**13.03.2024**
**Court No.13**
**Item No.557**
**AP**

**WPA 4681 of 2023**

**Chandra Sekhar Pal**
**Vs.**
**UCO Bank and Ors.**

Mr. Sujit Lal Sircar
... For the Petitioner.

Mr. Victor Chatterjee
Mr. Sourjya Roy
... For the UCO Bank.

1. Affidavit-in-opposition and affidavit-in-reply filed in Court today is taken on record.

2. The writ petitioner is aggrieved by an order dated 11th February, 2021 passed by the General Manager, Personnel Services, Competent Authority under Regulation 48 of the UCO Bank (Employees') Pension Regulations, 1995 (hereinafter referred to as "the pension regulation"). The writ petitioner is also aggrieved by the fact that there was no appeal entertained against the said order by the competent authorities of the Bank.

**Facts of the Case**

3. The brief facts relevant to the case are that the writ petitioner superannuated from service on 30th June, 2018. He last worked as Senior Manager of the Sonarpur Branch of the UCO Bank. He was receiving pension and was paid all other terminal benefits.

4. However, under Regulation 48 of the said pension regulation a memorandum and/or chargesheet dated 6/12/2019 was issued against the writ petitioner alleging several acts of commission and omission against the petitioner on 24 different counts. The charges are as follows:-

*"**STATEMENT OF APPLEGATIONS***

*Shri Chandra Sekhar Pal, Emp. No. 31587, Ex-Senior Manager, while functioning as Senior Manager & Branch Head at Sonarpur Branch (2095), under Kolkata Zone, for the period from 26.11.2013 to 19.02.2018, had allegedly committed certain acts of omissions and commissions in sanctioning, disbursing and monitoring of loans & advances. The details are as under:*

*1. PSVR-I, II and IV have not been done as same are not found on records of following loan/cash credit accounts.*

*..........*

*2. Defaulter list of RBI/RBI/ECGC were not checked before sanction of the credit facility to borrowers in respect of following accounts.*

*..........*

*3. End use of the Bank's fund have not been verified as no such details for verifying the same found on records in respect of following loans/cash credit accounts.*

*..........*

*4. Registration of property with CERSAI has not done in respect of following accounts.*

*..........*

*5. Stock Statements has not been obtained periodically and also failed to update the same in* *system in respect of following loan/cash credit accounts.*

*……….*

*6. No/improper Sanction advice/Process Note/Appraisal Memorandum/prepared before sanctioning of the following loan accounts/cash credit accounts & no financial analysis was done, thus, violated the Bank's guidelines.*

*……….*

*7. EMTD of the properties obtained as collateral securities have not been done in respect of following accounts.*

*……….*

*8. Mandatory Certified Copy of Original Title Deed has not been obtained and 16 points of comparisons chart were also not prepared in respect of following accounts as stipulated by the Bank.*

*……….*

*9. The funds were directly disbursed to account of the borrowers instead of making direct payment to the suppliers in respect of following accounts.*

*……….*

*10. Proper due diligence of Borrowers have not been adhered in following loans/cash credit account before sanction of the credit facility and put the Bank's fund in financial risk.*

*……….*

*11. Financial statement & its projections were not scrutinized properly as same were found on higher side in respect of following cash credit accounts.*

*……….*

*12. The existing/irregular/overdue account holders were accommodated by sanctioning/fresh/additional credit facility to the* *same borrowers and their family members in respect of following accounts.*

*……….*

*13. The proper loan/cash credit application forms have not been obtained in respect of following credit facilities.*

*……….*

*14. Balance Sheet & ITR have not been obtained in respect of following Cash Credit accounts.*

*……….*

*15. Loan Documents in respect of following loan accounts have been kept blank.*

*……….*

*16. Switchover Charges from base rate to MCLR were not recovered in respect of following housing loan accounts.*

*……….*

*17. Required documents has not been obtained while changing the MCLR from Base Rate in respect of following loan accounts.*

