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Editorial

FASTEN YOUR SEAT BELT!

Nothing would have been more appropriate than meandering into the New Year by delivering a stern message to the Power that be, that the bankers will be on the street more frequently to settle their legitimate aspirations and to protect the dominant public sector character of the Indian Banking System. The strike call on 30th and 31st January, 2023 symbolises and expresses the pent-up feelings of the bankers for abysmal neglect of their rightful demands for a 5-day week, updating of pension, resolution of residual issues, adequate recruitment in all cadres to ensure better customer service, scrapping New Pension Scheme and restoration of Old Pension Scheme, and immediate commencement of negotiations on Charter of Demands for wage revision. Implementing all the agreed programs of UFBU as circulated by the Confederation will give all our affiliates and units an excellent warm-up exercise, the benefit of which the organization would reap in the following months.

There is no doubt that the banks are expected to post excellent results both in the Q3, which will roll out in the coming month of February, and get consolidated in the annual result, which will be available by May 2023. The robust result will come on the back of colossal provisioning made over the years and a reported uptick in

the business cycle after years of disruption caused by the pandemic. But the warning signal has already been hoisted by IMF and other financial institutions predicting the onset of a worldwide recession with spillover effects in the labour and financial markets. The Indian shore may not remain completely immune from the global trend, which will impact the Balance Sheet of the banks, smarting as it is from multiple shocks of the yester years.

It is our experience that the burden of adjustment normally gets shifted to the shoulders of the working people though they are the real victims of the crisis and not its initiators. We are apprehensive that if the recession sets in, the same would be used as an alibi for more privatization and a wanton attack on the rights and privileges of the working people. The apparent backtracking of the government efforts to hive off at least 2 public sector banks on the face of determined resistance by the bankers led by and acted on the scripted programs of the Confederation may once again resurface in a more virulent form.

Such an eventuality demands that there should not be any letup in the resistance movement of the Confederation, which is a pacesetter for the entire bank employees' movement. Our experience

A JUG FILLS DROP BY DROP

over the years confirms that the movement of the bankers will reach its zenith if and only if AIBOC remains at the helm of affairs. This is not an attempt to belittle the contribution of all the honoured affiliates of UFBU. Still, in an officer-centric industry, it is natural that the mightiest organization of the officers' community will be in the controller's seat, navigating the movement through all the rough patches.

As we have observed in the opening paragraph, all openings must be used to expand the movement's horizon. The strike call for the 2 days has set the backdrop of the great leap forward for the movement. What appears to be a strike call for realizing legitimate economic demands intimately linked with the service conditions should be carried forward for a broader unified struggle against the possible onslaught that may be unleashed as a fallout of so-called recessionary trends in the economy.

The movement should not lose sight of the revelations made in the latest tranche of the Oxfam Report, confirming growing inequality, the

concentration of wealth in a few hands, and disproportionate sharing between labour and capital. The story may not remain confined to the Indian shores. Such inequitable distribution of economic wealth is the actual trigger for the cyclical crisis of the modern production modules, of which recession is itself an expected cyclical phase. We must appreciate that our struggle within the industry cannot be victorious in isolation from the broader struggle for a more equitable distribution of social wealth amongst the different stakeholders and, more particularly, between labour and capital. The democratisation of the social structure, including ensuring equity in economic activities, is a precondition for inclusive socio-economic development. We must reiterate that we need to fasten our Seat belts as we navigate turbulent years ahead.

Stay Well! Stay Safe! Emerge in Struggle!
March on comrades,
#NationAgainstPrivatisation
#StrikeHard
#PowerofUnity
#BankBachaoDeshBachao

ECONOMY & BANKING

We are sharing an article by Shri Prabhat Patnaik, Emeritus Professor of Economics JNU, on the apprehension expressed about an impending worldwide recession for our readers.

