

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 321 of 2019**

{Arising out of Order dated 24/04/2019 passed in Writ Petition(S) No. 5109 of 2012 by the learned Single Judge}

1. U C O Bank Through The Chairman, H.Q-10, B T M Sarani, Kolkata, West Bengal., District : Kolkata, West Bengal **(Respondent No. 1)**
2. The General Manager U C O Bank, Personnel Service Department H O- 3-4, D D Block, Salt Lake, Sector-1, Kolkata W B, District Kolkata, West Bengal. **(Respondent No. 2)**
3. The Zonal Manager U C O Bank, Zonal Office, Chhattisgarh Eye Hospital Campus, Telibandha, Raipur, Police Station Telibandha, District Raipur Chhattisgarh. **(Respondent No. 3)**
4. The Senior Manager H R M Department, U C O Bank, Zonal Office, Chhattisgarh Eye Hospital Campus, Telibandha , Raipur, Police Station Telibandha, District Raipur Chhattisgarh. **(Respondent No. 4)**

----Appellants

VERSUS

1. 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, Police Station D D Nagar, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh **(Respondent/petitioner)**
2. Dr. N P Dubey Enquiry Officer, U C O Bank, O/o The Senior Manager, H R M Department, U C O Bank, Zonal Office, Chhattisgarh Eye Hospital Campus, Telibandha , Raipur, Police Station Telibandha, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh **(Respondent No. 5)**
3. Shri Asim Kumar Mishra Senior Manager, U C O Bank, Gevra Project, Korba, Police Station Hardi Bazar, District- Korba Chhattisgarh., District : Korba, Chhattisgarh **(Respondent No. 6)**

For Appellants	:	Mr. Ravindra Sharma, Advocate
Respondent in Person	:	Mr. S.K. Shrivastava

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

Per P.R. Ramachandra Menon, Chief Justice.

12/07/2019

1. Quashing of the Charge-sheet issued by the appellants to the respondent/petitioner after his retirement from the service by the learned Single Judge is the subject matter of challenge in this appeal.

2. Heard learned counsel for the parties at length.
3. The sequence of events reveals that the respondent/petitioner was appointed as a 'Clerk-cum-Godown Keeper' in the service of the appellant Bank on 10-9-1983. By the passage of time, he was promoted and was later holding the post of Manager. While so, he submitted an application dated 4.10.2010 for voluntary retirement under the scheme formulated and notified by the Bank. The said application was not acted upon and the prescribed notice period of 'three months' which was to expire on 04-01-2011. Thereafter, a show-cause notice was issued by the Bank to the employee/petitioner on 14-5-2011 with regard to certain misconducts noted on his part. The application for voluntary retirement was neither allowed, nor rejected, which made the respondent/petitioner to submit another reminder on 11-04-2011, which also did not evoke any response. In the said circumstances, he sent another notice on 14-05-2011 to treat him as having retired from the service from 16-05-2011 and thereafter the employee did not turn-up for service. It is stated that an order was passed on 06-04-2011 stating that, in view of the show-cause notice issued, the application for voluntary retirement could not be considered. Since the bank did not disburse the retirement benefits, the respondent/petitioner approached this Court by filing WP(S) No.1620/2012 for settlement of his retirement benefits under the voluntary retirement scheme. The writ petition filed by the respondent/petitioner herein was contested by the appellant Bank, but after hearing both the sides, it is allowed by the learned Single Judge of this Court as per judgment dated 28/9/2018.
4. As observed by learned Judge in Para-28 of the said judgment, the notice period of three months had expired on 4-1-2011, the notice having been issued way back on 4-10-2010. The writ petitioner had served the

institution till 16-5-2011, and had sent a reminder and to the effect that he might be considered as having retired from the service from 16-05-2011. Till that time, there was no departmental enquiry, nor his application was ever rejected. It was accordingly, that the learned Single Judge gave a declaration to the effect that the writ petitioner be treated and deemed as retired from the service on 16-5-2011 and that he would be entitled for all consequential benefits pursuant to his voluntary retirement, as mentioned in Para-31 of the impugned judgment, which reads as under:

“31. It is ordered that the petitioner shall be treated as deemed to have retired from service from 16-5-2011 and he would be entitled for all consequential benefits, which he would have been entitled for on his voluntary retirement as would be applicable under the Rules governing the field.”