*……….*

*18. The RBIA reports were closed on the basis of false/fabricated compliance during year 2018, 2017, 2016 and 2015.*

*19. Retail loans were not processed through LAPS menu except loan sanctioned by ZO which is violation of laid down guidelines of the bank.*

*20. Credit facilities were sanctioned single handedly without recommendation of any other branch official during his tenure as a branch Head at Sonarpur Branch.*

*21. There are following 6 suspicious cash deposit transactions found in the account of his wife Mrs. Dipa Paul.*

*……….*

*22. It is reported that a middleman (Name-Amit) was involved in sanctioning of few loans/cash credit accounts out of which many have turned to NPA and few are case of quick mortatality also.*

*23. A car loan was sanctioned to Shri Mahua Roy, account No. 20950610003206, on fake quotation of Auto Hi Motors Co At Kalikapore, Kolkata – 700099 which is not in existence. He has not enquired the genuineness of quotation and sanctioned the loan, but car was never purchased. Now account is NA with outstanding balance of Rs.5.20 lakh without any security. Thus Bank may suffer financial loss of Rs.5.20 lakh.*

*24. Three KCC credit facilities have been sanctioned to Shri Pulak Mondal- Account No. 20950510000267, Shir Nirmal Mandal- Account No. 20950510000229 and Tapan Mandal- account No.20950510000274 without verifying the purcha, details of lands, pulling CIBIL data and verification of KYC of the customers, which were later found to be fake. Now accounts are NPA with outstanding balance of Rs.1.31 lakh without any security. Thus bank may suffer financial loss of Rs.1.31 lakh.*

*Keeping in view of the foregoing, it is observed that laid down systems & procedures pertaining to sanctioning, disbursement and monitoring of loans & advances have been violated and no precaution was ensured to safeguard the interest of the bank.*

*Due to his above negligence, Bank's funds have been exposed to financial risk/loss and image of the Bank has been tarnished.*

*General Manager*
*Personnel Services*
*(Competent Authority)"*

5. The writ petitioner was asked to submit a reply to the charge sheet, which he did in one page on 20th December, 2019.

6. Not being satisfied with the reply, the competent authority appointed enquiry and presenting officer. The enquiry officer on 6th December, 2019 found the petitioner not ready with his defence representative. The Presenting Officer was allowed to place his documents in support of charges and the writ petitioner stated that arguments on his behalf would be advanced on the next date of hearing.

7. The writ petitioner did not challenge the manner in which the documents were taken on record either on the said date or thereafter at anytime.

8. By an order dated 2nd September, 2020, the enquiry officer in view of the ongoing pandemic asked the parties to submit written submissions on the basis of the charge sheet and the documents taken on record. The enquiry officer submitted his arguments with the copy to the writ petitioner. The writ petitioner submitted a three page argument. At nopoint of time did the petitioner object to any procedure adopted by the enquiry officer nor questioned the same. Based on the submissions of the presenting and the enquiry officer and the evidence on record, a detailed enquiry report was submitted to the competent authority.

9. The competent authority forwarded such enquiry report to the petitioner asking him to offer his comments. The petitioner submitted detailed comments and representation against the finding of the enquiry officer.

10. Having regard to the representation of the petitioner against the enquiry report and the report itself and the evidence on record, the competent authority found three charges against the petitioner proved and that was violation of Regulation 3(1) of the UCO Bank Officers Employees Conduct Regulation, 1976. A punishment of recovery of 20% from the pension payable to the petitioner was imposed.

11. The petitioner challenged the said order of the competent authority in appeal before the Executive Director of the UCO Bank and subsequently made a representation to the Chairman and Managing Director of the Bank.

12. In reply thereto, the Bank communicated to the petitioner that there was no provision for appeal against a proceeding under Regulation 48 of the said "Pension Regulations".

**Arguments on Behalf of the Petitioner and Findings of this Court**

13. Learned counsel for the petitioner would argue before this Court that none of the documents on behalf of the management have been proved by any oral evidence or any witness.