THE IMF Managing Director Kristalina Georgieva has now openly admitted that the year 2023 will witness the slowing down of the world economy to a point where as much as one-third of it will see an actual contraction in gross domestic product. This is because all the three major economic

powers in the world, the US, the European Union, and China, will witness slowdowns, the last of these because of the renewed Covid upsurge. Of the three, Georgieva believes, the US will perform relatively better than the other two because of the resilience of its labour market; indeed the greater resilience of the US labour market provides some hope for the world economy as a whole.

There are two ironical elements in Georgieva's remarks. The first is that the best prospects for

IN THE SKY THERE IS NO DISTINCTION OF EAST AND WEST

the world economy today, even the IMF concedes if only implicitly, lie in workers' incomes in the US not falling greatly. For an institution that has systematically advocated cuts in wages, whether in the form of remunerations or of social wages, as an essential part of its stabilisation-cum-structural adjustment policies, this is a surprising, though welcome, admission. Of course Georgieva, many would argue, is seeing US labour market resilience only as the result of US's economic performance and not as its cause. But her considering it a "blessing" (though not an unmixed one for reasons we shall soon see) leaves one in no doubt that the demand-sustaining role of workers' incomes is also being recognised by her. Some may contend that stabilisation-cum-structural adjustment policies of the IMF are typically meant for economies that are in crisis, as a means of overcoming such a crisis, not as a panacea for growth, so that seeing a change in IMF's understanding in this regard may be unwarranted. But what the IMF is now saying is certainly out of line with what it usually says; it is in effect conceding that a resilient labour market in the US is beneficial for its growth, which begs the question: why should other economies too not attempt to have resilient labour markets even when they are in crisis, and tackle their crises through other, more direct, means like import controls and price controls? Conceding that the resilience of the US labour market can be beneficial for its economy, and hence for the world economy as a whole, thus fundamentally runs counter to what the IMF generally stands for, at least in the current neoliberal times.

The second ironic element in her remarks is her recognition that such a resilient labour market, while being beneficial for US growth, will simultaneously keep up the inflation rate in the

US, forcing the Federal Reserve Board to raise interest rates further. This has two clear implications. First, it means that the US growth rate, while being less affected for the time being, will inevitably be constricted in the months to come as the Fed raises the interest rate. The US performing relatively better in 2023 is thus not a phenomenon that will last long. Since any poor performance by the US will have an adverse effect on the world economy as a whole, this amounts to saying that the world recession will worsen in the months to come, unless China's Covid situation improves substantially. It amounts to saying in other words, that even if 2023 will only see a third of the world economy facing recession, a much larger swathe of it will fall victim to recession later. This is certainly the most dire prediction made about the prospects of world capitalism at the present juncture by any major spokesperson of it. The World Bank too has been warning of a serious recession looming over the capitalist world and discussing in particular its implications for third world economies. In September 2022 it put out a paper in which it expected a 1.9 per cent growth of the world economy in the year 2023. But both the IMF and the World Bank attribute the looming recession primarily to the Ukraine war and the inflation it has given rise to (and also in passing to the pandemic); the response to that inflation in the form of an all-round increase in interest rates is what underlies the current threat of recession. There is no recognition by these institutions of any problem arising from the neoliberal economy that could be underlying the looming crisis.

This analysis first of all is erroneous. Long before the Ukraine war, inflation had reared its head as the world economy had started recovering from the pandemic. At that time such inflation had been attributed to the disruption in supply chains caused

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

by the pandemic, though many had differed from this analysis even then. They had pointed out that, more than any actual disruption, the inflationary upsurge owed much to the jacking up of profit-margins by large corporations in anticipation of shortages. The Ukraine war occurred against this backdrop of an ongoing inflation, and added to it quite gratuitously as the western powers imposed sanctions against Russia.

