Vol. 43 No. 3 Total 12 Pages BANGALORE Single Copy Rs. 3/- JUNE- 2024

Editorial

OUR CHARTER!

This issue will reach our readership possibly after the declaration of the Parliamentary Election Results. A new government will take oath and lay before the nation its agenda of working for the next five years as distinct from high decibel propaganda and athletic throw of words that mark the election times. Come elections, politicians and parties otherwise silent on many issues suddenly come into form and use their entire repertoire to attract the attention of the voters. Election are a theatre in which logic, history, economics, and data sciences are made to take a back bench while cacophony, false promises, lies, and slander are given the front seat. If Holi is a festival of colour, the Indian election today may not be a festival of democracy but a festival of empty sound.

However, the post-election scenario is completely different. The government has to run the administration and management of economic challenges emerging both from within the country and from outside has to be factored in. This is precisely why this journal representing the frontline army of financial sectors wishes to share its wish list with the new government and its managers based on its experience over the last few decades.

Ever since the so-called new economic policy was introduced in 1991 by Dr. Manmohan Singh as the Finance Minister, there has been no perceptible direction of economic dynamics over the entire period despite the change of guard at the centre. The main thrust of these policies is directed at the privatization of national assets with pinpointed policy adoption aiming to change the very fabric of public sector banking. The policies have ensured a change in the direction of the credit delivery system from priority sector lending to lending for crony capitalists ensuring the emergence of a humungous volume of nonperforming assets. We all know that at the end of the day, 14 lakh core of public money has been used to cleanse the balance sheet of public sector banks.

We have also observed that the banking space is being used for cross-selling alternative financial products that have in the ultimate analysis affected the process of disintermediation and led to a situation when the deposit growth in the banking industry has hit its nadir over the last few decades. Slow growth of deposits has in turn ensured that the banks are out of funds to satisfy the credit appetites of a growing economy.

The continued emphasis on cross-selling products, failure to reach the targets of deposits and advances along substituting bank deposits by alternative financial products have destroyed the morale of the entire working force and eradicated the main purpose of banking. The officers are reeling under absurd targets set by their bosses and facing humiliation on a day-in and day-out basis resulting in a rise in cases of mental depression, suicides, premature retirement, and finally rise in frauds and unethical activities. This is direct fallout of the so-called policies of reforms and is posing a grave threat to the national economy when the presence of a robust banking system is of absolute necessity.

We demand a complete reversal and revamping of this suicidal policy of reform allowing banks more autonomy and freedom in their daily functioning and placing it firmly on its original orbit. This is required for safeguarding a tottering economy.

We also demand that a healthier industrial relation be implanted allowing the workforce to give their best while freeing them from the bogey of unrealistic targets and un-banking jobs. The requirements of the old clientele base should be given utmost priority without prioritizing the needs of crony capitalists. The creation of employment and increase in effective demand is so badly needed for sustainable economic growth which requires a complete halt to the policies of privatization, consolidation, and interference in the credit decision-making process. The policy change also should include a prudential decision whereby the commercial banks should be encouraged to confine their lending activities to short-term lending while long-term funding including infrastructural lending is better left with the term lending institutions to avoid the recurrence of assets-liabilities mismatch.

All these can be ensured by allowing the majority officers' organization to hold the position of non-workman director in their respective boards. The formalization of the agreed position of 5-day work-week is implemented within the first 100 days of the new government taking charge. Other unresolved issues including the long pending issue of updating of pension are settled without further delay. We will keep a close watch and the bankers will not hesitate to strike back if their dignity is compromised and the just demands are not settled.

March on comrades,

NationAgainstPrivatisation

BankBachaoDeshBachao

SHARED ARTICLE

This year's World Environment Day campaign focuses on land restoration, desertification, and draught resilience under the slogan "Our land, Our future. We are #GenerationRestoration".

This issue will reach your hands after 5th June, The World Environment Day. Keeping this in the background and joining the worldwide campaign for saving the environment, we are sharing an article with due acknowledgment by Shri Anup Sinha former professor of Economics, IIM, Kolkata, published in The Telegraph, Kolkata edition on 10th January, 2024. – Editorial Board.