5. The Bank took up the matter in appeal. After hearing both the sides, Writ Appeal No.824/2018 was finalized by this Court on 7-1-2019 holding that there was no reason or tenable ground to call for interference with the verdict passed by the learned Single Judge. It was also observed therein that the order stated as passed on 6-4-2011 rejecting the application for voluntary retirement was never served to the respondent/employee and as such, it was never open for the Bank to contend anything to the contrary to support their stand and against the finding rendered by the learned Single Judge. The writ appeal came to be dismissed, which was put to further challenge by moving the Apex Court by filing SLP (C) No.11548/2019. It is stated that, notice has been ordered to the respondents on 1-7-2019.
6. The cause of action for the present appeal is in respect of another turn of events insofar as the Bank had issued a Charge-sheet (Annexure A-2) to

the respondent/employee on 5-3-2012 i.e. after the deemed voluntary retirement of the respondent-employee from the service of the Bank on 16-5-2011. Hence, it was challenged by way of Writ Petition(S) No. 5109/2012.

7. A learned Single Judge of this Court considered the merit involved and it was held that the Charge-sheet issued to the respondent/employee after his deemed retirement under the Voluntary Retirement Scheme was not liable to be sustained. The verdicts passed by the Apex Court in the appellant Bank's own case, as reported in **UCO Bank and Another v. Rajinder Lal Capoor**¹ and the subsequent verdict in the review petition filed by the Bank as reported in **UCO Bank and Another v. Rajinder Lal Capoor**² were also relied on, besides placing reliance on the order verdicts as mentioned therein. The observations made as contained in paragraphs 9 & 10 are relevant and hence they are extracted below:-

“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

1 (2007) 6 SCC 694

2 (2008) 5 SCC 257

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.”

8. The learned counsel for the appellant/Bank submits that the finding of the learned Single Judge that no departmental proceeding could have been initiated after retirement of the employee is not correct in view of the Regulation 48 of the UCO Bank (Employees) Pension Regulations, 1995, a copy of which has been produced as Annexure A/4. The contention of the Bank is that, only in a case where it has crossed 4 years after retirement, would the ban apply and prohibit the bank from initiating any such proceeding. This being the position, the charge-sheet (Annexure A-2) issued to the respondent employee on 5-3-2012, which is within 'one year' from the date of deemed retirement under Voluntary Retirement Scheme, was not liable to be interdicted by the learned Single Judge and hence this appeal.
9. During the course of hearing, the learned counsel for the appellant/Bank was required to reconcile the position with regard to the law declared by the Apex Court in **UCO Bank and another(supra)**. The said case was filed before the Apex Court by none other than the appellant/Bank herein and the contention was also similar. The same set of Rules/Regulations, as now sought to be relied upon by the Bank was the central point of submissions before the Apex Court as well. It was after proper appreciation of the facts, figures and relevant provisions of law that the

verdict was passed by the Apex Court, holding that the appellant/ Bank was not justified in proceeding with disciplinary proceedings after the retirement of the employee concerned.

10. It is relevant to note, on being aggrieved by the said verdict the appellant Bank sought to file a review petition, giving more emphasis to the scope of the provisions, in particular the regulations dealing with the service conditions and the pension to be paid to the employee/pensioner concerned. The Apex Court made a reference to said regulations as well and the review petition was dismissed, as reported in **UCO Bank and Another**(supra). This being the position, the issue stands settled and the matter can't be put to further scrutiny by the appellant/Bank. The course now sought to be pursued by the Bank amounts to abuse of the process of this Court.

11. We do not find any merit in this appeal. It is dismissed with a cost of ₹ 25,000/-, to be paid to the Legal Aid Service Committee within one month. If the appellant fails to remit the cost within time as stated above, it will be open for the Registrar General to issue recovery certificate in favour of the beneficiary, for proceeding with further steps.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge