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Editorial

BRIDGING THE GENERATION

Com L.V. Subramaniam, the First General Secretary of AICOBOO, which transformed into AIBOC in 1985, breathed his last on 8th April in Singapore. Elsewhere in this issue, we have carried the full text of the AIBOC circular on Com LV, as he was popularly called in the bank officers' confederated life, and which dealt elaborately on his stellar role as a leader stitching the early morning flowers in a bouquet, nicknamed Confederation at a time when the movement and the industry were reinventing and repositioning itself post nationalisation leading to a massive expansion of Branches and recruitment of thousands of officers. It strikes in our mind that bridging the gap between the generations at this daunting hour through a unified string is the call of the hour when the doyens of the movement are leaving us one by one.

The ideas of the founding leaders, including Com LV, who laid the building block of the Confederation, remain embodied in our collective life. With most of the founding leaders departing by the turn of the century, we need to ensure the quality or substance of underlying ideology remains undiluted, excepting necessary updation to prevent the Confederation from becoming an empty vessel or museum. Both these possibilities extolled the past glories without carrying forward

the legacy meaningfully. Such an eventuality only ensures that the vision of our founders was a shibboleth that was dutifully parroted on special occasions like AGM or GB, only to be denuded every other day of the year.

This led us to the daunting task of revisiting the landscape as it was in the 70s. There are no rules or conventions guiding promotions or transfer, no codified law on disciplinary proceedings, and to sum up, there was an environment that was inimical for the very existence of the supervisory cadre. Bank nationalisation, followed by the induction of employees represented in the Board, signals that the old medieval HR model that worked in most banks would no longer work. There was a definite change in the direction of credit flow from selected houses to priority sectors. Still, such a humongous task could only be achieved if the industrial relation space can be democratised by recognizing the role being played by college fresher's as officers in the industry freeing from the retrograde shackles that the employees' movement was, unfortunately, enveloping on the HR space. Dignity in the workplace, restoration of HR practices synonymous with the changing times, and an assertive voice to snatch, protect and expand the officer's rightful existence in the industry propelled Com LV, Com Godbole, Com Sengupta, and other stalwarts to define

A JUG FILLS DROP BY DROP

the signature tune of the movement in those early days. Waves of struggle, an inner fight for internal democracy, and an unwavering commitment to officers' cause have driven AIBOC to its present status. The only variable over time is the determination of the ruling power to destroy the edifice of public sector banking more aggressively than what it was in those days. The landscape has changed from protecting and expanding the working environment and service conditions to thwarting the attack on the very existence of public sector banking.

We had the news that RBI has started to evaluate the bids of at least five entities for a majority stake transfer in IDBI Bank Ltd. This occurred when IDBI reported its best quarterly result with a 60 % jump in net income at Rs. 927 crore on growth in core business and a massive reduction in bad loans along with a substantial margin. It reminds us of the lamb being fed and cared for ultimate sacrifice at the altar of divine power. News reports also suggest that the so-called Niti Ayog is giving its last touch to privatising the PSBs, which are outside the ambit of consolidation. We know IBA is adopting the usual delayed practice for meaningful settlement of all pending issues, including the commencement of negotiation for improvement in service conditions. Be that as it may, the real challenge is, once again, the threat of privatisation. This year, the current ruling dispensation will make the last desperate efforts until the nation moves to full election mode to keep their commitments to national and international cronies.

Genuine respect to the founding fathers is to reinvent ourselves as we did in 1985 at Chennai without denying the frontal role of Com LV both in AISBOF and AICOBOO. The corporatisation

of trade unions has to be halted, and the supervisory cadre movement has to be rebuilt by stretching the classical working class philosophy to the extent applicable in the present-day context.

Like Arjuna in the epic story of Mahabharata, when he is concentrating only on the spinning fish eye, we need to put our total energy into defeating the move to privatisation which is already on with IDBI bank being the soft target. Many members thought consolidation and merger would be game changers by ensuring better perks, without ever appreciating that this was the first door leading to the hell of privatisation. Let's avoid repeating the mistake. Let us resolve as we dip our banner for Com LV that the glory of AIBOC would resort to the original founding ideas, protect the members' rights, expand the members' rights and defend the Public sector character of Banks and keep the Indian banking sky free from overseas predators, which is the only guarantee of a decisive victory in the impending struggles.

