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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 25th August, 2026.

CNR No. DLHC010254802021

+ **W.P.(C) 8724/2021**

JAGDISH LAL ARORA

.....Petitioner

Through: Mr. Arvind Kumar Singh, Advocate
with Petitioner in person.

versus

BANK OF INDIA, THROUGH ZONAL ,MANAGER

.....Respondent

Through: Mr. Rajat Arora, Mr. Niraj Kumar
and Mr. Sourabh Mahla, Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. Jagdish Lal Arora retired from Bank of India on 31st October, 2018 after a little over 36 years of service. A month before his retirement, the Bank served upon him a major penalty charge-sheet concerning foreign exchange transactions in the account of M/s Mine-O-Gold. The enquiry began while he was still in service and was concluded just before he retired. The punishment came later. By an order dated 13th May, 2019, the Bank removed him from service. The order was affirmed in appeal on 5th September, 2019 and again in review on 12th December, 2019.

2. Removal carried a consequence beyond the disciplinary order itself. Under the Bank's Pension Regulations, removal entailed forfeiture of the



Petitioner's past service and consequently disentitled him to regular pension. He was thereafter sanctioned compassionate allowance. The present petition challenges the disciplinary action and also seeks full pension, leave encashment and interest on the delayed payment of gratuity.

3. The challenge cannot, however, be answered in one stroke. The disciplinary proceeding does not fail merely because the final order came after retirement. Nor does the record support the Petitioner's case that the enquiry was a sham. Most of the findings of misconduct have evidentiary support. One important finding, however, does not. That leaves the question of punishment. It must be answered by what is proved, not merely by what was charged.

Facts

4. The Petitioner was working as Senior Manager (Credit) at the Bank's New Delhi Mid Corporate Branch during the relevant period. M/s Mine-O-Gold had credit facilities with the Branch and was engaged in the business of gold and diamond jewellery. The controversy arose from a series of foreign bills purchased or negotiated in its account.

5. The charge-sheet dated 27th September, 2018 contained one Article of Charge, divided into eight components. Broadly, the Bank alleged that the Petitioner had committed the following lapses:

- (i) purchased or negotiated bills without obtaining a request from the borrower;
- (ii) failed to obtain exposure on the LC issuing Bank or approval of the competent authority for negotiation of export bills under the Letters of Credit;



- (iii) exceeded the Branch's delegated authority while negotiating five bills;
- (iv) overlooked a material clause in the Letters of Credit;
- (v) acted on messages that had not been authenticated in the prescribed manner;
- (vi) repeatedly extended the due dates of two negotiated bills without proper justification or approval of the competent authority;
- (vii) enhanced the Foreign Bills Purchased ["FBP"] limit beyond the sanctioned limit and purchased or negotiated bills without approval of the competent authority; and
- (viii) purchased or negotiated four bills where the documents had been sent directly by the exporter to the buyer, without the requisite request or approval.

6. A departmental enquiry followed. The preliminary hearing was held on 12th October, 2018. Regular hearings were held on 15th, 16th, 17th, 22nd and 23rd October, 2018. The Petitioner was assisted by a Defence Assistant, cross-examined the management witness and relied upon documents in defence. The Presenting Officer and the defence thereafter submitted their written briefs.

7. The Inquiry Officer submitted his report on 30th October, 2018. Charges (ii), (iii), (iv), (vi) and (vii) were held proved. Charges (i), (v) and (viii) were held partly proved.

8. Meanwhile, the Petitioner was nearing superannuation. On 24th October, 2018, the competent authority invoked Regulation 20(3)(iii) of the Bank of India (Officers') Service Regulations, 1979. The order recorded that the Petitioner would cease to be in service on 31st October, 2018 upon



superannuation; however, the disciplinary proceeding already initiated against him would continue, “as if he is in service”, until its conclusion and the passing of a final order. Except for his own contribution to the provident fund, his retirement benefits were directed to remain withheld till then.

9. The Disciplinary Authority disagreed with the Inquiry Officer’s conclusion that Charges (i), (v) and (viii) were only partly proved. It furnished its tentative reasons for disagreement to the Petitioner, who submitted his representation on 2nd January, 2019. After considering the representation, the Disciplinary Authority held all eight components of the charge proved and, by order dated 13th May, 2019, imposed the major penalty of “removal from service which shall not be a disqualification for future employment” under Regulation 4(i) of the Bank of India Officer Employees’ (Discipline & Appeal) Regulations, 1976.