A look at the movement of crude oil prices confirms this conclusion that the Ukraine war is not the genesis of the inflationary upsurge. The rise in Brent crude prices occurred primarily in 2021 as the world economy started recovering from the pandemic: the rise between the beginning of 2021 and the end of that year was by more than 50 per cent, from 50.37 dollars per barrel to 77.24 dollars per barrel; the corresponding rise in 2022, during which the Ukraine war occurred, was from 78.25 to 82.82, i.e. by 5.8 per cent, which is less than the current inflation rate in most advanced capitalist countries, even though inflation is generally claimed to have been driven by oil prices. True, immediately after the imposition of sanctions against Russia, world oil prices shot up, reaching a high of 133.18 dollars per barrel during 2022, but then they came down quite sharply as we have seen, so that simply blaming the Ukraine war for the price-rise is not only misleading (as it is not the war per se but the sanctions that were responsible) but also erroneous (as prices should have come down when the price-rise induced by the sanctions abated).

It is not just the analysis of the Bretton Woods institutions that is flawed. Even more noteworthy is the fact that they have no perception whatsoever, even within the terms of their own analysis, of how this world recession is going to end. If, as they believe, it is the Ukraine war that

is responsible for the looming recessionary crisis, then they should, at the very least, have hoped for an early end to it. That however is unacceptable to western imperialism which wants the war to drag on so that Russia is “bled” into submission; this is why the twin institutions express no opinions on the need for ending the war. But even if they chose to remain silent on the question of ending the war, they could have expressed some opinion about tackling the inflationary crisis in some other way than by raising interest rates and unleashing a recession. The IMF and the World Bank however are so committed to free markets that they cannot contemplate any other inflation-control measure (such as direct price-control), even as they lament the recessionary effects of interest rate hikes.

Likewise, even as the World Bank president David Malpass commiserates with debt-encumbered third world countries which are going to be badly hit in the coming months, and even says that a large chunk of their debt-burden has arisen because of the high interest rates themselves, there is not a word in his speech in favour of lowering interest rates. Both the Bretton Woods institutions in other words are long on commiserations but short on concrete measures to help the world's poor.

This is not just a symptom of timidity. It points to something deeper, namely the genuine impasse in which world capitalism finds itself today. If the structure of western imperialism as it has evolved over the years is to be kept intact, then the metropolitan countries have to keep the Ukraine war going, in which case inflation at the current pace becomes unavoidable in the absence of an engineered recession, and the consequent unemployment. World capitalism's taking this route therefore should not cause any surprise; the point is to resist it.

CIRCULARS

- 01 dated 01st January, 2023 : The New Year 2023: Resolution for a better tomorrow
- 02 dated 12th January, 2023 : Reproduction of UFBU Circular No.2023/01 dated 12.01.2023 on UFBU Meeting held on 12.01.2023 – Decides to revive agitational program. March on to all India strike on 30th and 31st January, 2023
- 03 dated 13th January, 2023 : Text of UFBU Circular No.2023/02 dated 13.01.2023 on specimen on specimen of Poster/Badge UFBU all India strike on 30th and 31st January, 2023
- 04 dated 13th January, 2023 : Text of UFBU Strike Notice dated 13.01.2023

JUDICIAL VERDICT

2023 LLR 47
BOMBAY HIGH COURT
HON'BLE MR. SANDEEP V. MARNE, J.
W.P. NO. 6269/2022, DT/- 5-12-2022
AJITKUMAR
VS.
CENTRAL BANK OF INDIA AND OTHERS

A. DISMISSAL – When justified – Peon in bank suffered from Hepatitis-B and claimed excess amount by raising bills – He was referred to Medical Board – It was opined by Medical Board that only one tablet of Entacare 0.5 mg is sufficient for his disease as against his bill for 3 tablets per day which clearly indicates that he has claimed bill of treatment which was not required at all by him – He was issued charge sheet – Enquiry was held – He was found guilty of the charges – His services were dismissed – Appeal filed by him failed – Petitioner raised an industrial dispute which was dismissed – Then Petitioner challenged Award in writ petition – Held, falsely claiming medical reimbursement is a serious misconduct – Medical bills were managed from a shop which was in-operational – Enquiry is held fair and proper – Workman full participated in enquiry – As punishment of dismissal is no disproportionate – Writ petition is dismissed.