March to Victory. Uphold the legacy. Sharpen the internal struggle against the corporatisation of the movement. Let all the windows be open. Let hundred new flowers blooms.

Stay Well! Stay Safe! Emerge in Struggle!

March on comrades,

#NationAgainstPrivatisation

#StrikeHard

#PowerofUnity

#BankBachaoDeshBachao

IN THE SKY THERE IS NO DISTINCTION OF EAST AND WEST

**COM L V SUBRAMANIAM,
DOYEN OF OFFICERS' TRADE UNION MOVEMENT IS NO MORE**

With profound grief we have to inform that Comrade L V Subramaniam, popularly known as LV, the Founder General Secretary of AISBOF and AICOBOO, the doyen and the pioneer of supervisory cadre trade union movement is no more. Comrade Subramaniam is survived by his spouse, a retired General Manager of SBI, and his daughter. With his departure on the fateful day of 08th of April 2023, we have lost one of the brightest stars in the galaxy of our trade union movement.



2. Com. Subramaniam was born on 3rd February, 1934 in a small village of Kalpathi, situated in Palakkad district of Kerala. He started his banking journey just at a tender age of 18 in Imperial Bank of India as a clerk and got his promotion during the year 1964. The uncompromising attitude of this bohemian leader first came in fore when he felt astounded with the horrible working conditions prevailing in Bank which rattled the philanthropic consciousness of Comrade LV and invited his resolute to stand defiant against all atrocities and exploitations being meted out to the employees. To accomplish his mission, Comrade L.V came in contact with trade union and socialist leaders. He joined the workmen staff union movement where he led and organized the 21 days strike and became the representative of the



Staff Federation by dint of his leadership acumen and craftsmanship in organising mass movements.

3. On his promotion to officers' cadre he felt immediate need for change of the fate of the officers and free them from the slave-like confinements and treatment that had been the order of those days. He was committed to win the dignity of officers and bring an end to all the exploitations which ultimately got accomplishment through successful

establishment of the Mumbai Circle association in 1965. The stepping stone laid thus became the landing platform for the trade union to spread its wings all across the country which ultimately culminated into a historical indefinite strike for 17 long days during the year 1969 in SBI, demanding Casual Leave for officers. He was the architect, who made SBI Supervising Officials' Federation (Now AISBOF) into a militant Organisation that subsequently resulted in yielding significant improvements in the service conditions of officers and contributed to the growth of the Officers' Trade Union movement in the country.

4. He continued as the General Secretary in AISBOF till 1974 and then the baton was handed over to, Comrade R. N. Godbole.

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

Comrade L. V then concentrated more on cementing broader unity and was instrumental in founding AICOBOO (which paved way for formation of AIBOC), an industry-level organisation for officers of all banks, which had the distinction of being the first trade union to call for a strike after the emergency. He also played a significant role in getting International Labour Organisation (ILO) to accept managerial staff as a part of labour workforce under the definition of "Professional Workforce". He also gainfully convinced ILO to recommend the adoption of a compendium of Good Principles and Practices relating to Professional Workers.

5. His contribution to the supervisory cadre trade union movement has been colossal and gigantic even though, his demeanour remained ever humble. His departure thus will leave a permanent void but his humongous contribution in trade union movement shall remain ever fresh in the memory of thousands of his followers and shall continue inspiring million souls aspiring to live their head held high.

6. We from AIBOC, dip our banner in sorrow while extending our deepest sense of commiserations to the bereaved family.

Comrade LV Amar Rahe!

WELCOME

Common Bond welcomes Com Sekaran Ramanujam, Secretary General of All India Indian Bank Officers' Association as the Working President of AIBOC. It trusts that his stellar guidance and contribution will impact the Confederation.