10. The Petitioner’s appeal was dismissed on 5th September, 2019. The Appellate Authority found no reason to interfere with the penalty. The Reviewing Authority reached the same conclusion on 12th December, 2019.

11. The penalty also had consequences for the Petitioner’s retiral dues. His provident fund was released upon superannuation and gratuity followed on 30th May, 2019, after the disciplinary proceeding ended. Regular pension was not sanctioned; following his removal, the Bank instead granted compassionate allowance, with arrears calculated from 1st November, 2018. Leave encashment was initially credited on 26th November, 2018, but was reversed on 4th December, 2018 and has remained unpaid.

Submissions

12. Mr. Arvind Kumar Singh, counsel for the Petitioner, assails the



disciplinary action on four broad grounds. First, he submits that after the Petitioner had superannuated, the Bank could not impose the penalty of removal from service. Second, the enquiry, conducted in the weeks immediately preceding superannuation, was hurried and denied the Petitioner a reasonable opportunity of defence. Third, the findings are said to have overlooked material documents placed by the Petitioner before the Inquiry Officer. Fourth, the penalty is assailed as wholly disproportionate, particularly when other officers connected with the same account were visited only with censure, caution, or closure of proceedings. Mr. Singh further relies on the Petitioner's unblemished service of over 36 years and the absence of any allegation of misappropriation, personal gain or collusion with the borrower. On retiral dues, he claims provisional pension for the period during which the disciplinary proceedings remained pending after superannuation, full pension thereafter, leave encashment, and interest on the delayed payment of gratuity.

13. Mr. Rajat Arora, counsel for the Bank, supports the disciplinary action. He submits that the charge-sheet was issued before the Petitioner's superannuation and that Regulation 20(3)(iii) expressly permitted the proceeding to continue to its conclusion thereafter. He disputes any denial of reasonable opportunity, pointing out that the Petitioner participated throughout with a Defence Assistant, cross-examined the management witness, produced documents, and submitted a written brief, without raising any contemporaneous objection to the conduct of the enquiry. On parity, counsel relies on the affidavit filed pursuant to the order dated 21st October, 2024. Mr. Arora contends that the Petitioner directly handled the account



and the foreign exchange transactions in question, whereas the other employees either had limited roles in particular transactions or were proceeded against only for supervisory lapses. The difference in punishment, it is submitted, reflects that difference in responsibility. Mr. Arora also relies on the applicable Service and Pension Regulations to support the Bank's stand on pension, leave encashment, and other retiral benefits.

Analysis

Authority to continue proceedings after superannuation

14. The Petitioner first contends that the Bank had no authority to impose the penalty of removal after he had superannuated on 31st October, 2018. This contention has to be examined in light of Regulation 20(3)(iii) of the Bank of India (Officers') Service Regulations, 1979.

15. Regulation 20(3)(iii) applies where disciplinary proceedings have been initiated before an officer ceases to be in service. In such a case, the officer may retire on superannuation, but the proceedings continue as if he were in service until they are concluded and a final order is passed. The charge-sheet in the present case was issued on 27th September, 2018. The Bank's order dated 24th October, 2018 continued the proceeding on that basis.

16. ***UCO Bank v. Rajinder Lal Capoor***,¹ does not assist the Petitioner. The charge-sheet there was issued after the employee had retired. The Supreme Court held that the legal fiction under Regulation 20(3)(iii) could apply only where disciplinary proceedings had been initiated before cessation of service. In the present case, the charge-sheet was issued before

¹ (2007) 6 SCC 694.



the Petitioner's superannuation.

17. The legal position has now been put beyond doubt in ***Virinder Pal Singh v. Punjab & Sind Bank***.² Referring to the decisions in ***Ramesh Chandra Sharma v. Punjab National Bank***,³ and the later three-Judge Bench decision in ***Mahanadi Coalfields Ltd. v. Rabindranath Choubey***,⁴ the Supreme Court held that where the applicable Service Regulations permit continuance of disciplinary proceedings initiated before superannuation, such proceedings may be continued and brought to their logical conclusion even after retirement.

18. The penalty order is therefore not without jurisdiction merely because it was passed after the Petitioner's superannuation.

The enquiry

19. The fact that the enquiry moved quickly does not, by itself, make it unfair. The relevant question is whether the Petitioner was denied reasonable time, material, or opportunity to meet the charge. The record does not show that. There was a preliminary hearing, five regular hearings, assistance of a Defence Assistant, inspection and production of documents, cross-examination of the management witness, and a written brief by the defence.

20. What the Petitioner said at the close of the enquiry is also significant. When asked whether he wished to add anything beyond his written reply and what had transpired during the hearings, he stated:

"Sir I am grateful for conducting impartial inquiry in cordial manner and I got all opportunity to present my views."

² 2026 INSC 266.

³ (2007) 9 SCC 15.

⁴ (2020) 18 SCC 71.



21. The enquiry was thereafter closed. At no point then did the Petitioner complain that he had been denied time, material, or opportunity to defend himself.

22. That contemporaneous statement undermines the subsequent plea of denial of adequate opportunity. Nor has the Petitioner identified any necessary document that was withheld or demonstrated any specific prejudice arising from the manner or pace of the enquiry.

23. The disagreement of the Disciplinary Authority with three findings also suffers from no procedural defect. The Inquiry Officer's view is not binding upon the Disciplinary Authority. What ***Punjab National Bank v. Kunj Behari Misra***,⁵ requires is that, where the disciplinary authority proposes to disagree with a finding favourable to the delinquent, its reasons for disagreement must remain tentative and the delinquent must be afforded an opportunity to represent against them before a final finding on the charge is recorded. That requirement was met here. The disagreement note was furnished to the Petitioner and his response was considered before the disciplinary authority recorded its final conclusion.

24. This Court does not reappraise the Bank's assessment of the transactions as an appellate authority. A bank officer is required to act within the limits of the authority delegated to him and in accordance with the safeguards governing banking operations. As reiterated in ***Virinder Pal Singh***, a breach of those requirements may constitute misconduct even in the absence of any proved financial loss to the Bank.

25. The findings need closer examination because the Petitioner's defence

⁵ (1998) 7 SCC 84.



was not a bare denial. In his reply dated 8th October, 2018, he acknowledged that exposure on the LC issuing Bank had not been obtained, attributing the omission to heavy workload and paucity of time and seeking condonation. On approval for negotiation, he stated that the transactions were known to the Branch Head and were reflected in the daily, monthly and quarterly statements, as well as in the jotting of advances. He nevertheless acknowledged that formal approval from the competent authority had not been obtained, describing it as an “inadvertent omission.” On scrutiny of the LCs, he accepted that the onerous clause had escaped notice under work pressure, though he added that steps were later taken to have it amended. He also did not deny extensions of the due dates; his explanation was that the overseas buyers were facing difficulties and that approval was subsequently sought.

26. Charge (ii) therefore had an evidentiary basis. The Bank’s Branch Certificate and the management witness both stated that exposure on the LC issuing Bank and approval of the competent authority for negotiation were not found on record. The Petitioner relied on country-risk statements, day-end exceptional transaction reports and other returns bearing the signatures or initials of senior officers to show that the Branch Head and Chief Manager knew of the transactions. The Inquiry Officer dealt with that defence. He held that these were reporting statements sent to higher authorities; signatures or initials on them did not amount to the approval required for taking LC exposure or negotiating export bills. That conclusion is supported by the Petitioner’s own reply, in which he accepted that exposure had not been obtained and written approval had been omitted. The



finding on Charge (ii) is therefore not a finding based on no evidence.

27. Charge (iii) was narrower. The AGM-headed Branch had delegated authority up to INR 150 lakh, while the charge-sheet identified five bills negotiated beyond that limit. The LC documents were produced in the enquiry and the management witness confirmed that the transactions crossed the Branch delegation. The Petitioner relied on concurrent and statutory audit and on the Branch Head's awareness of the outstanding in the account. That did not answer the charge. Awareness of the outstanding was not approval to exceed the delegated authority. Interference with this finding would require a reappraisal of the banking record, which is not warranted.

