

PLEASE SUBSCRIBE TO THIS LINK AND LIKE THIS PAGE IN FACEBOOK, AND SHARE IT WITH YOUR FRIENDS AND RELATIVES: <https://www.facebook.com/BankBachaoDeshBachao/>

Editorial

ARE BANKS REALLY SAFE?

Hon'ble Prime Minister claimed that Indian Public Sector Banks had made a solid turnaround during the nine years of his administration by posting handsome net profits bidding goodbye to the days when net losses were the order. The Hon'ble PM had attributed the loss to a regime of "Phone banking," which, of course, implies political direction to the bankers to sanction loans to select corporate and to avoid slipping of such loan assets by resorting to ever-greening which ultimately cost dearly to the entire system. The introduction of the IBC mechanism, as claimed by the Hon'ble PM, has reversed the situation and ensured the stability of the Indian banking system during grave financial crises sweeping the globe. We will not debate the observation of the Hon'ble Prime Minister. Our readers will know what is going on in the two articles we are sharing on this issue. However, we will flag off some concerns about the health of the Indian banking system given certain emerging macro challenges.

Insolvency cases had started to rise in India once again after a two-year hiatus when the filing of fresh cases dipped because of the pandemic and the authorities' measures, including a loan moratorium to help companies endure the crisis. Data available from the Insolvency & Bankruptcy Board of India (BBD) shows a 41 percent rise in the number of cases admitted

for corporate insolvency resolution process (CIRP) in 2022-23 over the previous year. Stacked against the year before (FY21), when the pandemic was raging, the jump amounts to 133 percent.

The sector profile has also undergone some changes. While manufacturing firms and steel companies were under stress and admitted to NCLT, they are now in the pink of health. At the same time, more and more consumer-facing entities and real estate firms are being wheeled into the insolvency process. A number of smaller companies, representing the MSME sector, are also being sucked into insolvency.

While bankers and experts are in agreement that India has made great strides in insolvency and averted a banking crisis — financial creditors recovered ₹ 1.11 lakh crore, or 54 percent, of admitted claims in FY19 when large steel assets were sold off there is still room for improvement. Some are hoping that new amendments will be introduced in the IBC resolution process in the ongoing session of Parliament.

But now that the economy has emerged from the pandemic blues, will the number of cases start going down? Or will the bank have to wrestle with a sharp surge in NPAs once the two-year grace period under the RBI's extended resolution

A JUG FILLS DROP BY DROP

framework draws to an end later this year? Some senior bankers feel that there is no such apprehension. Incidentally, RBI's resolution framework 2.0 which was announced in May 2021, had a cutoff date of September 30, 2021. Under the scheme a moratorium period of two years was offered to retail borrowers and small businesses which will end this year for eligible borrowers. It is difficult to predict if there will be an increase in stress as a result of this. Such extension of moratorium period is coupled with sanction of fresh loan of nearly ₹ 23 lakh crore injected in the economy for taking care of Covid induced shock. Those loans under extended credit facilities as well as guaranteed credit limit will also mature.

Irrespective of debate, a consensus is slowly emerging that India will follow the trajectory in the major economies which have witnessed a surge in corporate insolvency cases. There is a saying that corporate always find ingenious ways to drag themselves into insolvency. It is more

authentic of crony corporate.

We only pray that our apprehensions are not genuine. Or else, the banking system will again be burdened with mounting NPAs and fresh bleeding in its balance sheet. The Power that Be will use such a development as an alibi for eventual privatization may, be after the dust of the election settles down sometime in mid-2024. We should not loosen our preparedness and keep ourselves in combat mode to meet any eventuality with the clear understanding that the crisis in the system is exogenous and not a contribution of the bankers. We must equip ourselves theoretically to unmask all such happenings in the economy.

Stay Well! Stay Safe! Emerge in Struggle!

March on comrades,

NationAgainstPrivatisation
BankBachaoDeshBachao

ORGANISATION

We are reproducing the text of AIBOC circular no 2023/29 dated 19.07.2023 for information of our readers.

Circular No. 2023/29

Date: 19.07.2023

Dear Comrade,

MEETING OF UFBU WITH IBA HELD ON 19.07.2023

We reproduce hereunder the text of UFBU Circular no. 9 and Minutes of the Meeting held between UFBU & IBA on 19.07.2023 for your information.

