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Editorial

ANNIVERSARY AND BEYOND!

This issue will reach the hands of our readers 3 weeks after the grand yearlong celebration of the 75th year of independence comes to an official closure. Though belated, we warmly greet all our readers and patrons on this auspicious occasion. The celebration's conclusion also provides an opportunity to look back at the banking sector's contribution to shaping our country's economic destiny by reaching out to millions of our citizenry for whom the freedom fighters laid down their lives during that tumultuous period of freedom struggle.

We appreciate that the Hon'ble Prime Minister and the Hon'ble Finance Minister have started recognizing the role of the bankers in tiding over the crisis that has engulfed the country during the Covid pandemic and in implementing the various social welfare measures of the government. We are aware that the benefit of the entire social welfare scheme is reaching the beneficiaries through the mechanism of the

public sector banks. The public sector banks bore most of the ₹ 23 lakh crore of bank loans sanctioned to prevent the pandemic-induced crisis. Unfortunately, while talking about the banking sector, Hon'ble PM and FM are making no distinction between the public sector and private sector banks, creating an impression in the public mind that the role played by these two distinguishable sectors in nation-building is safe.

This is our area of apprehension. We do not undermine the contribution of the different sectors of the economy. But we must maintain sight of the fact that the commanding role played by the public sector, in particular, can never be washed off. This also shows us the responsibility of upholding the dominant role of the public sector bank, which is a crucial pre-condition for preserving the hard-earned economic sovereignty and, in turn, ensuring the very foundation of political freedom, which we earned on the 15th day of August, 1947.

A JUG FILLS DROP BY DROP

Let us unitedly ensure that as our 80th independence day looms behind the 76th, we should be clear that by the time things get better, meaning the lives of the ordinary people reach some state of long-term peaceful happiness. The realisation of this dream requires that as we emerge from "Amrit Mahotsav", we will need to continue our fight for liberty,

equality, and fraternity and our battle for the right of each of our citizens to pursue happiness.

Stay Well! Stay Safe! Emerge in Struggle!

March on comrades,

#NationAgainstPrivatisation

#BankBachaoDeshBachao

ORGANISATION

We are reproducing the abridged text of AIBOC circular no. 2023/32 dated 08.08.2023 covering the Small Committee Meeting for the Officers' for information of our readers.

Circular No. 2023/32

Date: 08.08.2023

Dear Comrade,

BIPARTITE TALKS WITH IBA SMALL COMMITTEE MEETING WITH IBA ON WAGE REVISION

We reproduce hereunder the text of UFBU Circular No. UFBU/2023/11 dated 08.08.2023 on the Small Committee Meeting held between Officers' Associations & IBA on 07.08.2023 for your information.

#OurUnityLongLive

With greetings,

Sd/-

(Rupam Roy)

General Secretary

Text of Circular No. UFBU/ 2023/11 dated 08.08.2023

Dear Comrades,

BIPARTITE TALKS WITH IBA SMALL COMMITTEE MEETING – ROUND -1

Unions are aware that in the initial meeting of the Bipartite Talks held on 28-7-2023, besides the main Negotiating Committee, two Sub-Committees were formed to discuss the respective issues of Workman Unions and Officers Unions. Yesterday the 1st Round of the Sub-Committee meeting was held.

IN THE SKY THERE IS NO DISTINCTION OF EAST AND WEST

For Workman Unions' discussions, the IBA was represented by the Sub-Committee Chairman Shri Rajneesh Karnatak (MD&CEO, Bank of India). For the Officers Associations' discussions, IBA was represented by the Sub-Committee Chairman Shri Om Prakash Mishra (Dy MD-HR, SBI)

Our demand for full and complete mandate from all the Banks up to Scale VIII was reiterated as the major Banks now have the position of CGMs.

We have also suggested a small committee for D & A regulations, Improvement in leave facilities, Improvement in facilities to be extended to Differently Abled, Special Provision for Women Employees etc. IBA agreed to the same.