28. Charge (iv) is still more difficult for the Petitioner to dislodge. The LCs contained Field 78(2), under which payment by the issuing Bank was made conditional upon, *inter alia*, receipt of funds from its applicant. The Bank regarded the clause as onerous because it diluted the ordinary undertaking of the issuing Bank. The Petitioner's defence was not that he had noticed the clause and taken a considered view of it. He stated that, because of the volume of transactions, inadequate staff and business pressure, he had "inadvertently missed" it. He further stated that when the clause came to notice, an amendment was sought, but that the Branch could not immediately stop negotiations and one further bill was negotiated thereafter. In these circumstances, the finding that the Petitioner failed to properly scrutinise the LCs calls for no interference.

29. Charge (vi) related to repeated extensions of the due dates of two negotiated bills. The enquiry record shows that the bills had been extended three times and twice respectively. The Petitioner relied upon the borrower's



letters explaining the slowdown in the overseas jewellery market and also upon the Branch memorandum dated 7th April, 2017 to contend that approval had been sought from the Zonal Office. The Inquiry Officer examined the document and found that it was a memorandum reporting the lapses and the extensions already granted, not an application seeking approval for those extensions. The management witness was categorical that approval of the competent authority was not found on record. The borrower's commercial difficulties may have justified considering an extension, but did not dispense with the requirement of obtaining approval.

30. The three charges on which the Disciplinary Authority disagreed with the Inquiry Officer require separate treatment. On Charge (i), the documents showed requests from the customer for documents to be sent to the concerned Bank. They did not show a specific request for purchase or negotiation of the bills. The Inquiry Officer therefore held the charge partly proved; the Disciplinary Authority treated the absence of such a request as sufficient to prove it fully. On Charge (v), the Petitioner accepted that, since there was no RMA arrangement with the LC issuing Bank, acceptance or refusal had been received through MT999. His case was that the messages still came directly from the LC-opening Bank through SWIFT and that receipt through MT754 or MT799 would have made no material difference. The Disciplinary Authority held that, in the absence of a direct arrangement, authenticated advice ought to have been routed through the Bank which had advised the LC.

31. On Charge (viii), the Petitioner explained that the bills were tendered post-shipment against an outstanding PCFC, and that direct transmission of



documents to the overseas buyer was a trade practice in the jewellery industry. The Inquiry Officer accepted the explanation to an extent, but found the absence of a proper request for purchase sufficient to hold the charge partly proved. The Disciplinary Authority took a stricter view. It noted that the sanction terms did not permit purchase of bills sent directly to the buyer and that no approval of the sanctioning authority had been obtained. It therefore held the charge fully proved. Viewed in light of the material discussed above, the Disciplinary Authority's conclusions on Charges (i), (v) and (viii) may not be the only possible view, but they are views which the record reasonably permits. Article 226 does not authorise the Court to substitute another view merely because it may appear equally plausible.

32. One finding, however, cannot be sustained. Charge (vii) alleged that the Petitioner permitted the FBP limit to exceed the sanctioned ceiling of INR 4 crore.

33. The Bank's own sanction document records an FBP limit of INR 4 crore, but immediately adds:

"FBN to be over and above the MPBF on bill to bill basis."

34. The Long Form Audit Report ["LFAR"] was also produced in the enquiry. When the management witness was asked to read it, he accepted that the sanctioned limit was INR 400 lakh and that the ledger outstanding as on 31st March, 2017 was INR 384.46 lakh. The defence additionally pointed out that FBN outstanding was separately reflected as being over and above the MPBF.

35. The Inquiry Officer preferred the statement of account which showed



a larger figure because FBP and FBN transactions had been routed through the same account. That was open to him if the contrary material could be satisfactorily explained. The explanation actually given was that the higher outstanding “might have missed” the LFAR and that the LFAR might therefore not present the correct position.

36. That is conjecture. An official audit document cannot be discarded on an assumption that it may itself be wrong, unless there is evidence to establish the error. There was none. This was especially important because the sanction terms themselves treated FBN as being over and above the MPBF. The finding on Charge (vii) cannot, therefore, stand and is set aside.