#OurUnityLongLive

With greetings,

Sd/-
(Rupam Roy)
General Secretary

IN THE SKY THERE IS NO DISTINCTION OF EAST AND WEST

Text of Letter No. UFBU/ 2023/09 dated 19.07.2023

Dear Comrades,

DISCUSSIONS WITH IBA HELD TODAY

There was a round of discussions between UFBU and IBA today, mainly to discuss about the Group Medical Insurance Policy for the retirees. However, we discussed other important issues also.

1. Commencement of bipartite negotiations for next Wage Revision Settlement on 28-7-2023:

We pointed out that it was agreed by IBA in the last meeting that the date for commencing the negotiations for the ensuing wage revision settlement will be decided shortly and hence the date needs to be fixed up. After discussions, IBA informed that the negotiations on our Charter of Demands will be held on 28th July, 2023.

2. Introduction of 5 Banking Days per week:

We took up the issue of introduction of 5 Banking Days per week as per the understandings reached with the IBA in the earlier discussions. IBA informed that the issue is under active consideration of the various stake-holders and the same is being pursued. We asked the IBA to expedite the same so that 5 Banking Days per week is introduced without further delay.

3. Updation of Pension – 100% DA for pre-Nov. 2002 pensioners: We demanded that the issue of updation of pension should be resolved as early as possible. We further pointed out that to bring all pensioners at par, 100% DA should be extended to pre-Nov.2002 pensioners so that with that parity, the issue of updation can be addressed effectively. IBA was positive to our demand and agreed to work out an amicable resolution of this issue at the earliest.

4. Medical Insurance Policy for retirees: After discussion on the suggestions made by UFBU, it has been agreed that a separate uniform Base Policy for ₹ 2 lacs will be worked out for the retirees with certain ceilings and caps on bed charges/package treatments, etc. so that the premium on the same will be reduced. Over and above this uniform Base Policy, top-up scheme upto ₹ 10 lacs will be made available on optional basis. Minutes have been signed between our Unions and IBA in this regard so that IBA can proceed with RFP, etc. based on this revised scheme.

With greetings,

Yours Comradely

Sd/-

Sanjeev K Bandlish
Convenor, UFBU

SHARED ARTICLE

We are sharing an edited excerpt from an important article by Prof. Arun Kumar, originally published digitally in the MAINSTREAM with due acknowledgement.

CHALLENGES OF THE INDIAN ECONOMY AND BANKING UNDER THE SWAY OF GLOBAL CAPITAL

INTRODUCTION

In a modern day capitalist society, finance (vitta) is of crucial importance. It can help the individuals but also marginalize them since finance is not only complex but becoming more so and even educated people barely understand it. So, most people follow the herd mentality and often that leads to mistakes.

Any analysis of the world of finance in India requires one to understand the nature of the current Indian Economy and its changing philosophical moorings. The problem is compounded by the rapidly changing technology in the world which is hard to keep track of, even for the experts, much less for the common person. Before one has understood the implications of a

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

technology a new one arrives. For instance, in India, the advent of plastic cards has been quickly overtaken by electronic transactions and now the cryptos are threatening banks and even Central Banks.

Thus, the financial sector itself faces unprecedented challenges with new financial instruments appearing in rapid succession. Since their impact on the financial system is little understood, risk has increased and that is leading to growing instability. To take care of the risks in the system newer instruments have emerged and they add to the instability. For instance, the global financial crisis of 2007-09 was triggered by the sub-prime crisis, growth of shadow banking, Credit Default Swaps, etc.

THE GLOBAL CONTEXT GLOBAL CAPITAL AND 'NEW NORMAL'

Pandemic has further aggravated inequalities between capital and labour as large scale closures, lay-offs and cuts in wages occurred all over the world. Further, the world is headed towards a 'New Normal' which is posing new challenges for labour and capital. Technology companies did well due to 'work from home' and rapid digitization and automation. But now a reversal is being witnessed. The speculation in cryptos that was driving their prices to unprecedented levels has reversed the prices dramatically and some of the trading platforms are now collapsing.

