its jurisdiction of judicial review against the orders of the Industrial Tribunal, is well established. In exercise of this jurisdiction, we cannot venture into the factual controversies and re-appreciate the evidence, just because there is another view possible. Unless we find it to be a case of gross perversity, it is not open for this Court to substitute the impugned judgment by our view.

10. Accordingly, there is no merit in the present appeal and the same is dismissed along with pending application.

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

An Official Publication Of AIBOC

EDITORIAL BOARD

Editor: Soumya Datta

Member: Comrade Murali Soundararajan T.

RATES OF SUBSCRIPTION: ANNUAL: ₹ 30/-

Drafts Should be Drawn

IN FAVOUR OF AIBOC AND MAILED TO

ALL INDIA BANK OFFICERS' CONFEDERATION

C/O STATE BANK OF INDIA OFFICERS' ASSOCIATION

(Bengal Circle)

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

E-mail: aiboc.sectt@gmail.com

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

REGISTERED NEWS PAPER

TO

**LICENSED TO POST
WITHOUT
PREPAYMENT**

If Undelivered Please Return To

The All India Bank Officers' Confederation

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

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