

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 4059 OF 2018

(VIDHARBHA KONKAN GRAMIN BANK OFFICERS ASSOCIATION...VS..VIDBHARBHA KONKAN
GRAMIN BANK & OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri N.P.Choudhary, Advocate for Petitioner.
Ms M.A.Barabde, A.G.P. for Respondent No.3.

CORAM : B.P.DHARMADHIKARI AND
Z.A.HAQ, JJ.

DATED : JULY 10, 2018.

1. The petitioner association through Advocate Choudhary challenges constitutional validity of Clause 45 of Discipline and Appeal Procedure which regulates service conditions of the employees of the respondent No.1-Bank. The challenge is on the basis of judgment of the Hon'ble Apex Court in the matter of *Canara Bank Vs. D.R.P. Sundharam*, reported in **(2016) 12 SCC 724**. Perusal of the said judgment reveals that there, the Hon'ble Apex Court has considered Canara Bank (Officers') Service Regulations, 1979, particularly Regulation 20. The Hon'ble Apex Court finds that if the employee on whom charge-sheet is served superannuates there is deeming fiction and he continues in service till proceedings are concluded. In regulation No.20(3) (i) employee seeking to retire/resign during pendency of the departmental proceedings can do so only with approval of his employer and under Regulation 20(3)(ii) departmental proceedings are deemed to be pending when show cause notice is issued or officer is placed under suspension. The

Hon'ble Apex Court has held that Regulation 20(3)(iii) which contends deeming fiction is a stand-alone provision and situation envisaged therein is not a continuation of Regulation 20(3)(i) and (ii). In the facts before the Hon'ble Apex Court, charge-sheet was issued after superannuation and therefore, the Hon'ble Apex Court found that the impugned judgment quashing disciplinary proceedings called for no interference.

2. Thus, the Regulations of Canara Bank are found not to contain any provision enabling the employer to issue charge-sheet to a retired superannuated employee. That is not the position here. Clause 45(1) and (2) bring on record a different scheme.

3. Moreover, the challenge has been raised by the petitioner-association without placing on record any specific instance.

4. Hence, without observing anything more, we **dismiss** the present writ petition. No costs.

(Z.A.Haq, J)

(B.P.Dharmadhikari,J)