37. Nothing more follows from that conclusion so far as the other charges are concerned. The lapses concerning authority, approvals, scrutiny of the Letters of Credit and extensions of due dates are independently established. They warranted disciplinary action. They also warranted a major penalty. The real question is which one.

The penalty

38. Before assessing the penalty, the plea of parity with other employees must be addressed.

39. The Bank’s affidavit filed in 2024 sets out the action taken against the other employees. Nisha Samyal, then a Clerk, entered four bills in Finacle after the documents had been sent directly to the buyer; she was censured. Komal Verma was charged, among other things, with failure to scrutinise LC clauses and with dealing with bills sent directly to the buyer; she too was censured. Sachin Kumar Rahul, Senior Manager in Forex, was concerned with one transaction and was censured. Mahesh Bansal, AGM and Branch



Head, was cautioned for monitoring lapses. Proceedings against M.K. Singh were closed. Vikas Kumar, another AGM/Branch Head, was censured for monitoring lapses.

40. The Petitioner cannot claim identical treatment merely because all these officers were connected with the same account. His role was broader. He directly handled the foreign exchange transactions, and several surviving lapses were his own. A clerk who entered transactions, an officer concerned with one bill, and Branch Heads charged with monitoring failures were not placed in the same position. The plea of strict parity therefore fails.

41. The comparison, however, is still relevant. It shows that the episode involved several levels of the Branch and that every other employee proceeded against received censure, caution, or closure. The Petitioner's greater responsibility justified a heavier penalty, but the proportionality of that difference still has to be examined.

42. The law leaves the choice of punishment primarily to the disciplinary authority. ***B.C. Chaturvedi v. Union of India***,⁶ permits judicial substitution only in an exceptional case where the punishment is strikingly disproportionate; ordinarily the matter goes back to the authority. The Supreme Court has reiterated that restraint in ***Punjab & Sind Bank v. Raj Kumar***,⁷, while preserving the power of the Court, in a rare case and for cogent reasons, to itself impose the appropriate alternative penalty.

43. ***Raj Kumar*** also shows why the plea of parity cannot be decided by looking only at the punishments imposed on the other employees. The responsibility attached to the post and the part played by the delinquent

⁶ (1995) 6 SCC 749.



officer are relevant. There, the respondent was a Senior Manager who had been proceeded against for conniving with others to misappropriate customers' money for personal gain and remove Bank records. The Supreme Court held that his greater responsibility justified a punishment more severe than that imposed on the co-delinquents and restored the penalty of dismissal.

44. The present case, however, stands on a different footing. Unlike **Raj Kumar**, there is no allegation that the Petitioner misappropriated Bank funds, derived any personal benefit, colluded with the borrower or acted dishonestly. The misconduct that remains proved is undoubtedly serious; it is, however, of a different character.

45. The penalty must also be viewed in light of the finding on Charge (vii). The Disciplinary Authority imposed removal on the premise that all eight charges stood proved, including the allegation that the sanctioned FBP ceiling had been crossed. That finding has now been set aside. The surviving charges are serious enough to justify a major penalty. The proportionality of removal must, however, be assessed on those findings alone, not on the premise that all eight charges continue to stand.

46. The Petitioner's length of service also merits consideration. It is true that more than 36 years of experience demanded a greater degree of care in the discharge of his duties, and the Reviewing Authority was justified in taking that into account. At the same time, no previous disciplinary punishment during those 36 years has been shown on record. That preceding service record is a relevant consideration in determining the appropriate

⁷ 2026 INSC 313.



penalty.

47. Taken together, these circumstances render the penalty of removal disproportionate. The Petitioner's more direct role may have warranted a substantially heavier penalty than those imposed on the other employees, and the misconduct which survives undoubtedly calls for a major penalty. Having regard, however, to the nature of that misconduct, the setting aside of Charge (vii), and the Petitioner's preceding service record, removal cannot be sustained as the appropriate penalty.

48. The Court therefore considers compulsory retirement to be the appropriate major penalty in the circumstances of the case. Compulsory retirement is itself a major penalty under Regulation 4(h); its substitution neither exonerates the Petitioner nor treats the proved lapses as minor. It preserves a substantial disciplinary consequence, while avoiding the separate pensionary consequence which Regulation 22 attaches to removal, namely forfeiture of past service.