It became apparent to all that marginalization is truly global — it is in each country and across most countries. The situation has further aggravated in the post-pandemic phase which has led to a K-shaped recovery with some sections doing well while others are languishing. For instance, in India much of the organized sector has recovered while the unorganized sector has suffered further. This has led to the stock markets booming in a period when GDP has declined.

THE INDIAN SITUATION

In 1991, the policies were turned on their head. Now the individuals had to solve their problems through the market and the collective was no more responsible for them. This started the phase

of marketization in India which had been pushed through the world since the late 1970s by Thatcherism and Reaganism and which was called the Washington Consensus.

These policies brought about growing inequality in India and marginalization of the marginals, including farmers, workers, women, dalits and minorities. They have resulted in deficiency of demand and repeated slowing down of growth rate of the economy. For instance, economy's rate of growth declined from 8% to 3.1% over eight quarters before the pandemic.

Since 2016, the country has faced policy induced crisis. Demonetization and GST have led the economy into crisis one after the other and slowed down the growth of the economy. They have damaged the unorganized sector which employs 94% of the work force. Thus, unemployment has increased dramatically. The NBFC crisis in 2018 and the sudden lockdown in 2020 further aggravated the crisis for the marginalized sections.

Government instead of recognizing its folly has aggravated the situation by pursuing pro-business, 'supply side' policies. But these fail and have not delivered when there is a shortage of demand. So, investment which had peaked in 2012-13 came down to about 30% and rate of growth plummeted.

The result has been skewed development due to the adverse impact on the unorganized sector, the largest component of which is agriculture, employing 45% of the workforce. In the non-agriculture sector, the organized sector has grown as demand has shifted to it from the unorganized sector. The government has been pushing formalization and digitization of the economy but these are making the situation worse for the unorganized sector. Units in it are so tiny that they cannot cope with digitization and cannot become formal.

Unemployment has particularly impacted youth and women. A large number of them are not even in the labour force and that is why India's labour force participation rate is much lower than that of other comparable countries. This aggravates family poverty since the number of dependents in the family increases when many of its members are not earning anything.

This trend of nationalization has been reversed since 1991 with increasing privatization and disinvestment in public sector. There has been a deliberate strategy to run down the public sector so that it can be argued that the private sector can run it more efficiently. The importance of the public sector became apparent during the recent pandemic when it provided public services which the private sector was not willing to. Like, in the case of banking, health, food, cooking gas, transportation, and so on.

Ignoring these contributions, the Atmanirbhar package announced in 2020 May, is pushing for privatization. Monetization of assets is another means of privatization. The lesson from the pandemic that a large public sector is needed to take care of any crisis in society, when private markets fail, is being ignored.

FRAUDS, RISK AND NPAS

Public sector banks under political pressure give loans to cronies without doing due diligence and that has led to the growing problem of non-performing assets (NPAs). This has dented the profitability of the PSU Banks and reduced their capacity to serve the poorer sections of the population. It also prepares the grounds for their privatization.

But, the private sector is a high cost solution to the problem and will only marginalize the marginalized sections and the micro and small businesses. This will be detrimental to growth and employment generation.

REAL ECONOMY DWARFED BY FINANCE — INSTABILITY RISES

Financial flows at \$6.6 trillion every day far exceed global GDP of \$96 trillion or trade of \$28.5 trillion in 2021. They are also far in excess of the estimated global wealth of about \$ 460 trillion. Thus, a bubble has developed in the world economy which has to self-perpetuate to sustain itself. The returns from the financial transactions have to be ploughed back into the bubble since if the return are cashed out the bubble will collapse.

As the bubble grows, not only risk rises but the economy becomes a hostage to it. This is a source

of rising disparities in the world economy — both within nations and across nations. In turn, this impacts demand, slows economic growth and leads to growing unemployment.

The result has been a rising instability and periodic global crisis. This was seen in 1987, 1997, 2007 and now post-pandemic. This suggests that 'free' financial markets are destabilizing. Alan Greenspan admitted in 2008 that he was wrong for 16 years when he did not intervene in the markets as the Chair of the Federal Reserve of the US. He said that his belief that markets are self-correcting was wrong. It was massive government intervention in 2008 and during the pandemic that prevented the world economy from tipping into a disastrous depression.

CONCLUSION

Clearly, the world faces the choice between following the theoretical construct of 'free' market or government intervention in the economy. For the marginalized sections, the magic powers of markets are not what the neo-classicals claim them to be and they need government help. This became clearer during the recent pandemic.