14. This Court notes on the records of the enquiry and the representation of the petitioner before the enquiry officer that the said objection was never ever raised either in course of the enquiry or in the written submissions filed with the enquiry officer.

15. Even on the date when the presenting officer was placing documents to be taken on record of the enquiry, no objection had been raised by the petitioner. No objection was even raised thereafter by the petitioner.

16. In the aforesaid circumstances, it would be inappropriate for this Court to entertain the petitioner's plea in this regard. It is now well settled that in a disciplinary proceeding, strict rules of evidence before a Civil Court under the CPC or the Evidence Act are not applicable. What is applicable is the strict enforcement of the principles of natural justice. The petitioner has not objected to any procedure adopted by the enquiry officer. No prejudice has been caused or demonstrated to have been caused to the petitioner by his counsel in the conduct of the enquiry proceedings.

17. Learned counsel for the petitioner would next argue that the petitioner was not allowed to produce any documents in support of his defence in the enquiry.

18. Having carefully gone through the enquiry proceedings as annexed to the writ petition, this Court finds that the petitioner has never asked for any document from the respondents. The petitioner has also not chosen to produce any documents in support of his defence before the enquiry officer.

19. In those circumstances, this Court is unable to accept the plea of the counsel for the petitioner that he was not allowed by the enquiry officer to produce any documents in his defence. There is no evidence produced before this Court that the petitioner was prevented by the enquiry officer from producing any documents in support of his defence.

20. The third argument advanced by the learned counsel for the petitioner is that the competent authority has traveled outside the scope of the charge sheet by holding that there was outstanding balance of Rs.141.90 lacks out of Rs.281 lacks of loans sanctioned by the petitioner. Most of the accounts were in the lost assets or substandard category. These accounts become non-performing assets as no security is available against the loan accounts to the extent of Rs.87.87 lacks.

21. This Court, however, notices that the loss caused to the Bank has not been the basis of the finding of the competent authority against the petitioner. The competent authority was of the view that the lapses and irregularities committed by the petitioner have exposed the Bank to risk of financial losses. The petitioner was found lacking devotion, honesty and sincerity in discharging of his duties. The petitioner was also found to have violated the norms in the conduct of the business of the Bank.

22. The competent authority found that the petitioner has acted in a manner unbecoming of a bank officer and that he had failed to discharge his duties with utmost devotion and diligence. The petitioner was also found having discharged his duties otherwise than in his best judgment.

23. This Court is of the view that the charges and the evidence brought by the respondents before the enquiry officer and the findings recorded by the competent authority are neither perverse nor de hors the evidence on record. The competent authority's order is well considered. There are sufficient reasons recorded by the competent authority for coming to the conclusion against the petitioner.

24. This Court also finds that the procedure followed by the Bank does not indicate any violation of natural

justice. The petitioner was afforded due opportunity of being heard and given a full chance to defend himself in the proceedings. The petitioner has not been able to demonstrate any prejudice caused by reason of the procedure adopted by the Bank.

25. The punishment awarded to the petitioner is not shockingly disproportionate to the charges proved against him. The punishment is commensurate with the findings of the respondents against him.

26. Insofar as the right of appeal is concerned, it is now well settled that the same is a creature of a Statute or the Rules framed thereunder. Admittedly, the UCO Bank (Employees') Pension Regulations, 1995 have been framed by the Board of Directors of the Bank under Section 19 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980. If the pension rules do not provide for any appeal in respect of a proceeding under Regulation 48, the petitioner cannot have such a right of appeal. The respondents, therefore, rightly refused to entertain any appeal against the order of the competent authority.

**Conclusion**

27. For the reasons indicated hereinabove, this Court does not find any ground to interfere with the findings of the competent authority.

28. Accordingly, the writ petition fails and hereby dismissed.

29. There shall be no order as to costs.

30. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

**(Rajasekhar Mantha, J.)**