Thereafter, the following issues of officers were taken up for discussions.

1. All existing Stagnation Increments up to Scale V should be converted to regular increments.

Two Additional increments to be introduced for all grades of officers i.e. right from Scale I to Scale VIII.

2. Merger of scales to rationalise the pay scales.

Merger of present 8 scales to be reduced into 2 scales as under:

Scale - I – Manager Grade – Integration of current Scale I to Scale IV

Scale - II – Executive Grade – Integration of current Scale V to Scale VIII

3. Officers should also be given two increments for passing CAIIB.

4. FPP should be equivalent to the last drawn increment without any ceiling.. FPP to be de-frozen.

5. PQP: For completion of JAIIB and CAIIB, one and two increments respectively are to be considered instead of consolidated amounts as in the past.

6. Date of sanction of annual increments should be on 1st January and 1st July every year.

7. The present embargo regarding the sanction of stagnation increment, automatic movement, increment in next higher scale and PQP in respect of those officers who have refused / taken reversion / opted out of promotion should be removed.

8. Upward revision of HRA commensurate with market rent.

9. Self-Lease to be introduced.

10. Substantial increase of CCA & Location allowance (non CCA centres) for all.

11. Learning Allowance to be enhanced substantially.

12. Closing allowance to be enhanced and paid every quarter in view of the enhanced workload performed by officers every quarter end.

13. a. Improvement of lumpsum amount as compensation on transfer.

- b. The Banks should take the responsibility for shifting the personal effects of the officers on transfer from one place to another.

- c. For change of posting in the same centre or in the urban agglomeration, the officers should be reimbursed the full expenditure for transportation of goods in

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

connection with change of residence/leased quarter/bank's quarter on actual basis.

14. Improvement of lumpsum amount on mid-academic transfer
15. Education Allowance to be introduced for school education and higher education similar to that existing in Govt / PSUs / Private Sector.
16. The emoluments drawn by an officer should be protected on transfer from higher area to lower area.
17. Review and rationalisation of halting/boarding/ travelling expenses/Hill area allowance
18. The branches coming under SEZ/NEZ/EPZ areas should be treated on par with Metro Centers for all allowances and perquisites.
19. Introduction of incentive for rural and other sensitive/difficult areas.
20. Improvement in special area allowance and special compensatory allowance for N.E, Jammu, Kashmir, Himachal, Leh, Ladakh, Sikkim, Andaman, Uttarakhand and red corridor / disturbed areas.
21.
 - a. Improvement in Leave Fare Concession and monetization of LFC
 - b. The entitlement of mode of travel should be made as air travel to all the officers.
22. Banks should bear the tax on perquisites.

23. Differently Abled Officers:

- a. A special care and allowance should be paid to the specially/ differently abled in terms of the Govt. of India guidelines.
- b. Government guidelines on concessions to such employees in recruitment/ promotion/ transfers/rotations/postings, etc. to be strictly followed by all Banks.
- c. Revision of conveyance allowance paid to these employees
- d. Physically challenged children of employees to be defined as dependents irrespective of age or marital status
- e. 25 days CL for physically challenged employees.
- f. Full pension to physically challenged employees at 50% of Pay irrespective of service rendered.
- g. Visually impaired employees should be permitted an escort for availing LFC. The entitlement of the escort will be the same as the employee.

24. Special Provision for Women Employees:

- a) Placement and postings:
- b) Provision of creche facility:
- c) The existing Maternity Leave of 6 months at a time should also be extended in case of adoption of a child (from present 3 months) and increased to one year for one birth. 3 months' additional sick leave be sanctioned after attaining the age of 45