THE FINAL HOUR

There is much heat about the problem of climate change and the need to address the issue with greater decisiveness and urgency. Meetings and statements abound. But getting on to the path of reducing emissions worldwide remains elusive. Those who follow environmental problems closely will realise that this is not merely frustrating but also alarming. Not only that, there are equally important environmental problems that do not receive the kind of public attention they deserve, such as those related to the loss of biodiversity or the interruptions in the biogeochemical processes like nitrogen and phosphorus cycles. When viewed together, these problems foretell impending disasters that might make the horrors of world wars look like a friendly wrestling match. The source of all these problems is exactly the same that makes our modern lifestyles so comforting and pleasant. It is about our relationship with the natural environment.

Scientists claim that while humans have been on earth for about 200,000 years, it was only 12,000 years ago that agriculture became a feature of stable, sedentary, social living. The last 12,000 years saw an unprecedented period of climate stability, with not more than a 1 degree Celsius change in average temperatures. More recently, in the last 200 years, the world witnessed the Industrial Revolution that led to astonishing improvements in global incomes, energy use, water use, paper production, transportation, telecommunications, tourism, use of fertilisers and so on, accompanied by a rise in the world's population. These socio-economic trends are well-known: indeed, they represent the essence of modernity and development. What is now being confirmed is that exactly during those last 200 years, there have been exponential increases in the emission of greenhouse gases, ocean acidification, loss of tropical forest cover, rise of domesticated land, terrestrial biosphere degradation, the extraction of metals and minerals, and a rise in the surface temperature of the earth.

This period is referred to as The Great Acceleration: an unprecedented rise in living standards and comforts along with an unparalleled assault on the natural environment. Human existence has become intensely dependent on mechanical and electrical energy, which are almost entirely obtained from fossil fuels. During the same time, the world population has increased from a little less than a billion to well over seven billion and is still rising. The ecological footprint, which measures how much of global resources an individual or a society uses for an activity, has increased enormously. Today, we access resources from any and every corner of the world to meet our daily demands. These demands are higher the more rich and powerful we are.

The use of natural resources and our unending quest for growth in the number and variety of goods and services we consume also create a phenomenal quantity of wastes, of which carbon emission is only one. We have not spared the soil of the earth, the water in the lakes and rivers and oceans, and the air in the atmosphere. Human beings have become like a geophysical force with the power to influence the climate of the planet and its future trajectory of change. This, in short, has been the history of human development and the story of the rise and rise of a particular species that dares to control all of nature for its own benefit and comfort.

Given the scale and the breadth of this trend, sustaining it is impossible since there is only one planet we can bank on and, that too, we are already on overdraft. To get a more accurate and informed picture of where we are heading collectively, an interdisciplinary group of scientists at the Stockholm Resilience Centre have adopted a method which they call Planetary Boundaries Framework. According to this framework, there are nine key earth systems, which, if pushed beyond safety limits (through human activities), could result in large, sudden changes in nature that we have not experienced before. At the least, they would cost lives, livelihoods and lifestyles. Since 2008, these scientists have been closely monitoring research across the globe to figure out more precise estimates of the boundaries that define the safety limits and the ways and the means of adapting to discernable irreversible changes and mitigating future risks of sudden tipping points. They also update any new pollution or environmental stress considered significantly risky.

The Planetary Boundaries Framework considers the following nine critical earth systems for monitoring: climate change, biodiversity loss, phosphorus and nitrogen cycles, chemical pollution, ocean acidification, ozone depletion, land use patterns, freshwater use and atmospheric aerosol loading. These earth systems do not exist independently; they are part of a vast web of interrelated processes. Initially, around 2009, scientists involved in this project found that two of the earth systems had been pushed beyond safe zones. These were nitrogen cycle and biodiversity loss. In 2015, two more were added, namely land use patterns and the phosphorus cycle. In 2023, yet another couple were added to the list of safe zone violations. These were freshwater use and novel entities. The last one was added after recent research and includes items like microplastics that can cause a lot of environmental damage.

The crossing of the safety limits of many of the earth systems implies that the stability of the earlier geological age of the Holocene is no longer with us. Many of the changes are expected to have feedback loops on other systems that will only accelerate change. Consider one example: land-use change in agriculture is the primary cause of deforestation. This changes local weather patterns triggering extreme drought. Greater climate pattern change would trigger higher tree-cover loss, leading to a self-multiplying cycle. There will be effects on food productivity too. Currently, about 25% of climate-changing greenhouse gases come from food production, which is also the biggest driver of biodiversity loss, the main cause of land-use changes, one of the largest sources of nitrogen and phosphorus pollution, and generates huge demands for freshwater. To get back to a safe territory for the planet, not only energy but food systems too will have to undergo fundamental transformations. Given the track record of the world in finding global solutions for climate change, such fundamental transformations might be extremely challenging.