COMRADE SEKARAN RAMANUJAM TAKES OVER AS WORKING PRESIDENT OF AIBOC

We are delighted to inform you that in the 98th Executive Committee Meeting of All India Bank Officers' Confederation (AIBOC) held in Kolkata on 6th April, 2023, Comrade Sekaran Ramanujam, Secretary General of All India Indian Bank Officers' Association was unanimously co-opted as Working President of the Confederation. The proposal was placed in the meeting by Comrade Dilip Kumar Saha, Executive Vice President of AIBOC and General Secretary of AIPNBOA and supported by all members.



activities. He became a General Council Member in the Bank's Award Staff Association in the year 2000. He became an Executive Committee Member in the union in 2003. In February 2004 he got promoted to the supervising cadre. In May 2009 he was promoted to Scale II. He is also a Certified Associate of Indian Institute of Bankers.

Since his entry into officers' cadre he got involved in officers' association. Immediately after his posting in Eastern Zone of Indian Bank, he was elected as Assistant Secretary of Indian Bank Officers' Association (IBOA),



OVERCOME ANGER BY LOVE, EVIL BY GOOD

Eastern Zone in 2006. Since then he never look back. In 2009 he was elected as Secretary of IBOA (TN & Pondy), in 2013 he became the Deputy General Secretary of IBOA (TN & Pondy) and General Secretary of IBOA (TN & Pondy) in November 2014. Following the superannuation of Comrade K Rajendran, he became the Secretary General of AIIOA in February 2020.

Comrade Sekaran was elected as State Secretary of AIBOC Tamil Nadu State Unit in February, 2016. Since then he was a member in the Executive Committee of AIBOC. He was elevated to Sr. Vice President in January, 2021 at the 12th Triennial Conference held at Kolkata. His devotion, dedication towards the cause of officers' fraternity in particular and working class in general and experience has been acknowledged when he was elevated to Working President of the Apex Officers' Trade Union in the banking industry in the country.

Comrade Sekaran's co-option as Working President of the Confederation will definitely strengthen our resolute determination to carry on our ongoing struggle against privatisation, wage revision talks, ensuring proper work-life balance and meeting the challenges to continue the legacy of the movement. In the 98th EC, he has been given the responsibility of strengthening the organization in Regional Rural Banks. Due to his proactive role, the merger of AIIOA with the All Indian Allahabad Bank Officers' Association has been very smooth. He played a significant role along with the then leadership of AIABOA, to form a formidable team of present AIIOA that strengthened the Confederation.

The undersigned is confident that AIBOC will emerge more dynamic, cohesive, and determined to serve the membership drawing from the rich repository of experience of Comrade Sekaran R.

Economy & Banking **BUSINESS PER EMPLOYEE**

S. N.	Banks	PSB/PVT	Business per Employee (₹ Crore)		
			2020	2021	2022
1	NATIONALISED BANKS				
1	Bank of Maharashtra	PSB	19.55	21.45	26.53
2	State Bank of India (SBI)	PSB	21.05	23.73	28.74
3	The Federal Bank Ltd	PVT	22.21	24.03	28.61
4	Indian Bank	PSB	24.62	22.17	28.20
5	Union Bank of India	PSB	20.06	20.17	23.26
6	Bank of Baroda	PSB	18.77	19.57	22.05
7	Bank of India	PSB	19.40	19.94	20.71
8	IDBI Ltd	PVT	18.51	19.66	20.71
9	HDFC Bank Ltd	PVT	17.49	19.30	20.25
10	Canara Bank	PSB	17.63	18.54	19.91
11	Punjab & Sind Bank	PSB	16.98	18.56	19.77
12	Punjab National Bank	PSB	18.14	18.85	19.41
13	Indian Overseas Bank	PSB	14.38	16.12	18.89
14	Axis Bank Ltd	PVT	17.37	17.13	17.92
15	Tamilnad Mercantile Bank Ltd	PVT	14.99	16.83	17.75
16	The Karur Vysya Bank Ltd	PVT	13.56	14.99	17.28
17	Central Bank of India	PSB	14.06	15.60	17.15
18	ICICI Bank Ltd	PVT	12.75	14.30	16.89
19	City Union Bank Ltd	PVT	13.13	13.94	16.55
20	UCO Bank	PSB	13.70	14.70	16.35
21	The Karnataka Bank Ltd	PVT	15.13	15.10	16.10
22	The South Indian Bank Ltd	PVT	17.33	18.04	18.92
23	Indusind Bank Ltd	PVT	13.01	15.22	16.89
24	YES Bank	PVT	11.95	13.60	15.88
25	The Jammu & Kashmir Bank	PVT	13.08	14.48	13.87
26	RBL Bank	PVT	14.92	15.95	13.70
27	Narain Bank Ltd	PVT	12.46	12.30	13.58
28	Dhanlaxmi Bank Ltd	PVT	10.33	11.37	12.09
29	Kotak Mahindra Bank Ltd	PVT	9.36	9.70	8.71
30	DCB Bank Ltd	PVT	8.04	8.29	8.61
31	IDFC First Bank Ltd	PVT	9.59	7.68	7.96
32	The Catholic Syrian Bank Ltd	PVT	8.53	8.00	7.71
33	Bandhan Bank	PVT	3.22	3.22	3.29