For the balance to be restored between the state and the market, people have to be convinced. The changes in their basic thinking favouring the markets need to be revisited. Consumerism — based on convenience and ease — propagated by advertising has to be countered since that has become the new opium of the masses. It diverts their attention from real issues. Governments in the developing world need to regain their sovereignty to pursue independent policies in favour of their people. The current development paradigm which is based on markets needs a rethink. The new core elements to be incorporated will be environment, gender justice, trade and capital flows, inequality, education, health, unemployment, technology and the emerging 'new normal'.

As a corollary to the earlier shared article, we are publishing another article by Aunindyo Chakravarty, Senior Economic Analyst which confirmed the predicted outcome of neo liberal shift discussed in the earlier article.

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

THE SUPER-RICH HAVE TAKEN IT ALL AWAY FROM OTHERS

- ❑ 42% of Indians earn less than people in the world's poorest country, Burundi
- ❑ 52% of Indians earn less than people in the fourth poorest, Madagascar
- ❑ 73 crore Indians are poorer than the poorest people in the Third World

The richest 70 lakh people in India earn as much as the poorest 80 crore. In other words, the top 0.5 per cent of Indians earn the same as the bottom 57 per cent put together. These numbers could be disputed. I have based them on the estimates of celebrated inequality economist Thomas Piketty and his colleagues at the World Inequality Lab. What is not in dispute is that India is an extremely unequal country.

But inequality is a relative term. Think of a hypothetical village which has a thousand people. We assume that everyone is an adult with some amount of income. This village has five very rich farmers, who earn ₹ 25 lakh a year. At the other end, it has 570 poor farmers who earn just ₹ 22,000 annually. Collectively, the rich farmers would have earned ₹ 1.25 crore, the same as the total earnings of the poorest farmers. This exactly mirrors the ratio that I began with — the top 0.5 per cent earning the same as the bottom 57 per cent.

Let us also assume that this village is close to a big city. The richest 10 per cent in this city have an average annual income of ₹ 1 crore. When compared to these super-rich city people, the rich farmers of the village earn peanuts. This means that despite the extreme inequality in the village, the richest there do not come close to earning as much as the richest people in the city.

How do India's richest fare when we compare them to the richest people from the developed capitalist world? We could just convert average incomes in

dollars and compare them. However, this would be an inaccurate and unfair comparison. One US dollar does not buy the same basket of things everywhere. A fair comparison requires us to see how much it would cost in a local currency to buy the same goods that can be bought in the US with one dollar. This is called purchasing power parity (PPP).

The Organisation for Economic Cooperation and Development (OECD) says that what a dollar can buy in the US right now costs only ₹ 24 in India. In other words, while you will have to pay about ₹ 82 to buy a dollar at your bank, in PPP terms, a dollar is worth just ₹ 24. Seen from the other side, if someone earns \$30,000 a month in the US, he would be able to buy broadly the same things that an Indian earning about ₹ 7.2 lakh a month can buy here.

I have chosen these numbers deliberately. The richest 10 per cent of American adults earn approximately \$30,000 PPP per month. This is exactly the same as what 0.5 per cent of the richest adults in India earn in PPP terms. Thus, in purchasing power parity terms, the richest 0.5 per cent of the Indians are as rich as the top 10 per cent of people in the biggest economy in the world. Compare this to our example of the hypothetical village and the big city. In that case, the richest 0.5 per cent in the village earned a fraction of the richest 10 per cent living in the city.

If we take this same threshold of earning, then the top 4 per cent of the combined adult population of the UK and Germany falls into this super-rich category. In absolute numbers, India has about 50 lakh adults who earn \$30,000 (PPP) per month, which is the same as the number of such adults in the UK and Germany combined. That means we have as many super-rich people in India as in two big economies of Europe. If we include children dependent on these adults, we can say that about

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

70 lakh Indians earn as much as the richest earners in the developed world.

What about the poorest Indians? How do they compare to the wretched of the earth — the world's poorest people? I will look at two of the poorest five countries in the world — Burundi, which is considered the poorest, and Madagascar, which is the fourth poorest. I have chosen these two countries because of data constraints. All the data I have used comes from the World Inequality Database. I had to compare the average income of various population segments of the poorest people in India and find poor countries which come the closest to the same income in PPP dollar terms. Burundi's and Madagascar's average incomes almost coincide with the average incomes of two population segments in India.