- years as lady officers are prone to diseases at this age.
- d) Child Care leave as applicable to the Central Government employees must be made available to lady officers i.e. two years CCL with salary.
- e) Work from home:
- f) Flexi time scheme:
- g) Fertility Treatment: Lady officers need to be sanctioned additional leave of 6 months at different intervals along with salary and medical reimbursement for Infertility treatment should be provided.
- h) Gender sensitivity
- i) Compulsory health check-up for all women officers:
- j) Provision of sanitary pad vending machine and incinerator:
- k) Enhancement of period of maternity leave from 6 months to 12 months/ introduction of child care leave for 2 years
- l) Introduction of menstrual leave:
- m) Posting at the same station for both spouses
25. Immunity from transfer policy, special privileges to office-Bearers of the organization
26. The income criteria for dependents to be substantially increased.
27. **Improvement in all leave facilities/ introduction of the concept of Leave Bank:**
- a. Casual leave should be increased to 15 days.
- b. Privilege Leave encashment is up to 300 days
- c. Existing 5/7 days encashment introduced in the 8th Joint Note should be extended to 10/15 days every year.
- d. Improvement in Sick Leave
- e. Improvement in Sabbatical leave:
- f. Sabbatical leave should be extended to male officers.
- g. UCL: UCL to be delinked from sickness and can be utilized for any purpose and without any cap on accumulation.
- h. Bereavement leave of 15 days to be introduced for the death of any family member.
- i. Special Occasion Leave
- j. Journey Time Leave
- k. Improvement in Leave for Sports Personnel from 30 days to 60 days.
- l. Officers to be permitted to avail sick leave on account sickness of spouse/parent/in-laws/children.
- m. Introduction of leave bank.
28. a. Uniformity of loans and advances to officers by adoption of best of policies.
- b. The Road Tax on vehicles should be paid by the Banks on inter-state transfers.

29. D & A regulations

- a. Review of Disciplinary Rules Procedure:
- b. Allowing personal hearing of charge-sheeted officers in case of major penalty proceedings accompanied by a Defence representative.
- c. The present ad-hoc system of withholding gratuity and harsh decision to set off the gratuity amount towards loss caused etc., should be reviewed keeping in view the recent judicial pronouncements. There should not be a stoppage or denial of gratuity to the officers.
- d. No disciplinary action should be initiated after superannuation and the extant Pension regulations No 48 to be done away with as it is in conflict with Clause 14 of Gratuity Act and Supreme court judgments.
- e. All Terminal benefits should be released pending disciplinary proceedings if bank fails to complete the proceedings before superannuation as is being done in the case of CBI cases being pending.
- f. The IBA should take up with the Government on the introduction of an exclusive Banking Administrative Tribunal for the banking Industry in order to deal with all the service as well as disciplinary

matters in respect of officers similar to the Central Administrative Tribunal.

30. Classification of lapses into major and minor penalties.
31. Clarification be issued to Banks that any alleged lapse committed by an employee while working in the capacity as workmen, but alleged lapse detected when employee is an officer, should be tried under bipartite rules and not under officers D & A regulations.
32. Full legal expenses to be borne by banks on legal cases against any officer both serving and retired for all cases related to banking work except charges of fraud perpetrated by the officer.
33. Appointment of compassionate grounds to be completed within a six months period.

The IBA while receiving the submissions and justification of our demands with a positive approach, informed us that they would examine all these demands including cost implication, etc. and hence it was decided to discuss these issues further in the next round of meeting to arrive at possible outcomes.

Next round of meeting: It was agreed to fix the date for the next round of meeting at the earliest. The meeting of the main Negotiating Committee is also expected to be fixed before the end of this month.

CIRCULARS

- 30 dated 28th July, 2023 :** Text of UFBU Circular No. UFBU/ 2023/10 dated 28.07.2023 Bipartite talks on wage revision commence today.
- 31 dated 31st July, 2023 :** DA Payable for the months – Aug to Oct 23.
- 32 dated 08th August, 2023:** Bipartite talks with IBA – Small Committee Meeting with IBA on wage revision.