Indian Bank Association published key business statistics regarding business per employee covering 32 banks in both Public Sector and Pvt. Sector. The table compiled by IBA is shared. The table confirms that over a three year period from Fy 2019-20 to 2021-22, employees of PSB not only braved the pandemic, they handled highest per employee business confirming that PSB is not only the trusted model but even with constraints, they are way ahead of their Pvt. Sector peers.

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

PUBLIC SECTOR BANKS WROTE OFF ₹91,000 CR IN 9 MONTHS OF FY23:

Public sector banks have written off around ₹ 91,000 crore in the first 9 months of the current fiscal, according to data presented in the Rajya Sabha. In FY 21-22, the total written off amount by the Scheduled Commercial Banks in India was ₹ 175 Crore (detail in the picture). PSBs have just recovered little over ₹ 1 out of ₹ 5 in written-off accounts during FY22. However, the pace of recovery has picked up from around 8% in 2017-18 to a little over 21 % in FY22.

In current FY SBI is on the top (₹17,356 crore), followed by Union Bank of India (₹ 16,497 crore) and Bank of Baroda (₹13,032 crore). All the scheduled

TOP BANKS BY NPA WRITE-OFFS



commercial banks (PSBs, private banks, and foreign banks) wrote off around ₹ 1.61-lakh crore worth of loans in FY18, while recovery from written-off accounts was less than ₹ 13,000 crore or around 8 percent of bad debts taken off from the book in that year. During all these five years, the total amount in written-off loan accounts was over ₹10 lakh crore, while the recovery was over ₹ 1.3-lakh crore.

We are sharing an excerpt of a news item which was published by Mayur.Shetty@timesgroup.com.– Editorial Team, Common Bond.

GOVT. ASKS BANKS FOR SCHEME TO SETTLE DEBT RECOVERY CASES *Suggests Alternatives Like Lok Adalat To Reduce DRT Burden*

The finance ministry has asked public sector banks to draw up a campaign for a one-time clean up strategy for clearing over lakh bad loan recovery cases pending in debt recovery tribunals (DRTs). The ministry has asked banks to use an alternate dispute resolution platform like Lok Adalat to bring down the number of cases.

According to banking sources, there are over 2 lakh cases pending with debt recovery tribunals of which over 1.5 lakh are original applications for over ₹12 lakh crore exposure. Of these, the 12 public sector banks have over 1 lakh pending cases where the original exposure is around ₹ 7.4 crore.



The issue was discussed in the finance ministry in the presence of law ministry officials. The proposal is to have a scheme for cases of low claim value where the dispute is straightforward and parties are likely to opt for settlement. The thinking is to use a resolution mechanism without taking away the rights of the parties to continue with the proceedings before the DRT.

Besides running a campaign and inviting parties to the alternate platform, banks have been asked to provide the infrastructure for external judges.

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

Currently, Lok Adalats are used for low-value recoveries. The ministry has suggested that for cases up to ₹ 50 lakh, banks could look at developing an AI application, which can help come up with the best economic outcome for both parties.

Since 2016, banks have been pursuing recovery against debtors under the Insolvency and Bankruptcy Code (IBC). There has been some ambiguity on the jurisdiction of the two platforms

under the insolvency law.