Meanwhile, in policy circles, climate change is more about optics than systematic actions on the ground. Not many people are aware of the scale of the environmental problems beyond climate change and how close the world is to sharp, sudden, catastrophic changes. Those who find it difficult to survive, unsure of where their next meal would come from, could not care less about the future of the environment. The very rich, on the other hand, have access to a surfeit of resources and could waste them as if there were no tomorrow.

Economic growth and a business-as-usual attitude continue to be the mantras of the modern age. While the planet is dying a slow and torturous death, politicians are playing their own war-games on a chess board oblivious to the surrounding upheavals in planetary history.

ECONOMIC NEWS

The country's largest lender, State Bank of India, has cut its total headcount by 10% since FY19, equating to 25,000 fewer staff. The number of employees at the state-owned lender stood at 2,32,296 at the end of March 31, 2024, according to data collated from exchange filings.

In contrast, the bank had a total headcount of 2,57,252 at the end of FY19. That was despite the fact that the bank enjoys one of the lowest attrition rates in the sector, which stood at 1.43% during FY24.

On an average, the bank has witnessed a reduction of 5,000 employees every year since FY19, with the highest cut being in FY23 at 8,392 employees. However, the reduction in the number of employees coupled with a surge in profitability aided the bank report improved profit per employee. The bank reported a profit per employee of 26.2 lakh in FY24, against 5.8 lakh reported in FY20. At ₹ 61,077 crore, the net profit of SBI grew at an annualised rate of 44% between FY22 and FY24.

The staff expenses of SBI increased by 24% in FY24 to ₹ 71,237 crore. During the fiscal year, the bank also provided an additional provision of ₹13,387 crore to cover the 12th bipartite wage revision settlement. Excluding the one-time wage revision expenses, staff expenses are set to increase by ₹ 500 crore per month from FY25. The management expects the overheads to be in the range of ₹ 65,000 crore to ₹ 70,000 crore for the financial year 2025. The Chairman of the bank stated post –Q4 results "***Our employees are recruited from the best talent in the country and are trained to handle the scale, complexity and compliance requirements of the bank.***"

Additionally, improvements in profitability also pushed the bank's return on assets (RoA) higher.

The RoA, which has been on an upward trend over the last six years, hit 1.04% in FY24. In comparison, the ratio stood at 0.02% in FY19.

Shares of SBI have outperformed the benchmark index by a wider margin over the last six months. While the stock of SBI has rallied as much as 41% in six months through May 14, the gauge for bank stocks—Bank Nifty—has yielded a return of 9% during the same period.

RETAIL INFLATION HITS 11-MONTH LOW

Retail inflation hits 11-month low of 4.83% in April: Retail inflation in the country hit a 11-month low in April 2024 at 4.83 per cent, slightly lower than the March 2024 print of 4.85 per cent. The latest consumer price index (CPI)-based inflation print is, however, higher than the April 2023 level of 4.70 per cent, data released by Ministry of Statistics & Programme Implementation (MOSPI) showed. A comforting factor is that the ongoing seven phased General Elections has so far had no impact on headline inflation number although this was a concern at some point of time. For the month under review, the rural inflation stood at 5.43 per cent (5.51 per cent in March 2024) and urban inflation came in at 4.11 per cent (4.14 per cent in March 2024). RBI's Monetary Policy Committee (MPC) has a CPI inflation target of 4 per cent, with a range of 2-6 per cent. Core inflation softened to 3.2 per cent in April 2024 from 3.3 per cent in previous month. This is the lowest ever recorded for core inflation.

