

SYNDICATE BANK PENSIONERS & RETIREES ASSOCIATION (REGD.)

(Affiliated to AIBPARC, a wing of AIBOC)



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(Please circulate to all members/retirees)

Cir11/2018

Date: 25.6.2018

Dear comrades,

**SUPREME COURT JUDGMENT ON DISCIPLINARY
PROCEDURE & PENALTIES AGAINST RETIRED OFFICERS**

In a recent judgement the Honourable Supreme court has laid down certain laws in the matter of invoking Regulation 20(3) (iii) on the eve of superannuation, awarding penalties after superannuation, delay in issuing charge sheet before superannuation, non-payment of superannuation benefits etc. The Hon'ble Court has passed strictures against certain Banks for preferring appeals unnecessarily litigating against an employee who has superannuated. The Court while dismissing the appeal has even imposed costs on the banks. CBPRO has referred the case to IBA for implementing the same in all the banks. The text of CBPRO letter addressed to IBA dealing with the details of the case is attached herewith for the information of all.

With greetings

Yours comradely,

K Suresh Babu
SECRETARY

**SBPRA - ZINDABAD
AIBPARC - ZINDABAD
CBPRO - ZINDABAD**

Text of CBPRO letter addressed to IBA dt. 23.06.2018

Quote//

Shri V G Kannan,
Chief Executive,
Indian Banks' Association,
Mumbai

Dear Sir,

**Hon'ble Supreme Court judgment dated 15.02.2018
Civil Appeal No. 2693 of 2013 – UCO Bank V/s Rajendra Shankar Shukla**

We wish to invite your kind attention to the above judgment of the Hon'ble Supreme Court. The judgment prima facie deals with the following:

1. Implication of invoking Regulation 20(3)(iii) at the time of superannuation when the disciplinary proceedings already initiated are pending against an officer
2. Illegality of awarding any of the penalties specified under Regulation 4 of Officer (Employees) Discipline and Appeal Regulations after an officer has superannuated
3. Unreasonable and inordinate delay in issuing a charge sheet to an officer while in service is unacceptable
4. Non-payment of Pension after superannuation on the pretext of pending disciplinary case vitiates the proceedings

The Hon'ble Supreme court relied on its own judgment in case of UCO Bank and Ors vs Prabhakar Sadashiv Karvade where in it was held that even though a departmental enquiry initiated against an officer employee before its retirement can continue even after its retirement, none of the substantive penalties specified in Regulation 4 of 1979 Regulations which include dismissal from service, can be imposed on an officer employee after his retirement on attaining the age of superannuation. The penalty of dismissal from service to an officer who had superannuated was Ex facie illegal and without jurisdiction.

The Hon'ble Supreme Court also made a reference to another decision in case of UCO Bank and Anr vs Rajinder Lal Capoor. This decision also related to very same Regulation as mentioned above and it was observed by the Court in para 22 of the report as follows:

“The respondent, therefore, having been allowed to superannuate, only a proceeding, inter alia, for withholding of his pension under the Pension Regulations, could have been initiated against the respondent. Discipline and Appeal Regulations were, thus not attracted. Consequently the charge-sheet, the enquiry report and the orders of punishment passed by the disciplinary authority and the appellate authority must be held to be illegal and without jurisdiction.”

Accordingly the Hon'ble Supreme Court ordered that it has no hesitation in dismissing the appeal filed by the Bank also on the ground that the punishment of dismissal could not have been imposed on Mr Shukla after his superannuation. It is thus clear that imposing any of the penalties specified under Regulation 4 of Officer (Employees) Discipline Appeal Regulations after the date of superannuation is impermissible and hence illegal.

The Hon'ble Supreme Court passed strictures against the Banks for preferring appeals despite at least two decisions delivered by them making the legal position clear and advised the Banks to follow the law laid down by the Court in the cases of UCO Bank Vs Prabkar Sadashiv

Karvade and UCO Bank Vs. Rajinder Lal Capoor rather than unnecessarily litigating against an employee who has superannuated. The Hon'ble Supreme Court while dismissing the appeal of UCO Bank also imposed a cost of Rs. 100,000/- to be paid to Mr. Shukla within four weeks towards legal expenses.

In view of the fore going judgments of the Hon'ble Supreme Court, we request you to advised the Banks –

- a. Not to award any of penalties specified under Officer (Employees) Discipline and Appeal Regulation 4 (censure to dismissal from service) in case of officers who have already superannuated
- b. Not to initiate the departmental proceedings, if not instituted while the employee was in service in respect of an event which took place more than four years before such institution
- c. Not to initiate the departmental proceedings against an officer in respect of an event which took place more than four years before such institution
- d. Make payment of pension after superannuation even if the disciplinary proceeding are pending against the officer
- e. Not to withhold or withdraw Pension or a part thereof without there being a pecuniary loss to the Bank, conviction of the employee by the Court for offences involving moral turpitude or the Pensioner having been found guilty of grave misconduct as defined under explanation (b) in Chapter IX of Bank Employees Pension Regulations 1995.
- f. Not to withhold the gratuity after superannuation, merely on the pretext of pending disciplinary proceeding unless there exist circumstances as stipulated in Section 4(6) of the Payment of Gratuity Act.

We also request you to initiate the process of carrying out suitable amendments to the Regulations wherever necessary. The clear guidelines to the Banks pending amendments in this regard shall go a long way in avoiding unnecessary litigation, hardship and financial burden to the Retirees.

Thanking you

Yours faithfully,

Sd/-

Sd/-

A.Ramesh Babu

K.V.Acharya

Joint Conveners

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