Banks have filed suits on multiple platforms, which has resulted in duplication of suits and cases bloating up. Bankers say that many borrowers who have defaulted because of genuine reasons are keen to resolve their cases with the lenders. Lawyers say there are genuine grievances of assets being wrongly attached under securitisation law. Bank officials are not willing to take decisions on settlement as they can be subjective. This is where Lok Adalat can help.

CIRCULARS

- 15 dated 10th April, 2023:** Circular mourning the death of Comrade L V Subramaniam
- 16 dated 15th April, 2023:** UFBU writes to IBA on immediate initiation of talks for wage negotiation
- 17 dated 18th April, 2023:** Comrade Sekaran Ramanujam takes over as Working President of AIBOC

JUDICIAL

**[2023 (176) FLR 746]
(MADHYA PRADESH HIGH COURT)
PURUSHAINDRA KUMAR KAURAV, J.**

W.P.No.4959 of 2015

March 3, 2022

Between

STATE BANK OF INDIA through REGIONAL MANAGER

and

TARUN KUMAR PRADHAN and another

Industrial Disputes Act, 1947-Section 25-F-Termination-Reinstatement awarded with 40% back-wages-Hence instant petition-Held during the entire departmental proceedings the principles of natural justice had been violated-Charge-sheet did not disclose the list of management witnesses-List of documents which was relied upon by management were not disclosed-Copies of documents were not supplied to the workman-Opportunity to cross-examine the management witness was not given-No interference with the award-Petition dismissed.[Paras 13 to 17]

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

JUDGMENT

PURUHSAINdra KUMAR KAURAV,J.- This petition under Article 227 of the Constitution of India is directed against the award dated 15.10.2012 (Annexure P/15) and award dated 16.07.2014 (Annexure P/16) passed by the Central Government Industrial Tribunal (for short "CGIT") in case No. CGIT/LC-241/1997, whereby the order dated 06.09.1995 imposing punishment of termination of the respondent-workman has been set aside and the respondent-workmen has been directed to be reinstated with continuity of service and 40% back wages.

2. The facts of the case are that respondent/workman was appointed in the petitioner-Bank on 01.09.1975 on the post of Clerk-cum-Cashier. He was confirmed in service w.e.f.01.03.1976. On account of some financial irregularities relating to withdrawal of certain amount a charge-sheet dated 11.03.1993 (Annexure-P-1) was served on the respondent-workman wherein as many as 06 charges were leveled against him. The charges are mainly related to fraudulent withdrawal of certain amount with an object to take wrongful pecuniary advantage causing loss to the Bank utilizing official position and violating the rules-procedure applicable to the employees of the petitioner-Bank. The respondent-workman was required to submit his reply to the charge-sheet. The respondent-workman denied all the charges *vide* communication dated 25.11.1993 (Annexure P-2) Accordingly a departmental inquiry was directed to be conducted.

3. Shri R.K.Jaiswal, Branch Manager Nawgaon Branch was appointed as the Enquiry Officer, whereas, Shri A. Shastri Branch Manager, City Branch Damoh was appointed as Presenting Officer. Five witnesses were examined in order to prove the charges against the respondent-workman. After departmental inquiry a report was submitted by the Enquiry Officer to the disciplinary authority on 14.02.1995 (Annexure P-3) wherein all the charges were found to be proved against the respondent-workman. The disciplinary authority after considering the material available on record was *prima facie* of the opinion that the charges were found proved and accordingly an

action was required to be taken against the respondent-workman. Pursuant to it a show cause notice was issued to the respondent-workman on 25.4.1995 (Annexure-P-4) proposing the punishment of dismissal from service. The disciplinary authority also provided opportunity of personal hearing to the respondent-workman. Being satisfied with the material available on record against the respondent-workman, the disciplinary authority passed an order of punishment dated 06.09.1995 (Annexure P-7) whereby the punishment of dismissal from service was inflicted upon the respondent-workman. The respondent-workman preferred an appeal (Annexure P-8) which has also been dismissed by the appellate authority *vide* order dated 08.11.1995 (Annexure P-9).

4. Aggrieved by the action of the petitioner-Bank the respondent –workman raised an industrial dispute with regard to punishment and the appropriate government referred the following dispute to the CGIT for adjudication :-

"Whether the action of the management of the State Bank of India Gwalior Branch in terminating the services of Shri Tarun Kumar Pradhan, Clerk-cum-Typist Damoh Branch w.e.f.06.09.1995 is legal and justified ? If not what relief the workman is entitled?"