RBI TO MAINTAIN PAUSE IN JUNE DESPITE EASING CPI PRINT

RBI to maintain pause in June despite easing CPI print as food inflation risk remains, say economists: The Reserve Bank of Indialed Monetary Policy Committee (MPC) is likely to keep interest rates unchanged in the upcoming monetary policy despite marginal easing in Consumer Price Index (CPI) inflation as food inflation risks remain, economists said. "Going forward, food inflation risks continue to linger— on account of the seasonal summer impact as well as heat waves. This print is unlikely to move the needle on monetary policy in June with the RBI remaining watchful of both domestic and global risks," said Sakshi Gupta, Economist at HDFC Bank. Further, Upasna Bhardwaj, Chief Economist at Kotak Mahindra Bank, expects much change to RBI's narrative for now, as a prolonged pause in policy rates remains the base case. India's headline retail inflation stayed largely unchanged at 4.83 percent in April, according to data released by the Ministry of Statistics and Programme Implementation on May 13.

BANKS' OVERDUE SMA-2 LOANS RISE IN Q4

Banks' overdue SMA-2 loans rise in Q4 even as overall asset quality improves: Overdue loans classified as SMA-2 increased for at least 11 banks including State Bank of India and Punjab National Bank in the January-March quarter, a Moneycontrol analysis showed. Experts said the trend indicates some concern over their asset quality. SMA-2 loans are those that have been overdue for more than 60 days and up to 90 days. The increase in this category of loans came even

BETTER THAN A HUNDRED YEARS OF IDLENESS IS ONE DAY SPENT IN DETERMINATION as banks reported better asset quality in the quarter. Experts said the development evokes some concern on their future asset quality, although the outlook remains healthy. According to Moneycontrol's analysis of 16 banks, 11 banks including State Bank of India, the country's largest, and Punjab National Bank reported an increase in SMA-2 loans.

BUSINESS/FINANCIAL CONCEPTS DECENTRALIZED FINANCE (DeFi)

Decentralized finance (DeFi) is an emerging financial technology based on secure? distributed ledgers similar to those used by cryptocurrencies. Decentralized finance, or DeFi, uses emerging technology to remove third parties and centralized institutions from financial transactions. DeFi eliminates the fees that banks and other financial companies charge for using their services. Decentralized finance differs from traditional, centralized financial institutions? and banking. In centralized finance, money is held by banks and third parties who facilitate money movement between parties, with each charging fees for using their services. A credit card charge starts from the merchant and moves to an acquiring bank, which forwards the card details to the credit card network. The network clears the charge and requests a payment from the bank. Each entity? in the chain receives payment for its services, generally because merchants must pay for the use of credit and debit cards. Decentralized finance eliminates the need for a centralized finance model by? enabling anyone to use financial services anywhere regardless of who or where they are. DeFi applications give users more control over their money through personal wallets and trading services that cater to individuals. Decentralized finance uses the blockchain technology that cryptocurrencies use. A? blockchain is a distributed and secured database or ledger. Applications called dApps are used to handle transactions and run the blockchain.

RELEASE FEBRUARY AND MARCH 2024 INDICES OF CPI(IW) OF 2016=100

Release February and March 2024 indices of CPI(IW) of 2016=100 series immediately and follow the norms of releasing on the last working day of the following month without deviation!

As per the norms the price index of a month is to be released on the last working day of the following month. This has been the practice till January 2024.The January 2024 index was correctly released on 29th February 2024 the last working day of the following month. In the press release by labour department it was stated that the CPI(IW) for the month of February 2024 would be released on Thursday the 28th March 2024.But it was not released. The index for March 2024 should have been released on 30th April 2024.It was also not released. The labour department or the labour ministry has not come out with an explanation for not releasing and publishing the indices on the stipulated dates. But the statements of government and press on the inflation have taken cognisance of the CPI(IW) indices. It means that the figures are very well available. It is ridiculous that the same are not published for the benefit of workers and employees to calculate their Dearness allowance to reduce the erosion in the wages due

YOU WILL NOT BE PUNISHED FOR YOUR ANGER, YOU WILL BE PUNISHED BY YOUR ANGER to ever increasing prices.

We doubt as to whether the government is intentionally violating the norms to favour the employers as every other norms are violated.

We urge upon the government and the labour department to immediately release the February and March indices without further delay clearing the apprehension. We also demand that the April index is released on 31st May, 2024.

NO MERGER BUT PSB PRIVATIZATION STILL ON CARDS

The Centre doesn't have any plans to merge public sector banks (PSBs) in FY25, though it will not ditch plans to privatize PSBs during the fiscal, two people aware of the matter said. Last week, Informist media reported that the government was contemplating a different strategy to strengthen the banking sector, with the finance ministry looking to merge certain state owned banks if the incumbent Bharatiya Janta Party (BJP) retains power.