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

B. ENQUIRY – When to be fair and proper – Workman fully participated in the enquiry – Enquiry officer asked workman if he wants to appoint defence representative – Workman was not a member of any union – He was permitted to appoint other person as his defence representative – He was allowed to inspect the entire documents in enquiry – He was allowed to cross examine witness of management – Workman did not bring any witness – He himself gave statement – Workman was allowed to appoint defence representative but he himself decided to defend himself – As such principles of natural justice stands followed – Workman has not suffered any prejudice by production of mere enquiry proceedings – Hence, enquiry was fair and proper.

C. PEVERSTY – Scope of – Held, workman was referred to Medical Board – He was medically examined – He was issued certificate showing suffering from Hepatitis-B, requiring one Tablet Entacavir .5 mg BD TILL 2010 – Certificate has stronger evidential value comparing to other medical certificates –Workman did not provide prescription of doctors from whom he was taking the treatment – Said Medical Store had already surrendered his Drug Licence and closed – How workman purchased medicine is not explained by him – Home Delivery of medicine to workman by issuing bills not appears to be probable in absence of proper explanation – Hence, enquiry officer's findings are based on evidence produced in the departmental enquiry – No perversity is appearing.

D. PUNISHMENT – Not disproportionate –Causing financial loss to bank by claiming and receiving reimbursement on the basis of in-genuine bills by attempting to defraud the bank is a serious misconduct – Punishment of dismissal does not shock conscious of the court.

E. REFERENCE – Scope of – Held, issue of non-payment of gratuity and pension is not subject matter of reference/dispute before Labour Court – Petitioner shall be at liberty to adopt remedies as available to him in law.

JUDGMENT :

RULE. Rule made returnable forthwith. With the consent of parties taken up for final hearing.

2. Petitioner challenges Award – I dated 29.10.2020 and Award – II dated 06.10.2021 passed by the Labour Court, Aurangabad in Reference IDA No. 12 of 2016 and seeks the relief of reinstatement with full backwages and continuity of service. He further seeks relief of refund of forfeited amount

towards pending bills. An alternate prayer is made for payment of compensation in place of reinstatement and full backwages considering advance age and disease of the petitioner.

3. Brief facts of the case are that, the petitioner joined respondent No. 1-bank on the post of peon with effect from 03rd October, 1984 initially as a daily wager and he was made permanent with effect from 01.01.1994. He was promoted as a cash peon with effect from 30.01.1995. He claims that

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

he was diagnosed with Hepatitis-B during the course of testing in a private laboratory on 18th October, 2008.

4. On 04th February, 2014, petitioner was served with memorandum of charge sheet for initiation of disciplinary proceedings on following charges:

1. Mr. A. M. Kasliwal has claimed reimbursement of domiciliary treatment for Hepatitis-B since Dec.2008. Initially he claimed ₹ 13698/- per month. The amount of his bill was continuously increasing. In October 2012 his bill was reached to ₹ 29233/-. He further submitted his claim of ₹ 43781/- as bill for May 2013. It shows that he tried to get more amounts by submitting bills of higher amount.
2. Since no certain period to cure his decease was mentioned in the medical certificate, he was referred to Medical Board (Govt. Medical College Hospital) Aurangabad. The Board has issued their report in which it is opined that only one tablet of Entacare 0.5 mg is sufficient for his decease as against his bill for three tablets per day that too up to June 2013. It clearly indicates that Mr. Kasliwal has claimed bill of treatment which was not at all required by him.
3. Mr. Kasliwal use to purchase Entacare 0.5 mg tablets from a medical shop named as M/s Nayan Medical & General Stores located at Shop No. 2, Shopping Centre N-11, Navjeevan Colony, Hudco, Aurangabad. It is the costly tablet as compared to other medicines. On inquiry

it is learnt that the shop is closed in December 2010. As no shop is in existence the bills submitted by Mr. Kasliwal are fake and thereby he has defrauded the Bank by submitting fake bills and got reimbursement of bills to the extent of ₹ 612870/- up to November 2012.