During the proceedings before the CGIT, *vide* award dated 15.10.2012 (Annexure P-15) the preliminary issues regarding legality and validity of the departmental inquiry was decided and it was held that the inquiry proceedings are vitiated on account of various reasons mentioned therein. Thereafter, CGIT proceeded to grant opportunity to the petitioner-Bank to prove the charges on merits. Since no evidence was adduced before the CGIT to prove the charges on merits hence *vide* final award dated 16.07.2014 (Annexure-P-16) the petitioner-Bank has been directed to reinstate the respondent-workman with 40% back wages and continuity in service.

5. Shri Ashish Shroti learned counsel appearing for the petitioner-Bank has argued that the interim award dated 15.10.2012 is not sustainable mainly for the following reasons:

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

- (i) Neither it was necessary to disclose the list of Management witnesses nor to disclose the list of documents over which the Management had relied in the departmental inquiry to prove the charges;
- (ii) The copies of the documents were not required to be supplied along with the charges to the delinquent workman;
- (iii) Non-grant of opportunity to the respondent-workman to cross-examine the Management witness Shri O.P. Dubey is of no consequence when there were 6 transactions for which the charge-sheet was issued and notwithstanding the fraudulent transaction relating to Shri O.P. Dubey the Management had successfully proved the charges relating to fraudulent transaction from the account of Shri Ramkishan. Since Ramkishan was cross-examined therefore non-grant of opportunity to cross-examine Shri O.P. Dubey does not vitiate the proceedings.
- (iv) The respondent-workman has not been able to show whether any prejudice has been caused to him.
- (v) Supply of inquiry report to the respondent-workman is not necessary and the same cannot be said to have caused any prejudice to the respondent-workman.

He placed reliance on the decision of Hon'ble Supreme Court in the cases of ***State Bank of India and others v. Narendra Kumar Pandey; Sarva Uttar Pradesh Gramin Bank v. Manoj Kumar Sinha Railway Board New Delhi and another v. Niranjana Singh*** and judgment of High Court in the matter of ***Ram Sharan Verma v. State of M.P. and others***.

6. Shri Praveen Yadav learned counsel appearing for the respondent-workman has opposed the petition and submits that in exercise of limited jurisdiction under Article 227 of the Constitution the High Court should not reappreciate the evidence and material which has already been considered by the CGIT. During the departmental inquiry, principles of natural justice were not followed and

the documents were not supplied to him. Not allowing opportunity to the respondent to cross-examine the prosecution witness, namely Shri O.P. Dubey has substantially caused prejudice to the respondent-workman. The interim award dated 15.10.2012 is well reasoned award. The same does not call for any interference. Even after holding that the department inquiry is vitiated the CGIT had given ample opportunity to the petitioner-Bank to prove the charges and admittedly the petitioner-Bank had miserably failed to prove any of the charges leveled against the respondent-workman. The order of disciplinary authority and the appellate authority are completely non-speaking orders. He placed reliance on the decisions of Hon'ble Supreme Court in the matter of ***State Bank of India v. R.K. Jain and others*** and decision of this Court in the matter of ***Chief General Manager, S.E.C.L. v. Chandramani tiwari***, to contend that the High Court should not go into the evidence on which findings are recorded or even to correct the error of fact however grave it may be.

7. I have heard the learned counsel for the parties and perused the record.

8. The Hon'ble Supreme Court in the matter of Narendra Kumar considered the legality of the judgment of High Court of Judicature of Allahabad, Lucknow Bench whereby an order of dismissal of Charged Officer passed by the Management-Bank was the subject matter. In para-6 of the decision, the Hon'ble Supreme Court noted that the inquiring authority permitted the Charged Officer to inspect the record in the presence of the investigating officer and accordingly the date was fixed. Even thereafter various opportunities were granted to the Charged Officer. However the Charged Officer did not avail the opportunities and remained absent on various dates. In para-8 of the said decision it has been noted that the Presenting Officer produced original documents before the inquiring authority and after elaborate consideration of the charges the inquiring authority came to the conclusion that the charges were found proved. Under such facts and circumstances in para-20 of the said decision it has been observed that fair procedure does not mean giving of copies of the

documents or list of witnesses along with the charge-sheet.