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

ADVICE TO BANKERS OF 1863

In December, 1863, Hugh McCulloch, then Comptroller of the Currency and later Secretary of the Treasury, addressed a letter to all national banks. Those institutions had only lately been organized and their executives, one must assume, were more in need of the Comptroller's sage admonitions than bankers ever have been since. Here are some of his paragraphs:

Let no loans be made that are not secured beyond a reasonable contingency. Do nothing to foster and encourage speculation. Give facilities only to legitimate and prudent transactions. Make your discounts on as short time as the business of your customers will permit, and insist upon the payment of all paper at maturity, no matter whether you need the money or not. Never renew a note or bill merely because you may not know where to place the money with equal advantage if the paper is paid. In no other way can you properly control your discount line, or make it at all times reliable.

"Distribute your loans rather than concentrate them in a few hands. Large loans to a single individual or firm, although sometimes proper and necessary, are generally injudicious, and frequently unsafe. Large borrowers are apt to control the bank; and when this is the relation between a bank and its customers, it is not difficult to decide which in the end will suffer. Every dollar that a bank loans above its capital and surplus it owes for, and its managers are therefore under the strongest obligations to its creditors, as well as to its stockholders, to keep its discounts constantly under its control.

"Treat your customers liberally, bearing in mind the fact that a bank prospers as its customers prosper, but never permit them to dictate your policy.

"If you doubt the propriety of discounting an offering, give the bank the benefit of the doubt

and decline it; never make a discount if you doubt the propriety of doing it. If you have reason to distrust the integrity of a customer, close his account. Never deal with a rascal under the impression that you can prevent him from cheating you. The risk in such cases is greater than the profits.****

"Pay your officers such salaries as will enable them to live comfortably and respectably without stealing; and require of them their entire services. If an officer lives beyond his income, dismiss him, even if his excess of expenditures can be explained consistently with his integrity, still dismiss him. Extravagance, if not a crime, very naturally leads to crime. A man cannot be a safe officer of a bank who spends more than he earns.

"The capital of a bank should be a reality, not a fiction; and it should be owned by those who have money to lend, and not by borrowers. The Comptroller will endeavor to prevent, by all means within his control, the creation of a nominal capital by national banks, by the use of their circulation, or any other artificial means; and in his efforts to do this, he confidently expects the co-operation of all the well-managed banks.****

"Pursue a straightforward, upright, legitimate banking business. Never be tempted by the prospect of large returns to do anything but what may be properly done under the National Currency Act. 'Splendid financiering' is not legitimate banking, and 'splendid financiers' in banking are generally either humbugs or rascals."

It remains to be added only that, interesting as Mr. McCulloch 's ideas are now, they might have been even more so four or five years ago, and that they are no less significant for bank borrowers and would-be borrowers than for bank officers.

*Reprint from the wall street journal
March 17th 1933*

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

INDIAN BANKS' OPERATING ENVIRONMENT STRONGER: FITCH

Indian Banks' operating environment has strengthened as macroeconomic risks associated with the Covid-19 pandemic have ebbed, global rating agency Fitch said in a note Wednesday.

"India's OE (operating environment) score continues to benefit from the economy's well-diversified structure, which helps to reduce banks' exposure to specific sector-focused shocks," Fitch said, adding that the large size of Indian economy and favourable demographics should offer banks opportunities to generate profitable business and diversify risk and revenue.

The rating agency further expect banks to benefit from the gradual formalisation of the small and medium enterprise sector, through initiatives such as the goods and services tax and rapid digitalization.

Fitch had revised Indian banks' operating environment score downwards to 'bb' from 'bb+' in March 2020, after assessing that the pandemic was likely worsen the existing rating. While the rating remains unchanged, Fitch said banks' capital buffers have improved, with lenders' average common equity Tier 1 (CET-1) ratio rising to 13.4% in FY23 from 10.4% in

FY18. This party reflects around \$50 billion in cumulative fresh equity provided by the sovereign to state banks since 2015, it added.