BANKS WANT TO REGAIN POWER TO ISSUE LOOKOUT NOTICES

Banks want to regain power to issue lookout notices, to move Finance ministry: Banks primarily issued LOCs to fraudulent borrowers and wilful defaulters - who they suspected could run off to take the residency or even citizenship of another country. However, last month, the Bombay High Court struck down the powers of chairmen, managing directors and CEOs of all public sector banks to issue LOCs on the grounds that the 'right to travel abroad' cannot be taken away by an executive action and the powers given to bank chiefs is arbitrary and unreasonable.

WOMEN VOTERS NEW CENTRE OF GRAVITY IN INDIAN POLITICS

Women voters new centre of gravity in Indian politics, says SBI research department: For every 100 incremental male voters, there were 110 incremental female voters voting at any point of time in the first four phases of the 2024 General Elections, cementing their position as the new centre of gravity in Indian politics, according to State Bank of India's economic research department (ERD). This comes in the backdrop of women-centric schemes extending a host of benefits for women, ensuring their vocal participation in the elections, it added. "There are three women-centric schemes, namely, Ujjwala Yojana, Matru Vandana Yojana, and PM Awas Yojana, which have significant ground level impact in rural areas, which may be resulting in increased women's participation," said Soumya Kanti Ghosh, Group Chief Economic Adviser, SBI. The ERD assessed that the first four phases of the 2024 General Elections saw close to 45.1 crore voters casting their votes (as compared to 42.6 crore voters in the same Parliamentary Constituencies/PCs in 2019), aggregating to a voter turnout of 66.95 per cent.

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

CIRCULARS

10 dated 30th April, 2024 : Celebrating May Day 2024: A Tribute to Workers' Resilience and Solidarity

11 dated 08th May, 2024 : Text of AIBOC Letter No. AIBOC/2024/4 dated 08.05.2024 to the Finance Minister, Govt. of India on implementation of the 9th Joint Note in Regional Rural Banks

JUDICIAL

[2024 (180) FLR 201]
(MADHYA PRADESH HIGH COURT)
VISHAL DHAGAT, J.
Misc. Petition No.3085 of 2021
March 20, 2023
Between
GENERAL MANAGER (PERSONNEL) UNION BANK OF INDIA and another
and
B.D.MUKHERJEE and others

Payment of Gratuity Act 1972-Sections 4(6), 7(7) and 14-Payment of Gratuity (Central) Rules 1972-Rule 10-Charges of serious misconduct-Compulsory retirement of respondent No.1-Filed application for gratuity after 11 years-Controlling Authority directed the bank to pay forfeited gratuity amount alongwith interest-Appellate Authority affirmed the order-Hence instant petition-Held, respondent No.1 was not terminated but was compulsorily retired-He was not covered under section 4(6) of Act-Forfeiture of gratuity amount was without jurisdiction-However, claim of gratuity was after so much delay-No application to condone the delay was filed before Controlling Authority-Argument that application was filed after exoneration in criminal case had no relevance-Claim was barred by limitation-Orders impugned quashed-Petition allowed. *[Paras 8 to 16]*

JUDGMENT

VISHAL GHAGAT,J.- Petitioners have filed this petition under Article 227 of the Constitution of India challenging order dated 26.07.2021 passed by Appellate Authority *i.e*. respondent No.2 and order dated 13.10.2020 passed by the Controlling Authority *i.e*. respondent No. 3 under Payment of Gratuity Act, 1972.

2. Learned Senior Counsel appearing for the petitioners submitted that respondent No. 1 was serving as Assistant General Manager-cum-Regional Head of Bank's Regional Office, Indore. He committed serious misconduct resulting into financial losses to the bank of ₹ 717.52 lacs. He was served with charge -sheet and disciplinary enquiry was conducted against him and major penalty of compulsory retirement was imposed upon him *vide*

order dated 16.10.2003. Thereafter, gratuity amount of ₹ 3,50,000/-, which is payable to respondent No. 1, was forfeited *vide* order dated 29.10.2007.