49. The Supreme Court has itself substituted removal with compulsory retirement in ***Naresh Chandra Bhardwaj v. Bank of India***.⁸ That decision rested substantially on parity between the delinquent officers and does not make parity available where their roles and responsibilities are materially different. It nevertheless illustrates, in the context of disciplinary proceedings in Bank of India itself, that removal may be substituted by compulsory retirement where the facts justify such intervention.

50. This is not a case in which remitting the question of punishment would serve any useful purpose. The Petitioner superannuated in October

⁸ (2019) 15 SCC 786.



2018, and the penalty followed in May 2019. Nearly eight years have since passed. The material necessary to assess proportionality is already before the Court.

51. The penalty of removal imposed on 13th May, 2019 is accordingly substituted by the major penalty of compulsory retirement under Regulation 4(h) of the Bank of India Officer Employees' (Discipline & Appeal) Regulations, 1976. Since the Petitioner had already ceased to be in service on superannuation on 31st October, 2018, the substituted penalty shall, for retiral and pensionary consequences, be reckoned from that date. It shall not disturb the salary or other emoluments earned by him up to 31st October, 2018.

Pension and the other retiral dues

52. The pensionary consequences follow under a different set of Regulations. Compulsory retirement is the penalty imposed under Regulation 4(h) of the Discipline & Appeal Regulations. The Bank of India (Employees') Pension Regulations, 1995 then determine the pensionary consequence of that penalty. This is consistent with **Ramesh Chandra Sharma**, where the Supreme Court read Regulation 20(3)(iii), which permitted disciplinary proceedings to continue after superannuation, in conjunction with the Pension Regulations governing the pensionary consequence of the penalty ultimately imposed. **Virinder Pal Singh** has since reiterated that disciplinary proceedings validly continued after superannuation may be taken to their logical conclusion, while the practical effect of the penalty must be worked out under the governing statutory scheme.



53. The date from which those consequences are to be worked out also presents no difficulty. The Petitioner worked until 31st October, 2018 and ceased to be in service on superannuation that day. Regulation 20(3)(iii) did not extend his actual service; it only deemed its continuance for the limited purpose of carrying the disciplinary proceeding to its conclusion. In **Virinder Pal Singh**, the Supreme Court held that a post-superannuation penalty reducing pay could be implemented by relating the reduction to the date of superannuation for computation of pension. The facts in **Vijay Kumar v. Central Bank of India**⁹ similarly show that compulsory retirement was imposed after superannuation with effect from the date of superannuation, and the pension payable consequent upon that penalty was thereafter examined under Regulation 33. The validity of the penalty itself was, however, no longer in issue before the Supreme Court.

54. Regulation 33 of the Bank of India (Employees') Pension Regulations, 1995 applies to an employee compulsorily retired as a penalty under the Discipline & Appeal Regulations. It provides for pension at a rate not less than two-thirds and not more than the full pension otherwise admissible on the date of compulsory retirement, provided the employee was otherwise entitled to pension on superannuation on that date. The decision is to be taken by the authority higher than the authority competent to impose the penalty. Where less than full pension is proposed, the Board of Directors must be consulted before the order is passed.

55. The identically worded Regulation was considered in **Vijay Kumar**. The Supreme Court held that two-thirds of the full pension is the statutory

⁹ 2025 INSC 848.



minimum. It further held that Regulations 33(1) and 33(2) operate together and that whenever the full pension otherwise admissible is sought to be reduced, prior consultation with the Board is mandatory. A *post facto* approval will not suffice. The Court also required an opportunity of hearing before such reduction and directed that, if a valid decision was not taken within the time granted, full pension would become payable from the date of superannuation.

56. Consequent upon the substitution of removal with compulsory retirement, the Petitioner's final pension must therefore be determined under Regulation 33 with effect from 1st November, 2018. The authority contemplated by that Regulation shall decide whether he is to receive full pension or a lesser pension within the statutory range. If less than full pension is proposed, the Petitioner shall be heard and the decision shall be preceded by consultation with the Board of Directors. The authority shall proceed on the findings which survive this judgment. Charge (vii), having been set aside, shall not form part of that exercise.