4. He further submitted bills for the period from December 2012 to August 2013 amount of which is ₹ 324729.50. The bills are based on the bills of M/s Nayan Medical & General Stores. The sop is not in existence. As such he has further made attempt to defraud the Bank by ₹ 324729.50.
5. Petitioner denied charges by submitting reply dated 05.09.2014. During the course of enquiry, petitioner submitted application on 04.06.2014 for summoning the owner of M/s Nayan Medical and General Stores as witness, however, that witness had already expired on 16.02.2013, on account of which he could not be examined. The Enquiry Officer submitted report dated 13.10.2014 holding that the charges were proved. By order dated 13.10.2014, petitioner came to be dismissed from service. He approached the Appellate Authority on 21.10.2014, but was not reinstated.
6. Petitioner approached the Central Labour Commissioner, Pune and after failure of conciliation, the reference was made by the Central Government under the Industrial Disputes Act for adjudication of dispute in respect of dismissal of the petitioner.

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

7. The Labour Court passed Award – I dated 19.09.2018 holding that the enquiry held against the petitioner was fair and proper and that the findings of the Enquiry Officer are not perverse. Petitioner challenged Award – I dated 19.09.2018 before this Court by filing Writ Petition No. 433 of 2019, which came to be disposed of by judgment and order dated 07.02.2020 holding that the Labour Court erred in not following mandate of amended Section 11-A and the law laid down by the Supreme Court in *M/s Firestone Tyre and Rubber Co. of India P. Ltd. Vs. The Management and others*. This Court therefore set aside Award – I and remitted matter to the Labour Court for fresh decision as regards correctness of the findings of the Enquiry Officer.
8. The Labour Court accordingly reconsidered the issue of correctness of findings recorded by the Enquiry Officer and delivered Award – I vide judgment and order dated 29.10.2020 holding that the enquiry was proper and that the findings of the Enquiry Officer are not perverse.
9. The Labour Court thereafter proceeded to decide issue Nos. 3 and 4 relating to proportionality of punishment and entitlement of the petitioner to relief of reinstatement by Award – II vide judgment and order dated 06.10.2021. The Labour Court answered those issues in negative and refused to grant any relief in favour of the petitioner. Petitioner has assailed Award – I dated 29.10.2020 and Award – II dated 06.10.2021 in the present petition.
10. Appearing for the petitioner Mr. Khonde, learned counsel would submit that the enquiry was conducted in gross violation of principles of natural justice. This submission is made referring to denial of an opportunity to the petitioner to engage an advocate to defend himself and denial of opportunity to examine the owner of Nayan Medical and General Stores. Mr. Khonde would further submit that the respondent-bank produced additional documents directly before the Labour Court thereby denying fair opportunity to the petitioner. Mr. Khonde would further submit that the findings recorded in the enquiry are perverse as the defence of the petitioner that the medicines were delivered to him by home delivery by the owner of Nayan Medical and General Stores has not been appreciated. He would further submit that on account of death of the owner of medical store, the petitioner could not prove the factum of such home delivery and, therefore, inability to examine the owner of the medical store cannot entail punishment of dismissal from service. Mr. Khonde would further submit that the penalty is disproportionate to the misconduct proved. He would further submit that gratuity amount of the petitioner has illegally been withheld without following the provisions of the Payment of Gratuity Act. He would further submit that even though petitioner is dismissed from service, he is entitled to pension, which has not been paid.