Fitch said banks' capital buffers have improved, with lenders' average common equity Tier 1 ratio rising to 13.4% in FY23 from 10.4% in FY18. This party reflects around \$ 50 billion in cumulative fresh equity from the government since 2015

However, the operating environment of Indian banks continues to face structural issues such as lengthy legal processes for bankruptcy and resolutions, and the so-called "bad bank" or National Asset Reconstruction Corp of India Ltd (NARCL), which incorporated in July 2021, not playing a meaningful role so

far.

Lastly, Fitch said that Indian banks' credit growth will likely see some normalization in the current fiscal after growing 15.4% year-on-year in FY23, the highest in a decade. The rapid loan growth and higher exposure to certain asset classes, including unsecured retail personal loans, is also likely to indicate greater risk appetite of banks amid stiff competition, Fitch said, which could raise sectoral risk if not managed carefully.

"India's private credit/GDP, at around 57% in 2022, is already moderately higher than the median for sovereigns in the 'BBB' category, of 50%," it said.

JUDICIAL

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION CRIMINAL APPEAL NO. 2339 OF 2023
(Arising out of S.L.P. (Criminal) No. 7542 of 2022)
A. SREENIVASA REDDY - Appellant(s)
Versus
RAKESH SHARMA & ANR. - Respondent(s)**

J U D G M E N T

J.B. PARDIWALA, J.:

1. Leave granted.

2. This appeal arises from the judgment and order passed by a learned Single Judge of the High Court for

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

the State of Telangana dated 20.06.2022 in the Criminal Petition No. 6782 of 2019 filed by the appellant herein by which the High Court rejected the petition and thereby declined to quash the criminal proceedings instituted against the appellant for the offence punishable under Sections 120-B r/w 420, 468 and 471 respectively of the Indian Penal Code, 1860 (for short, 'the IPC').

FACTUAL MATRIX

3. The appellant herein (Original Accused No. 2) at the relevant point of time was serving as an Assistant General Manager, State Bank of India, Overseas Bank (Bank), Hyderabad. He is alleged to have conspired with other co-accused to cheat

₹ 22.50 crore in favour of M/s Sven Genetech Limited, Secunderabad (Original Accused No. 1).

4. It appears from the materials on record that the company referred to above had applied for loan for the purpose of purchase of new equipments/ implementation of the expansion programme. The company had also applied with the Bank for loan credit limit of ₹ 5 crore for the purpose of purchase of raw material from the domestic market and cash credit limit of ₹ 20 crore for using as working capital. It is the case of the prosecution that the facilities sanctioned by the Bank were not utilised by the company for the purposes for which it was sanctioned and the company diverted the funds for its personal benefits and to clear its old debts.

5. The case against the appellant herein is that he was instrumental in approving the release of corporate loan without compliance of all the principle/disbursement conditions. He is also alleged to have approved the release of cash credit limit of ₹ 10 crore on the recommendation of one Shri Kuppa Srinivas (Original Accused No. 3 Regional Manager), despite having knowledge of non-installment of machinery proposed to be purchased out of the corporate loan amounts. It is also alleged that the appellant herein hastily approved the release of ₹ 10 crore out of the sanctioned cash credit limit of ₹ 20 crore with the fraudulent intention to cause wrongful gain to the Original Accused Nos. 1-4 and others.

6. In the aforesaid context, the Central Bureau Investigation (CBI) registered a First Information Report dated 30.10.2013 bearing Crime No. RC 6(E)/2013 against the appellant herein and other co-accused for the offences punishable under Sections 120-B r/w 420, 468 and 471 respectively of the IPC and Section 13(2) r/w Section 13(1) of the Prevention of Corruption Act, 1988 (for short, 'the PC Act, 1988').

7. Upon conclusion of the investigation by the CBI, chargesheet was filed in the Court of the Principal Special Judge (CBI Cases) at Hyderabad on 30.12.2014 against in all six persons including the appellant herein.

8. It appears that by an order dated 13.02.2015, the Chief General Manager (MCG-I), SBI declined to accord sanction under Section 19 of the PC Act, 1988 to prosecute the appellant herein for the offences punishable under the PC Act, 1988.