Respondent No. 1 filed an application under Section 7 of the Payment of Gratuity Act, 1972 on 27.03.2018. There is delay of 11 years in filing application under Section 7 of the Payment of Gratuity Act, 1972. No application for condonation of delay was filed. Controlling Authority without taking into consideration the reply submitted by the bank and without consideration of provisions of the Payment of Gratuity Act, 1972 and Bank's Gratuity Funds Rules, on hypothetical figures directed the bank to pay forfeit gratuity amount of ₹ 3,50,000/- and also ₹ 4,22,220/- which was 10% interest for entire period.

3. Learned Senior Counsel appearing for the petitioners submitted that respondent No. 1 had never challenged the penalty order nor order of forfeiture of gratuity amount before higher forum. Controlling Authority as well as Appellate Authority committed an error of law in passing impugned orders dated 13.10.2020 and 26.07.2021. In aforesaid circumstances, learned Senior Counsel appearing for the petitioners made a prayer for quashing of said orders being illegal and without jurisdiction. Learned Senior Counsel also submitted that as per Section 7(7) of the Payment of Gratuity Act, any person aggrieved by order under sub-section (4) ought to have filed an application before Controlling Authority within a period of 90 days as per Rule 10 of Payment of Gratuity (Central) Rules, 1972 and if application is filed beyond said period, then it is to be accompanied by application for condonation of delay. It is further submitted that as per Clause 3 of Schedule A of Bank's Gratuity Fund Rules, 1975, disciplinary/ competent authority is empowered to forfeit the gratuity to the extent of damages or losses caused to the bank. Therefore, order is within jurisdiction of competent authority. Further, reliance is place on Regulation 46 and it was argued that respondent No.1 is not entitled to gratuity as per Regulation 46. In view of aforesaid submission, prayer is made for allowing the writ petition and quashing the impugned orders.

4. Counsel appearing for respondent No.1 submitted that Regulation and Rules of the bank, which are contrary to the provisions of Payment of Gratuity Act, 1972, cannot be relied for setting aside the order of payment of gratuity. He placed reliance on Section 14 of the Payment of Gratuity Act, 1972, which is quoted as under :

> "14. ***Act to override other enactments, etc***. The provisions of this Act or any rule made there under shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument or contract having effect by virtue of any enactment other than this Act."

5. It is submitted that Payment of gratuity are mandatory in nature have overriding effect over rules and regulations of bank, which are contrary to the provisions of the Act of 1972. Counsel for the respondent No. 1 further argued that as per Section 4(6) of Payment of Gratuity Act, gratuity of an employee can be forfeited. Provisions of Section 4(6) is quoted as under :

"(6) ***Notwithstanding anything contained in sub-section*** (1),

(a) the gratuity of an employee, whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer shall be forfeited to the extent of the damage or loss so caused;

(b) the gratuity payable to an employee [may be wholly or partially forfeited]

(i) if the services of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part, or

HE WHO SEEKS HAPPINESS BY HURTING WILL NEVER FIND IT

(ii) if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment."

6. It is submitted that respondent No.1 is not terminated in disciplinary enquiry therefore, his gratuity cannot be forfeited under Section 4(6). Respondent No. 1 is outside the ambit of Section 4(6). Since gratuity of respondent No.1 cannot be forfeited under Payment of Gratuity Act, 1972, therefore, petitioners cannot forfeit the gratuity taking aid of banking rules and regulations. It is submitted that orders forfeiting the gratuity is without jurisdiction. There is complete want of jurisdiction, therefore, orders forfeiting gratuity shall be void and ***non est*** in the eye of law. Respondent No. 1 was exonerated in criminal trial thereafter, he filed an application in year 2018 for grant of gratuity. Further, it is submitted that if an order is without jurisdiction same is question of law and not of fact therefore, limitation will not come in way of respondents No.1 in challenging the order of forfeiture and claiming relief.