11. Per contra, Mr. Vidwans, learned counsel appearing for the respondent-bank would oppose the petition and support the orders passed by the Labour Court in Award – I and Award – II. He would submit that the enquiry was conducted after duly following principles of natural justice. He would submit that misconduct committed by the petitioner is of serious nature involving misappropriation and financial irregularities warranting the punishment of dismissal from service. He would further submit that additional documents produced before the Labour Court by way of application dated 29.08.2018 were merely records of domestic enquiry, which were already supplied to the petitioner and that therefore no prejudice was caused to him. He prays for dismissal of the petition.

12. After having heard learned counsel for parties, it is seen that the petitioner was facing serious charges of falsely claiming medical reimbursement running into huge amounts. Even though opinion of the Medical Board that the petitioner required only one tablet per day that too up to June 2013 is contradictory to the opinion of some of the private doctors that he required three tablets for indefinite period of time, the latter aspect of the charge of submission of medical bills from a shop which was in operational makes the former part of the charge quite serious. Therefore, even if the opinion of the Medical Board is to be momentarily ignored and that of private doctors is to be accepted, the conduct of procuring bills from an in-operational

medical shop by the petitioner casts a doubt of actual consumption of the tablets by the petitioner.

13. In the domestic enquiry the charges are held to be proved. In Award – I, the Labour Court has decided the issue of fairness of enquiry. The submission of Mr. Khonde that the petitioner was not provided assistance of advocate to defend himself is stated only to be rejected as it is not his case that either the Presenting Officer or Enquiry Officer was an advocate. It is trite that if the Presenting Officer or Enquiry Officer are not law graduates, delinquent-employee cannot be provided assistance of an advocate during domestic enquiry. The petitioner has fully participated in the enquiry proceedings and has been given full opportunity of defending himself. In Award – I, the Labour Court has recorded findings with regard to manner in which enquiry is conducted in para Nos. 10 and 11, which read as under

10. On 25/02/2014, the first date of enquiry, the second party was present before the enquiry officer. The enquiry officer asked the preliminary questions to the Second party. The enquiry officer asked the second party whether he wants to appoint defense representative. The Second party answered that "he wants to appoint the defense representative". The Second Party further requested that he was not a member of any union; therefore, he may be permitted to appoint other person as his defense representative. The

said request is also granted by the enquiry officer. The Second Party was allowed to inspect the entire documents which were produced in the enquiry proceeding. The management examined one witness Narhari Vasude Adgaonkar in presence of Second party on next date of enquiry i.e. 11-03-2014. On oral request of Second party, the short time was granted to appoint defense representative. On 16/04/2014, the request of the Second party short time was granted for appointing defense representative by the enquiry officer. On 21/05/2014, the Second party decided to defend himself in enquiry proceeding and elected not to appoint any defense representative. He was allowed to inspect all the documents. He was allowed to produce the documents in his defense and same is marked as Exhibits and kept in record by the enquiry officer. His request for adjournment for cross examining management witness is also granted by the enquiry officer. The Second party has taken cross examination of the management witness in detail. On 04/06/2014, the Second party was permitted to produce entire documents in his defense and after that he has completed his cross examination. The Second party has examined himself in the enquiry proceeding. He was cross examined by the management. On 25/06/2014, opportunity was given to the Second party to examine the witness in his defense. But the Second party failed to bring any witness and he himself given the statement. After that he filed the written statement of his defense and closed his evidence. Thereafter, the

enquiry officer recorded his findings.

11 From the record it shows that the second party was present on each and every date of enquiry. The management witness was examined in the presence of second party. The second party was allowed to cross examine the witness. All the documents were provided to the Second party workman. The second party signed on each and every paper of enquiry proceedings. The second party was allowed to appoint defense representative. But second party himself decided to defend himself in the enquiry proceeding. Therefore, from record it shows that enquiry was conducted by adopting the principles of natural justice. Hence, I answer issue no. 1 in negative.