57. There is, however, a separate entitlement for the period during which the disciplinary proceeding remained pending after superannuation. Regulation 46(1) required payment of provisional pension equal to the maximum pension which would otherwise have been admissible to the Petitioner. The Bank relies on payment of INR 3,10,004.75 on 2nd December, 2019, described as "provisional pension by way of compassionate allowance". That payment cannot substitute the statutory entitlement under Regulation 46(1), unless it satisfies the quantum prescribed thereunder. Further, although provisional pension is adjustable



against the final retirement benefits, Regulation 46(1) expressly prohibits recovery where the pension ultimately sanctioned is lower. The Bank itself treats the disciplinary proceeding as having concluded with the order dated 13th May, 2019. The Petitioner was therefore entitled to the maximum provisional pension from 1st November, 2018 until that date. Any shortfall for this period must be made good, and cannot subsequently be recovered merely because the pension determined under Regulation 33 is lower.

58. Regulation 38 of the Officers' Service Regulations expressly entitles an officer compulsorily retired, including as a measure of punishment, to the cash equivalent of accumulated privilege leave up to 240 days. The Bank had extended that benefit with effect from 30th April, 2015 to officers compulsorily retired by way of penalty. The Petitioner's substituted penalty, reckoned from 31st October, 2018, therefore attracts that entitlement.

59. The claim for interest on gratuity stands differently. Regulation 46(2) permitted the Bank to withhold gratuity until conclusion of the disciplinary proceeding. The Petitioner was not exonerated in that proceeding. The penalty order was passed on 13th May, 2019 and gratuity of INR 18,75,535 was released on 30th May, 2019. In these circumstances, no direction for interest on gratuity is called for.

60. For the foregoing reasons, the writ petition is partly allowed in the following terms:

- (i) The finding of guilt under Article I(vii) of the charge-sheet dated 27th September, 2018 is set aside. The findings under the remaining components of Article I are left undisturbed.
- (ii) The penalty of "removal from service which shall not be a



disqualification for future employment”, imposed by order dated 13th May, 2019, is substituted by the major penalty of compulsory retirement under Regulation 4(h) of the Bank of India Officer Employees’ (Discipline & Appeal) Regulations, 1976. For retiral and pensionary consequences, the substituted penalty shall be reckoned from 31st October, 2018. This shall not disturb the salary or other emoluments earned by the Petitioner up to that date. The appellate order dated 5th September, 2019 and the review order dated 12th December, 2019 shall stand modified accordingly.

(iii) For the period from 1st November, 2018 to 13th May, 2019, the Bank shall calculate the provisional pension payable to the Petitioner under Regulation 46(1), at the maximum pension otherwise admissible to him, and release the shortfall, after giving credit for any amount already paid for the corresponding period, within eight weeks. If the pension subsequently determined under Regulation 33 is lower, no recovery shall be made of the difference, in terms of Regulation 46(1).

(iv) The authority contemplated by Regulation 33 shall determine the pension payable to the Petitioner consequent upon compulsory retirement, with effect from 1st November, 2018. The pension shall not be less than two-thirds of the full pension otherwise admissible. If anything less than full pension is proposed, the Petitioner shall be heard and the decision shall be taken only after prior consultation with the Board of Directors. The authority shall proceed only on the findings which survive this judgment.

(v) The exercise under Regulation 33 shall be completed within eight weeks. If no valid decision is taken within that period, the Petitioner shall be entitled to full pension with effect from 1st November, 2018, consistently



with **Vijay Kumar**. While working out the arrears, the Bank may give credit for pension or compassionate allowance already paid, subject to the protection in clause (iii). The arrears shall be released within four weeks of the determination, failing which they shall carry simple interest at 6% per annum from the expiry of that period until payment. Any consequential issue of commutation shall be dealt with in accordance with the Pension Regulations.

(vi) The Bank shall determine the privilege leave standing to the Petitioner's credit as on 31st October, 2018 and pay the cash equivalent thereof under Regulation 38, subject to the ceiling of 240 days, within eight weeks. If payment is not made within that period, the amount shall carry simple interest at 6% per annum thereafter.

(vii) The prayer for interest on gratuity is rejected.

61. The petition and pending applications, if any, are disposed of in these terms.

SANJEEV NARULA, J

AUGUST 25, 2026/nk