9. The very same authority referred to above, who had earlier declined to accord sanction, later reviewed its earlier order dated 13.02.2015 referred to above and by an order dated 11.04.2015 accorded sanction to prosecute the appellant herein for the offences punishable under PC Act, 1988. Such sanction was accorded under the provisions of Section 19 of the PC Act, 1988. No sooner, the order according sanction referred to above came on record, then the Special Court at Hyderabad took cognizance of the offence enumerated above against the appellant herein and 13 other co-accused. It appears that the appellant herein questioned the legality and validity of the order of grant of sanction before the High Court of Telangana by filing the Writ Petition No. 33297 of 2016.

10. A learned Single Judge of the High Court allowed the writ petition filed by the appellant herein holding that the sanctioning authority once having declined to accord sanction could not have taken its earlier order in review and granted fresh sanction to prosecute the appellant. The High Court ultimately by order dated 30.10.2018 allowed the writ petition and quashed the order of grant of sanction.

11. It appears that the CBI being aggrieved with the above referred order passed by the learned Single Judge of High Court preferred the Writ Appeal No. 119 of 2019 and questioned the legality and validity of the judgment and order passed by the learned Single Judge.

12. The Intra-Court appeal filed by the CBI failed vide order dated 15.07.2019 and thereby the order passed by the learned Single Judge came to be affirmed.

13. The CBI accepted the order passed by the High Court and thought fit not to carry it further.

14. Pursuant to the orders dated 30.10.2018 and 15.07.2019 respectively, referred to above, the appellant preferred a discharge application before the Special Court under Section 239 of the Code of Criminal Procedure (for short, 'the CrPC').

15. The Special Court at Hyderabad by its order dated 30.08.2019 discharged the appellant herein from the prosecution under the PC Act, 1988 for want of sanction. The Special Court, however, declined to discharge the appellant for the offences under the IPC. The Special Court relied on the decision of this Court in the case of Parkash Singh Badal and Another v. State of Punjab and Others reported in (2007) 1 SCC 1.

XXX XXX XXX

17. Feeling aggrieved with the aforesaid, the appellant herein went before the High Court by filing the Criminal Petition No. 6782 of 2019 with a prayer that he should be discharged from the entire prosecution or to put in other words, he should also be discharged for the offences under the IPC as there is no sanction accorded by sanctioning authority under Section 197 of the CrPC.

18. The High Court adjudicated the Criminal Petition No. 6782 of 2019, filed by the appellant herein and by its impugned order dated 20.06.2022 rejected the same.

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20. In such circumstances referred to above, the appellant is here before this Court with the present appeal.

XXX XXX XXX

ANALYSIS

37. Having heard the learned counsel appearing for the parties and having gone through the materials placed on record the following questions of law fall for our consideration:

(i) Whether the appellant, serving in his capacity as an Assistant General Manager, State Bank of India, Overseas Bank, is removable from his office save by or with the sanction of the Government so as to make Section 197 of the CrPC applicable?

(ii) Is it permissible for the Special Court (CBI) to proceed against the appellant for the offences punishable under the IPC despite the fact that the sanction under Section 19 of the PC Act, 1988 to prosecute the appellant for the offences under the PC Act, 1988, is not on record as the same came to be declined?

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41. Sub-section (1) of Section 197 of the CrPC shows that sanction for prosecution is required where any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in discharge of his official duty. Article 311 of the Constitution lays down that no person, who is a member of a civil service of the Union or State or holds a civil post under the Union or State, shall be removed by an authority subordinate to that by which he was appointed. It, therefore, follows that protection of sub-section (1) of Section 197 of CrPC is

HE WHO SEEKS HAPPINESS BY HURTING WILL NEVER FIND IT

available only to such public servants whose appointing authority is the Central Government or the State Government and not to every public servant.