7. Heard the counsel for the parties.

8. On going through the provisions of Payment of Gratuity Act, 1972, it is found that Section 14 is mandatory in nature and Payment of Gratuity Act, 1972 will have overriding effect over other Acts which are in consistent with it. Banking Regulations and Acts, if same are inconsistent with the Payment of Gratuity Act, 1972, then provisions of Act of 1972 will prevail over other laws. Gratuity of respondent No. 1 can be forfeited if case of respondent No. 1 falls within ambit of Section 4(6) of the Payment of Gratuity Act, 1972. In disciplinary proceedings, which was initiated against respondent No.1, he was not terminated from service and punishment of compulsory retirement was imposed upon him. Section 4(6) provides for forfeiting of gratuity of an employee whose services have been terminated. Since respondents No. 1 does not fall under Section 4(6)(a) or 4(6)(b), therefore, gratuity amount of respondent No. 1 cannot be forfeited. Order of forfeiture of gratuity amount is without jurisdiction. In view of same, limitation will not be a bar for challenging such an order. Controlling Authority as well as Appellate Authority has rightly passed the orders granting gratuity and no interference is called for.

9. Appellate authority as well as controlling officer committed an error of law in entertaining time barred application for payment of gratuity. As per Rule 7 of the Payment of Gratuity (Central) Rules, 1972, application for payment of gratuity is to be filed within period of 30 days from date of gratuity became payable, in Form-I to employer. Any application filed beyond period of 30 days can also be entertained by an employer if applicant adduces sufficient cause for delay in preferring his claim and no claim for gratuity under this Act shall be invalid merely because claimant failed to present his application within specified period. Any dispute is to be referred to Controlling Authority for decision. Rule 10 provides for filing an application in form-N for issuing direction by controlling authority within period of 90 days. Petitioner has filed an application for grant of gratuity and had submitted before controlling authority that payment of Gratuity Act, 1972 will supersede the banking regulation, claim of applicant was allowed. However, limitation prescribed under Act was not taken into consideration. Petitioner bank has filed an appeal before appellate authority.

10. Question of delay in filing application for payment of gratuity was raised therein and stated that no application for condonation of delay was filed before controlling authority and application was barred by limitation. Appellate authority did not pass any order to condone the delay and has affirmed the order passed by controlling authority.

11. Now question before Court is whether petitioner can claim relief of payment of gratuity by filing an application after lapse of 11 years?

12. Gratuity amount and interest was forfeited by order dated 29.10.2007. Application claiming gratuity was filed on 27.03.2018. Respondent explained delay by stating that application was filed

COMMON BOND ENGLISH MONTHLY-R.N.I.NO :36648/82 - TOTAL NO. OF PAGES 12 JUNE -2024
REGN. NO. KRNA/BGE - 1122/2023-2025 PUBLISHED ON 25-05-2024
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

after respondent No.1 was exonerated in criminal trial. Criminal trial and payment of gratuity is separate proceedings. Respondent No.1 gets cause of action to file application when gratuity amount was forfeited by order of Bank. Therefore, explanation of pendency of criminal trial is not sufficient to condone the delay.
13. Counsel for respondent No.1 also argued that respondent No.1 is having continuous cause of action on non-payment of gratuity amount each day. Respondent No.1 will have a continuing cause of action if gratuity is not paid. However, in this case, there is a specific order of forfeiture of gratuity. Respondent's cause of action is arising from order of forfeiture and non-payment is only consequential. Cause of action is not repetitive or continuing one, therefore, respondent No.1 ought to have filed application within limitation prescribed from date of order of forfeiture.

14. It is trite law that limitation bars judicial remedy but does not extinguish the right of parties. Thus, limitation does not restrict a party to raise a defence based on his rights but bars action and time bar recovery. In view of same, respondent No.1 can not bring action for payment of gratuity but in an action against him can raise defence that order is without jurisdiction. It was duty of Court to see whether claim is bared by limitation. A time barred claim is to be dismissed. ***"Interest Reipublicae ut sit finis litium"*** Which means that in interest of state as a whole there should be limit to litigation. There is another latin maxim ***"vigilantibus non dormientibus jura subveniunt"*** which means law will assist who are vigilant.

15. In view of aforesaid discussion, respondent No.1 ought to have filed application within limitation prescribed under the law. If application cannot be filed within limitation period then respondent No.1 ought to have filed an application for condonation of delay in filing his claim authority below committed an error of law in disregarding limitation. Authority considered time barred claim which has been filed after period of 10 years.

16. In view of above, impugned orders dated 26.07.2021 and 13.10.2020 are quashed. Miscellaneous petition filed by petitioners is allowed.

Petition Allowed.

..Subscribe.........Establish......."Common Bond"
An Official Publication Of AIBOC

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