

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 5109 of 2012**

S. K. Shrivastava, S/o P. K. Shrivastava Aged About 48 Years Ex - Manager, U C O Bank, Bilaspur, R/o 414, Shwethansa Apartment, D. D. Nagar, P. S. - D. D. Nagar, Raipur, District - Raipur C. G., Chhattisgarh

---- Petitioner**Versus**

1. U C O Bank, Through - The Chairman, H. Q. - 10, B T M Sarani, Kolkata, West Bengal 700-001, West Bengal
2. The General Manger, U C O Bank, Personnel Services Department, H. O. - 3 - 4, D D Block, Salt Lac, Sector -1, Kolkata W. B., District : Kolkata, West Bengal
3. The Zonal Manager U C O Bank, Zonal Office, Chhattisgarh Eye Hospital Campus, Telibandha, Raipur, P. S. - Telibandha, Raipur District - Raipur C. G., District : Raipur, Chhattisgarh
4. The Senior Manager, H R M Department, U C O Bank, Zonal Office, Chhattisgarh Eye Hospital Campus, Telibandha, Raipur, P. S. - Telibandha, Raipur District - Raipur C. G., District : Raipur, Chhattisgarh
5. Dr. N. P. Dubey, Enquiry Officer, U C O Bank, O/o The Senior Manager, H R M Department, Uco Bank, Hospital Campus, Telibandha, Raipur, P. S. - Telibandha, Raipur District - Raipur C. G., District : Raipur, Chhattisgarh
6. Shri Asim Kumar Mishra, Senior Manager, Uco Bank, Gevara Project, Korba, P. S. - Hardi Bazar, District - Korba, C. G., District : Korba, Chhattisgarh

---- Respondents

Petitioner in Person	:	Mr. S. K. Shrivastava
For Respondent	:	Mr. Sushobhit Singh, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****24/04/2019**

1. The challenge in the present writ petition is to the issuance of the charge-sheet dated 05/03/2012 Annexure P-10. This Court vide its order dated 17/10/2013 had held that the final order passed in the

pending enquiry against the petitioner shall be subject to the final outcome of the present writ petition.

2. Primary contention of the petitioner is that the charge-sheet issued against the petitioner is ab-initio void for the reason that the petitioner stood retired from service w.e.f. 16/05/2011 and once when the petitioner stood retired, respondents could not have initiated disciplinary proceedings against the petitioner and therefore the charge-sheet dated 05/03/2012 is liable to be struck down.
3. Brief facts of the case which is relevant for adjudication of the present writ petition is that the petitioner was initially working as a Clerk cum Godown Keeper with the respondents since 1983. The petitioner subsequently had tendered his voluntary retirement on 04/10/2010 giving 90 days notice period which would have come to an end on 14/01/2011. However, since the respondents had not passed a formal order of acceptance of his resignation, the petitioner continued to serve the respondents till 16/05/2011 and thereafter he went on retirement invoking the deeming provision treating the petitioner as having retired w.e.f. 16/05/2011. The petitioner had filed a writ petition that is WPS 1620/2012 claiming for issuance of direction to the respondents for settlement and grant of terminal benefits that the petitioner would get on his voluntary retirement. The said writ petition stood allowed vide order dated 28/09/2018. This Court while allowing the writ petition had, as per clause 29(2) of the Bank Employees pension Regulations, 1995 applying the deeming provisions had allowed the writ petition holding the petitioner to have stood retired from service w.e.f. 16/05/2011. This court while allowing the writ petition granted the relief of consequential benefits that the petitioner would get on his voluntary retirement.

4. The said order by this Court dated 28/09/2018 was subjected to challenge in a Writ Appeal i.e. WA No. 824/2018 and the Writ Appellate Court has also affirmed the order passed by Single Bench Bench vide its judgment dated 07/01/2019.
5. As a consequence of the writ petition being allowed and the petitioner being declared to have stood voluntary retired w.e.f. 16/05/2011, the order which has also been affirmed by the Division Bench, all that now has to be seen whether the department could have issued a charge-sheet or initiated disciplinary proceedings against the petitioner after his having retired.
6. The issue raised in the present writ petition has already come out for hearing before the Supreme Court in the case of **Uco Bank and Another Vs. Rajinder Lal Capoor, (2007) 6 SCC 694** where the petitioner before the Supreme Court was the respondent Bank i.e. Uco Bank itself.
7. In the case of **Uco Bank and Another Vs. Rajinder Lal Capoor, (2007) 6 SCC 694**, the Supreme Court in very categorical terms referring to the regulations that were applicable in the Uco Bank has held that once when the employee/officer stood retired, the Bank/Employer thereafter would not be in a position to initiate disciplinary proceedings against such employee/officer.
8. The said judgment was further reconsidered by way of a review petition. The judgment of which again is reported in (2008) 5 SCC 257 wherein again the Supreme Court referring to the regulations governing the service conditions in the Uco Bank in Paragraph 29 has held as under:-

“29. Drawing up of a charge sheet, therefore, is the condition precedent for initiation of a disciplinary proceedings. We have noticed in paragraph 15 of our judgment that ordinarily no disciplinary proceedings can be continued in absence of any rule

after an employee reaches his age of superannuation. A rule which would enable the disciplinary authority to continue a disciplinary proceedings despite the officers reaching the age of superannuation must be a statutory rule. A fortiori it must be a rule applicable to a disciplinary proceedings.”

9. In view of the facts that the Supreme Court in the case of **Rajinder Lal Capoor(supra)** itself in the recent past has held that the disciplinary proceedings cannot be initiated against an officer/employee after his retirement. The charge-sheet issued in the present case against the petitioner applying the same principle/analogy would not be sustainable.
10. In the instant case, the petitioner stood retired from service of the respondents w.e.f. 16/05/2011. The charge-sheet has been issued on 05/03/2012. Thus, the charge-sheet, in view of the judgment of the Supreme Court in the case of **Rajinder Lal Capoor(supra)** would not be sustainable and the same deserves to be set aside/quashed. Hence, keeping in view the judgment passed by this Court in WPS No. 1620/2012 decided on 28/09/2018 which stands affirmed by the Division Bench of this Court in Writ Appeal No. 824/2018 decided on 07/01/2019 and also in the light of the judgment of the Supreme Court in the case of **Rajinder Lal Capoor(supra)**, the present writ petition stands allowed and impugned charge-sheet and the subsequent decision taken by the department becomes bad in law and is therefore set aside/quashed with consequences to follow.
11. The writ petition accordingly stands allowed and disposed off.

Sd/-

(P. Sam Koshy)
Judge