9. Another decision cited by learned counsel for the petitioner is ***Sarva Uttar Pradesh Gramin Bank***. While examining the appellate orders passed by the High Court of Uttar Pradesh Lucknow Bench whereby the order imposing punishment was quashed and liberty to serve show cause notice afresh along with copy of the inquiry report was granted the Hon'ble Supreme Court in para-30 considered the issue with regard to non-supply of the inquiry report which was raised for the first time in appeal. Even at that stage the appellant therein neither pointed out as to what prejudice was caused on account of non-supply of the inquiry report nor was any adjournment sought on that ground.

10. For the same proposition learned counsel for the petitioner placed reliance on the Single Bench decision of this Court in the matter of ***Ram Sharan Verma***. In that case the petitioner was dismissed from service. However the finding recorded by the Inquiry Officer was not supplied to him and therefore dismissal was not held to be illegal in absence of any prejudice.

11. The last decision cited by learned counsel for the petitioner is for the proposition that notwithstanding the allegations relating to Shri O.P. Dubey the petitioner-Bank had successfully proved the allegations relating to other account holder and therefore on the basis of that material alone the order of dismissal of service of respondent-workman can be held to be valid. Reliance is placed in para-8 of the decision of ***Railway Board New Delhi and another***.

12. So far as decisions cited by learned counsel for the respondent-workman is concerned the Hon'ble Supreme Court was considering the validity of the award at the instance of the State Bank of India which was passed by the Industrial Tribunal Chandigarh setting aside the order of the Bank discharging the service of the respondent-workman with a direction of reinstatement etc. The Hon'ble Supreme Court in that case dismissed the appeal of the Bank after referring to various decisions. Learned counsel for the respondent

relied on para19 to contend that the services of the respondent-workman are governed by Sastry Award and Chapter XXV deals with the method of recruitment conditions of service termination of employment disciplinary action etc. According to him only the charge-sheet is required to be served on the delinquent employee but sufficient time to respond to it and to produce any evidence etc. has to be given. The cross-examination of the prosecution witnesses is also necessary and therefore applying the principles of law laid down in the case of ***State Bank of India v. R.K.Jain*** the present writ petition deserves to be dismissed.

13. This Court has carefully examined the material available on record. The interim award dated 15.10.2012 in its concluding paragraph records following findings:

"The charge-sheet dated 11.03.1993 did not disclose the list of management witnesses nor it disclosed the list of documents over which the management had relied in the departmental enquiry to prove the charges. It is alleged by the workman that the copies of the documents were not supplied.

There is nothing to show that the copies of the documents were supplied to the delinquent workman. Admittedly the opportunity was not granted for cross-examination to the management witness Shri O.P. Dubey whose amount is said to have been fraudulently withdrawn. This aspect shows that the workman was prejudiced. It appears that there were five management witnesses in the case but the management has not filed either copy or the original papers of the entire day-to-day departmental proceedings recorded by the E.O. wherein the evidence were recorded and they were alleged to have been cross-examined after giving reasonable opportunity. There is nothing to show that the enquiry report was also supplied to the workman. This shows that the workman is prejudiced and there is violation of the principles of natural justice. I find and hold that the departmental enquiry conducted by the management against the workman is not legal and proper.

The management has pleaded that if the

HE WHO SEEKS HAPPINESS BY HURTING WILL NEVER FIND IT

departmental enquiry is vitiated the management be given opportunity to lead evidence to prove misconduct against the workman before the Tribunal Accordingly the management is permitted to prove misconduct before the Tribunal Fix 13.2.2013 for filing evidence by the management.