The average income in Burundi in 2022 was about \$1,750 (PPP). The bottom 42 per cent of adults in India earned less than that — about \$1,720 (PPP). The average income in Madagascar in the same year was about \$3,065 (PPP). The bottom 52 per cent of adults in India earned less than

that — about \$3,060 (PPP). This means that roughly 58 crore Indians (including children dependent on these adults) are as poor as an average person in Burundi, the world's poorest nation. If we increase the income threshold to the average level of people in Madagascar, 73 crore Indians fall below it.

Now, combine the two numbers. 70 lakh Indians are as rich as the richest people in the first world, while over 70 crore Indians are poorer than the poorest people in the Third World. This is not just an issue of internal income inequality. Our inequality is immense when compared to the absolute difference between the rich and the poor in the world, irrespective of the level of economic development.

This is what India has got from over three decades of liberalisation, privatisation and globalisation (LPG). For all its faults, Nehruvian 'socialism' made huge strides in reducing extreme hunger and destitution that our colonial masters had gifted us over two centuries of exploitation. The LPG reforms have left us with an internal colonisation, where a minuscule super-rich population has taken everything away from the rest.

CIRCULARS

- 25 dated 22nd June 2023:** Text of Letter No. UFBU/ 2023/08 dated 22.06.2023 on the meeting of UFBU with IBA on residual issues held on 21.06.2023
- 26 dated 10th July 2023:** 19th July 2023 – 54th Anniversary of Banks Nationalisation - Clarion Call to Protect Public-Owned Institutions - Public Sector Banks – Strengthening the Republic
- 27 dated 14th July 2023:** LFC to foreign destinations - Writ Petition No. 11991 of 2014 filed by AIBOC and AISBOF - Interim Relief by Chennai High Court
- 28 dated 14th July 2023:** 55th Bank Nationalization Day – 19th July, 2023, Commemoration Activities
- 29 dated 19th July 2023:** Text of Letter No. UFBU/2023/09 Dated 19.07.2023 on meeting of UFBU with IBA held on 19.07.2023

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

JUDICIAL VERDICT

2023-II-LLJ-592 (SC)

LNIND 2023 SC 35

IN THE SUPREME COURT OF INDIA

Coram:

*Hon'ble Mr. Justice Krishna Murari and
Hon'ble Ms. Justice Bela M. Trivedi*

C.A.No. 175 of 2023

State Bank of India and Others

Versus

Kamal Kishore Prasad

9th January, 2023

....Appellants

.... Respondent

Dismissal-Opportunity of hearing-SBIOSR Rules, Rule19-Appointing Authority passed order imposing upon Respondent penalty of "Dismissal from Service" and treating his period of suspension as not on duty-Appellate Authority dismissed appeal-Single Judge quashed and set aside order of dismissal passed by Appellant-Bank and directed Appellant to pay all consequential benefits which was confirmed by Division bench, hence this appeal-Whether impugned order of High Court setting aside order of dismissal liable to be quashed-Held, it was only pursuant to direction given by this Court, Appointing Authority was expected to hear Respondent and pass appropriate order-This Court had kept all contentions of all parties open-Appointing Authority after issuing-show-cause notice and granting opportunity of hearing to Respondent passed order imposing penalty of "Dismissal from Service" with effect from date when first order of dismissal was passed by Appointing Authority-Since all contentions were kept open by this Court while allowing appeal filed by Appellant-Bank, no affirmative action expected from Appellant-Bank-Order of Appointing Authority dismissing Respondent from service after granting opportunity of hearing to Respondent was in consonance with direction given by this Court and could not be said to be arbitrary illegal or in violation of Rule 19 (3) -Impugned order of High Court setting aside order of dismissal being under misconception of facts and law, quashed and set aside-Appeal allowed.

JUDGMENT

BELA M. TRIVEDI, J.

Leave granted.

2. The present appeal is directed against the judgment and order dated 01.02.2018 passed by the High Court of Judicature at Patna in LPA No. 2035 of 2016, whereby the High Court has dismissed the appeal filed by the Appellant-Bank and confirmed the order passed by the Single Bench.