42. The word 'sanction' has not been defined in the CrPC. The dictionary meaning of the word 'sanction' is as under:—

“Webster’s Third New International Dictionary: Explicit permission or recognition by one in Authority that gives validity to the act of another person or body; something that authorizes, confirms, or countenances. The New Lexicon Webster’s Dictionary: Explicit permission given by someone in Authority. The Concise Oxford Dictionary: Encouragement given to an action etc., by custom or tradition; express permission, confirmation or ratification of a law etc; authorize, countenance, or agree to (an action etc.) Stroud’s Judicial Dictionary: Sanction not only means prior approval; generally it also means ratification. Words and Phrases: The verb ‘sanction’ has a distinct shade of meaning from ‘authorize’ and means to assent, concur, confirm or ratify. The word conveys the idea of sacredness or of Authority. The Law Lexicon by Ramanath Iyer: Prior approval or ratification.”

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45. The appellant was serving as an Assistant General Manager, State Bank of India, Overseas Bank at Hyderabad. State Bank of India is a Nationalised Bank. Although a person working in a Nationalised Bank is a public servant, yet the provisions of Section 197 of the CrPC would not be attracted at all as Section 197 is attracted only in cases where the public servant is such who is not removable from his service save by or with the sanction of the Government. It is not disputed that the appellant is not holding a post where he could not be removed from service except by or with the sanction of the Government. In this view of the matter, even if it is alleged that the appellant herein

is a public servant, still the provisions of Section 197 of the CrPC are not attracted at all.

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49. It is pertinent to note that the banking sector being governed by the Reserve Bank of India and considered as a limb of the State under Article 12 of the Constitution and also by virtue of Section 46A of the Banking Regulation Act, 1949, the appellant herein is deemed to be a “public servant” for the purpose of provisions under the PC Act, 1988. However, the same cannot be extended to the IPC. Assuming for a moment that the appellant herein should be considered as a “public servant” for the IPC sanction also, the protection available under Section 197 of the CrPC is not available to the appellant herein since, the conditions in built under Section 197 of the CrPC are not fulfilled.

50. Unfortunately, in the case on hand, the High Court also missed or overlooked the aforesaid aspect and confined its adjudication as to whether the acts alleged of the appellant were in discharge of the official duty.

Question No. 1 is answered accordingly.

QUESTION NO. 2

XXX XXX XXX

54. The offences under the IPC and offences under the PC Act, 1988 are different and distinct. What is important to consider is whether the offences for one reason or the other punishable under the IPC are also required to be approved in relation to the offences punishable under the PC Act, 1988.

55. It is important to draw a distinction between an order of sanction required for prosecuting a person for commission of an

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offence under the IPC and an order of sanction required for commission of an offence under the PC Act, 1988.

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60. Before, we close this matter, we would like to observe something which, this Court may have to consider sooner or later. The object behind the enactment of Section 19 of the PC Act, 1988 is to protect the public servants from frivolous prosecutions. Take a case wherein, the sanctioning authority at the time of declining to accord sanction under Section 19 of the PC Act, 1988 observes that sanction is being declined because the prosecution against the accused could be termed as frivolous or vexatious. Then, in such circumstances what would be its effect on the trial so far as the IPC offences are concerned? Could it be said that the prosecution for the offences under the PC Act, 1988 is frivolous but the same would not be for the offences under the IPC? We are not going into this

question in the present matter as sanction initially was not declined on the ground that the prosecution against the appellant herein is frivolous or vexatious but the same was declined essentially on the ground that what has been alleged is mere procedural irregularities in discharge of essential duties. Whether such procedural irregularities constitute any offence under the IPC or not will be looked into by the trial court. What we have highlighted may be examined by this Court in some other litigation at an appropriate time.

61. In overall view of the matter, we have reached to the conclusion that the appeal deserves to be dismissed and is hereby dismissed.

.....J.
(B.R. GAVAI)

.....J.
(J.B. PARDIWALA)

NEW DELHI; AUGUST 08, 2023.

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