14. After giving opportunity to the petitioner-Bank the final award dated 16.07.2014 records following findings:

“8 Workman is challenging dismissal. As per order dated 15.10.2012 my predecessor held enquiry conducted against workman is not legal and proper. Management was permitted to prove misconduct before Tribunal. However management failed to adduce in evidence about alleged misconduct. The evidence of management is closed on 30.09.2013. Workman has filed affidavit of his evidence on other issues. Workman says he was appointed as clerk-cum-typist in Bank. He was working with devotion. He was served with charge-sheet. The charge-sheet was false. He denied charges. Enquiry was conducted against him. The Account Holders were not examined in enquiry. The charges cannot be proved against him. After dismissal from service he is unemployed. In his cross-examination workman says he was working as clerk. He was unable to tell when Departmental Enquiry was initiated against him. He received charge-sheet Exhibit M-1. The monthly account was prepared by all the employees collectively. He was checking Day Book every day. That withdrawal form of 10,000/- of Shri O.P. Dubey may bear his signature. He had not deposited amount in Account of Shri Mahesh Kumar Agrawal. The workman is not acquainted with Santosh Kumar and Laxmi Narayan. The evidence of workman is by way of denial of the charges. IInd party has failed to examine any witness to prove charges alleged against workman. When charges are not proved the action of dismissal of 1st party workman by IInd party cannot be said illegal. Therefore I record Point No.1 in Negative.

9. Point No.2-In view of my finding in Point No.1 that charges against workman are not proved the dismissal of workman is illegal. Question arises

whether the workman is entitled for reinstatement with back wages. Workman in his evidence says that after dismissal of service, he was unemployed he was not engaged in gainful employment. IInd party has not adduced any evidence in its liberty. If evidence of workman is totally appreciated the evidence does not show how he was maintaining his family when he had no source of income. Considering those aspects in my considered view reinstatement of workman with 40% back wages would be appropriate. Accordingly I record my finding in Point No.2.

10. In the result award is passed as under:

- (1) The action of the management of State Bank of India Gwalior Branch in terminating the service of Shri Tarun Kumar Pradhan, Clerk-cum-typist from 06.09.1995 is not legal and proper.
- (2) IInd party is directed to reinstate workman with continuity of service and 40% back wages.

Amount as per above order shall be paid to workman within 30 days from the date of publication of award. In case of default amount shall carry 9% interest per annum from the date of award till its realization.

11. Let the copies of the award be sent to the Government of India Ministry of Labour & Employment as per rules.”

15. Thus even assuming that the petitioner-Bank was correct in contending that the copies of the documents were not required to be supplied, it should have proved its case before the CGIT wherein opportunity to adduce evidence was given. In the instant case it is not only a singular reason on account of which action of the petitioner-Bank has been held to be improper but after examining the cumulative effect of all the reasons it can be safely concluded that in the entire departmental proceedings the principles of natural justice have been violated. The charge-sheet did not disclose the list of management witnesses nor does it disclose the list of documents over which the management had relied

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in the departmental inquiry to prove the charges. The copies of documents were not supplied to the workman. An opportunity to cross-examine the management witness Shri O.P. Dubey from whose account alleged fraudulent transaction had taken place was not given. There are no details when the evidence of management witnesses was recorded. The contemporaneous day-to-day note-sheet/order sheet of the inquiry officer was not produced. The inquiry report was not supplied to the workman. The aforesaid facts clearly prove that a substantial prejudice has been caused to the workman.

16. In the instant case the petitioner-Bank is praying for taking a different view than the view which has already been taken by the CGIT on the basis of material available on record. Since the findings of the CGIT are based on examination of the proceedings of the departmental inquiry as was made available therefore this Court is not inclined to go into the details of those findings. The same being finding of fact this Court should refrain itself

from dilating upon such issues in exercise of powers conferred under Article 227 of the Constitution. So far the decisions relied upon by the counsel for the petitioner and counsel for the respondent referred to in the preceding paragraphs are concerned the principles of law laid down therein are not disputed. In all the cases relied upon by the learned counsel for the Bank, the Hon'ble Supreme Court has interfered with the decision of the High Court when the High Court has taken a different view than the view taken by the disciplinary authority but in the present case this Court is not inclined to take a different view which is already taken by the CGIT holding that the action of petitioner is vitiated on account of violation of principles of natural justice.

17. Taking into consideration the overall facts and circumstances of the case this Court does not find any substance in the instant writ petition. Accordingly, the same is dismissed.

Petition Dismissed.

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