3. The short facts giving rise to the present petition are that the respondent while posted as a Branch Manager at Marufganj Branch and at various other branches, was found to have committed various lapses, in respect of which he was suspended on 14.06.1993 in terms of Rule 50A(i)(a) of SBIOSR, 1992. On the departmental proceedings having been conducted against him, the Inquiry Authority had submitted its report on 09.03.1998, whereby some of the allegations were found to be proved and some were found to be partly proved. The Disciplinary Authority agreed with some of the findings recorded by the Inquiry Authority and

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

called upon the respondent to make his submissions on the same. However thereafter the matter was sent to the Appointing Authority, which imposed the penalty of ***“Dismissal from Service”*** as per the order dated 11.08.1999.

4. The respondent being aggrieved by the said order had filed a Writ Petition being no. 2739 of 2000 before the High Court which came to be allowed by the Single Bench ***vide*** order dated 26.03.2003. The Appellant-Bank aggrieved by the said order had filed an LPA being no. 378 of 2003. On 09.05.2003, the Division Bench stayed the implementation of the order dated 26.03.2003 passed by the Single Bench, however finally dismissed the said LPA ***vide*** order dated 22.04.2010. In the meantime, the respondent attained the age of superannuation on 30.11.2009. The Appellant-Bank having filed SLP (C) No. 16541 of 2010 challenging the order dated 22.04.2010 passed by the Division Bench, the same came to be allowed by this Court on 25.11.2013. While allowing the SLP, this Court observed as under:

“10. We have heard learned counsel for the parties to the *lis*.

11. The Writ Court while deciding the writ petition filed by the respondent against the orders passed by the Appointing Authority had followed the dicta of this court wherein it is said that the person who hears the matter should necessarily pass an order. The Division Bench of the High Court in its judgment has referred to the subsequent decisions of this Court. In our opinion, we need not have to refer to those decisions. It is now a well settled principle that the person who hears the matter requires to pass an order.

12. Since, that is the view of the Learned Single Judge, we are of the opinion that such a view cannot be taken exception to by us. However, the Division Bench while rejecting the Letters Patent Appeal filed by the appellant-bank has made certain observations which in our opinion, would not arise in the matter of this nature. Therefore,

we cannot sustain the judgment and order passed by the Division Bench of the High Court.

13. In the result, we allow this appeal and set aside the judgment and order passed by the Division Bench of the High Court in Letters Patent Appeal No.378 of 2003. Since we are told that the ***delinquent*** officer has already retired from service on attaining the age of superannuation, we now direct the Appointing Authority to take appropriate decision as expeditious as possible, at any rate within two months from the receipt of copy of this order.

14. All the contentions of all the parties are kept open.

Ordered accordingly.”

5. In view of the above order passed by this Court, the Appointing Authority issued a show-cause notice to the respondent on 06.02.2014, to which the respondent submitted his response on 10.02.2014. The Appointing Authority after granting personal hearing to the respondent on 14.02.2014, passed an order on 17.02.2014 imposing upon the respondent the penalty of ***“Dismissal from Service”*** in terms of Rule 67(J) of SBISOR w.e.f. 11.08.1999 and treating his period of suspension as not on duty.

6. Being aggrieved by the said order passed by the Appointing Authority, the respondent filed Departmental appeal before the Appellate Authority on 24.02.2014, which came to be dismissed on 09.08.2014. The respondent therefore again approached the High Court by way of filing CWJC No. 10192 of 2014. The Single Bench of the High Court ***vide*** the order dated 22.08.2016 allowed the said petition, and quashed and set aside the order of dismissal passed by the Appellant-Bank and directed the Appellant-Bank to pay all the consequential benefits ***i.e.***, arrears of salary and retiral benefits within 3 months thereof. The aggrieved appellant-bank filed LPA being no. 2035 of 2016 on 17.10.2016,

which came to be dismissed by the Division Bench *vide* the impugned order dated 01.02.2018.