14. Coming to the issue of production of record of enquiry by the respondent-bank before the Labour Court vide application dated 29.08.2018, I find that what was produced is mere proceedings of the enquiry which were already supplied to the petitioner. Therefore, no prejudice can be said to have been caused to him on account of production of such record before the Labour Court.
15. On the aspect of adequacy of evidence to support the charges, I find that the bank examined Mr. Narhari Vasudev Adgaonkar as its witness who was cross examined by the petitioner. The Labour Court has recorded following findings on the issue of perversity in Award – I.

HE WHO SEEKS HAPPINESS BY HURTING WILL NEVER FIND IT

13 It is not disputed that the second party was referred to the Medical Board by the second party. The second party appeared before the Medical Board. The second party was medically examined by the Medical Board. After his medical examination, the Board has issued the certificate. According to the said medical certificate, the second party is suffering from Hepatitis-B and he required one Tablet Entacavir .5 mg BD till 2010 and thereafter he is not required to consume the said Tablets. The said certificate is issued by the Medical Board after medical examination of the second party/workman which prescribes that the second party was not longer required said Tablets. This certificate has stronger evidential value comparing to other medical certificates. The second party has not produced the prescription of the doctors from whom he was taking the treatment. The second party only submitted that the medical certificates. From the record, it is not disputed that Nayan Medical & General Stores Hudco, Aurangabad has surrendered his Drug License in the year 2010. If the said medical store is closed in the year 2010 how he supplied the medicine to the second party is not explained by the second party in the entire proceeding. Once, the Drug License is surrendered and medical shop is closed how the Manager of Medical Shop Keeper used to make Home Delivery of the medicine to the second party. The medical bills do not disclose that it was home delivery. Once, the drug license is surrender

by the above named medical Store, then he has right to give medicines by home delivery by issuing the bills, this aspect is not explained by the second party in entire proceeding. Merely saying that the second party received the medicines from the above medical store by home delivery not appears to be probable in absence of such explanation. This aspect is not explained by the second party in entire proceeding. The conclusive evidence about the surrender of Drug License is produced by the First Party by producing the letter of Food and Drugs Department. Therefore, considering the oral and documentary evidence, it creates doubt about the Medical Bills produced by the second party of Nayan Medical & General Stores Hudco, Aurangabad for purchase of tablets. The said documentary and oral evidence is considered by the enquiry officer in the entire enquiry proceeding. Therefore, I am satisfied that the enquiry officer has appreciated the entire evidence produced in the departmental enquiry. The enquiry officer relied on oral and documentary evidence and come to the conclusion. Therefore, the findings of the enquiry officer are based on evidence produced in the departmental enquiry. Therefore, I answer issue no. 02 in negative and pass the following order:

16. It cannot be stated that the above findings recorded by the Labour Court suffer from any of perversity in any manner. Petitioner

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does not dispute that the license of the concerned medical shop was surrendered in the year 2010 itself, but he went on producing bills of that shop up to August 2013. The defence of the home delivery of medicines being made by the concerned shop is unbelievable and cannot be accepted in the light of absence of any evidence to that effect being produced by the petitioner.

17. Coming to the issue of proportionality of penalty, the misconduct alleged against the petitioner was of serious nature. He has caused financial loss to the respondent-bank by claiming and receiving reimbursement of ₹ 6,12,870/- which was not due to him. He had submitted further

bills amounting to ₹ 3,24,729/- in further attempt to defraud the bank. The punishment of dismissal from service imposed on petitioner for such proved misconduct, in my view is proportionate and does not shock my conscious.

18. So far as issue of nonpayment of gratuity and pension is concerned, the same was not subject matter of dispute before the Labour Court and the petitioner shall have liberty to adopt such remedies in that regard as may be available to him in law.
19. In the result, I find that the Labour Court has not committed any error in passing Award – I and Award – II. The petition is devoid of merits. Same is dismissed without any orders as to costs. Rule is discharged.

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