7. The learned ASG Mr. Balbir Singh for the Appellant-Bank vehemently submitted that the High Court had committed gross error in confirming the order passed by the Single Bench, and in misinterpreting the Rule 19(1) and 19(3) of the SBIOSR, 1992. According to him, this Court in the first round of litigation had allowed the appeal filed by the Appellant-Bank and set aside the order passed by the Division Bench, and while observing that the person who hears the matter requires to pass an order, had directed the Appointing Authority to take appropriate decision within 2 months, keeping all the contentions of the parties open. The appointing authority, therefore had issued a show-cause notice to the respondent and after giving him an opportunity of hearing had passed the order of dismissal, which was wrongly set aside by the Single Bench and by the Division Bench.

8. However, the learned counsel Mr. Kripa Shankar Prasad appearing for the respondent submitted that an affirmative action was expected to be taken by the Appellant-Bank in view of the order passed by the Supreme Court on 25.11.2013, as the respondent had already attained the age of superannuation pending the proceeding before the High Court. He further submitted in the said order the Supreme Court had set aside the order of Division Bench, however had agreed with the view expressed by the Single Bench that as per the settled legal principle, the person who hears the matter is required to pass an order. According to him, the Supreme Court had granted the liberty only to the extent of directing the Appointing Authority to take appropriate action in accordance with law as the respondent had attained the age of superannuation. Under the circumstances, the Appointing Authority was required to take steps either to extend the service of the respondent in terms of Rule 19(1), or to continue the disciplinary proceedings, even after the superannuation of the respondent under Rule 19(3) of the Rules, however the Appellant- Bank did not take recourse to any of the said rules. He further submitted that the

discretion to continue with the disciplinary proceedings had to be exercised as an affirmative action by taking a conscious decision, which the Appointing Authority of the Appellant-Bank had failed to take, and on the contrary passed the order of dismissal with retrospective effect which was not legally permissible.

9. Since much reliance has been placed by the learned counsel appearing for the respondent on Rule 19(1) and 19(3) of the SBIOSR Rules, the same are reproduced for the sake of convenience.

“19.(1) An officer shall retire from the service of the Bank on attaining the age of fifty-eight years or upon the completion of thirty years’ service or thirty years’ pensionable service if he is a member of the Pension Fund, whichever occurs first.

Provided that the competent authority may, at its discretion, extend the period of service of an officer who has attained the age of fifty-eight years or has completed thirty years’ service or thirty years’ pensionable service as the case may be, should such extension be deemed desirable in the interest of the Bank, so however, that the service rendered by the concerned officer beyond 58 years of age except to the extent of the period of leave due at that time will not count for purpose of pension.

Provided further that an officer who had joined the service of the Bank either as an officer or otherwise on or after July, 19, 1969 and attained the age of 58 years shall not be granted any further extension in service.

Provided further that an officer may, at the discretion of the Executive Committee, be retired from the Bank’s service after he has attained 50 years of age or has completed 25 years’ service or 25 years’ pensionable service as the case may be, by giving him three months’ notice in writing or pay *in lieu* thereof.

HE WHO SEEKS HAPPINESS BY HURTING WILL NEVER FIND IT

Provided further that an officer who has completed 20 years' service or 20 years' pensionable service, as the case may be, may be permitted by the competent authority to retire from the Bank's service, subject to his giving three months' notice or pay *in lieu* thereof unless this requirement is wholly or partly waived by it.

19.(2)

19.(3) In case disciplinary proceedings under the relevant rules of service have been initiated against an officer before he ceases to be in the Bank's service by the operation of, or by virtue of, any of the said rules or the provisions of these rules, the disciplinary proceedings may, at the discretion of the Managing Director, be continued and concluded by the authority by which the proceedings were initiated in the manner provided for in the said rules as if the officer continues to be in service, so however, that he shall be deemed to be in service only for the purpose of the continuance and conclusion of such proceedings.

Explanation: An officer will retire on the last day of the month in which he completes the stipulated service or age of retirement."

10. On the bare perusal of the said Rules it clearly transpires that as per Rule 19(1) of the Rules, an officer could retire from the service of the bank on attaining the age of 58 years or upon the completion of 30 years' service or 30 years' of pensionable service if he is a member of the Pension Fund whichever occurs first, subject to the *provisos* mentioned therein. As per the Rule 19(3), in case the disciplinary proceedings under the relevant rules of service have been initiated against an officer before he ceases to be in the Bank's service by operation of, or by virtue of any of the rules, the disciplinary proceedings may at the discretion of Managing Director be continued and concluded, as if the officer had continued to be in service. However, the officer in that case shall be deemed

to be in service only for the purpose of the continuance and conclusion of such proceedings.

11. So far as the facts of the present case are concerned, the disciplinary proceedings against the respondent were already initiated and had stood concluded, culminating into dismissal from service as per the order dated 11.08.1999 passed by the Appointing Authority. The said order was challenged by the respondent by filing the Writ Petition, which came to be allowed by the Single Bench on 26.03.2009 whereby the order of dismissal was set aside, nonetheless the Appellant-Bank having preferred the LPA No. 378 of 2003, the Division Bench had stayed the operation and implementation of the said order passed by the Single Bench on 09.05.2003. The said LPA came to be dismissed on 22.04.2010, in the meantime on 30.11.2009, the respondent attained the age of superannuation *i.e.*, during the time, when the operation of the order of Single Bench was stayed. Thus, the order of Single Bench setting aside the order of dismissal passed by the Appointing Authority having been stayed by the Division Bench, the respondent could not be deemed to have continued in service, and also when he had attained the age of superannuation on 30.11.2009. Thereafter, the order of Division Bench dated 22.04.2010 passed in the LPA 378 of 2003 having been set aside by this Court while allowing the appeal filed by the Appellant-Bank *vide* the order dated 25.11.2013, again it could not be said that the respondent was continued in service, till he attained the age of superannuation.

12. The reliance placed by the learned counsel for the respondent on Rule 19(3) of the Rules is also thoroughly misplaced in as much as Rule 19(3) contemplates a situation, when the disciplinary proceedings against a bank officer, have already been initiated, and are pending when the officer ceases to be in the Bank's service, and in that case the Managing Director in his discretion may continue and conclude the disciplinary proceedings against the officer as if the officer continues to be in service. However, in the instant case, there was no question of

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 AUGUST -2023

REGN. NO. KRNA/BGE - 1122/2023-2025 PUBLISHED ON 25-07-2023

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 330/2023-2025

Managing Director exercising such discretion under Rule 19(3) as the disciplinary proceedings initiated against the respondent had already culminated into his dismissal as per the order dated 11.08.1999 passed by the Appointing Authority. Though the said order of dismissal was set aside by the Single Bench, the order of Single Bench had remained stayed pending the LPA filed by the Bank; and though the LPA was dismissed by the Division Bench, the said order in LPA was set aside by this Court, observing that the person who hears the matter has to decide it.

13. It was only pursuant to the direction given by this Court *vide* the order dated 25.11.2013, the Appointing Authority was expected to hear the respondent and pass appropriate order. This Court had kept all the contentions of all the parties open. Hence the Appointing Authority after issuing show-cause notice and granting opportunity of hearing to the respondent had passed the order imposing the penalty of "Dismissal from Service" w.e.f. 11.08.1999, *i.e.*, from the date when the first order of dismissal was passed by the Appointing

Authority. Since all the contentions were kept open by this Court while allowing the appeal filed by the Appellant-Bank, as such no affirmative action was expected from the Appellant- Bank, as sought to be submitted by the learned counsel for the respondent. The said order of Appointing Authority dismissing the respondent from service after granting opportunity of hearing to the respondent was in consonance with the direction given by this Court and could not be said to be arbitrary illegal or in violation of Rule 19(3) of the said Rules. The impugned order of the High Court setting aside the said order of dismissal being under misconception of facts and law deserves to be quashed and set aside.

14. In that view of the matter the impugned order passed by the Division Bench confirming the order passed by the Single Bench, is hereby accordingly set aside.

15. The appeal stands allowed.

Appeal allowed.

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

An Official Publication Of AIBOC

EDITORIAL BOARD

Editor: COMRADE Rupam Roy

MEMBER: COMRADE P M BALACHANDRA

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

(North Eastern Circle)

**C/o State Bank of India, Local Head Office,
Dispur, Guwahati, Assam – 781006 ☎ : 9957563825**

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 Rupam Roy on behalf of AIBOC, at State Bank Building, St.Mark's Road Bangaluru-560 001.
Printed by Smt. Nithya Lakshmi, at L. V. Press 3916, 7th Cross, 4th Main, Gayathri Nagar, Bangaluru - 560 021