

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

W.P.A. 1340 of 2018

**Goutam Chandra Dey @ Goutam Dey
-Vs-
The Punjab National Bank & Ors.**

For the Petitioner	: Mr. Manab Ranjan Sarbadhikari
For the Respondents/Bank	: Ms. Urmi Sengupta
Heard on	: 09.01.2025, 17.04.2025, 11.07.2025
Judgment on	: 24.10.2025

Ananya Bandyopadhyay, J.:-

1. The petitioner through the instant writ petition expressing grievance assailed the disciplinary order dated 27.10.2014, the appellate order dated 25.03.2015 and the reviewing order dated 30.09.2015 whereby he was removed from service of the Punjab National Bank. Consequential relief is sought for grant of retiral benefits, including leave encashment and pension in terms of the Bipartite Settlement and the Bank Employees' Pension Regulation, 1995.
2. The facts revealed the petitioner was appointed on 10.12.1984 as Manager-cum-Clerk-cum-Cashier in the respondent Bank, a Public Sector Undertaking, which by reason of majority Government shareholding

constituted "State" within the meaning of Article 12 of the Constitution of India. His services were confirmed and upon promotion, he was posted as Incumbent-in-Charge of the Talai Branch, District- Murshidabad on 17.11.2011. The petitioner asserted that he was the sole functionary of the branch discharging multifarious responsibilities in the absence of support staff and was constrained to follow the practices of his predecessor no specific guidelines having been furnished by the superior authority.

3. On 14.02.2014, a charge-sheet was issued alleging several acts of misconduct. Certain charges were not proved while others were partly substantiated. The Enquiry Officer submitted his final report on 09.09.2014. The disciplinary authority, upon consideration of the materials, imposed the major penalty of removal from service without disqualification for future employment by order dated 27.10.2014 under Regulation 4(i) of the Pension Regulations.
4. The petitioner's departmental appeal dated 26.11.2014 was dismissed on 25.03.2015. A supplementary appeal was not entertained and the petitioner was advised to pursue a review. He accordingly preferred review petitions dated 23.07.2015 and 14.08.2015 respectively which were rejected by order dated 30.09.2015.
5. On 19.11.2015, the petitioner thereafter issued a demand for justice seeking disbursement of retiral dues including provident fund, gratuity and pension. His grievance led to institution of W.P. No.30297(W) of 2015 which was disposed of by order dated 03.02.2016 upon a consensus between the parties, in terms of the said order, the Bank adjusted certain recoverable

dues and disbursed an amount of Rs.71,643/- by demand draft dated 22.02.2016 towards gratuity.

6. Despite such adjustment, the petitioner continued to represent to the authorities relying, *inter alia*, on a certificate of appreciation dated 15.05.2012 issued by the Field General Manager contending his subsequent liability towards personal loans was wrongfully treated as unauthorized. Repeated representations dated 21.04.2017, 31.07.2017 and 05.09.2017 were submitted praying for reconsideration of the order of removal and for grant of pensionary benefits as per Bank Employees' Pension Regulations, 1995, but the authorities remained unmoved.
7. The petitioner averred that had the Bank raised the alleged claims earlier, he would have been in a position to disprove the charges forming the basis of his removal. It was further urged that the respondent authorities had willfully failed to comply with the directions contained in the order of the Co-ordinate Bench dated 03.02.2016, thereby amounting to Contempt of Court. According to the petitioner, the inaction of the Bank occasioned a recurring and fresh cause of action for invoking the writ jurisdiction of this Court.
8. The Learned Advocate representing the petitioner asserted certain expenditures incurred during his first posting the Talai Branch, later treated by the authorities as unauthorized, were in fact, necessitated for the smooth functioning of the Branch in the absence of adequate support staff. It was his contention that such expenditure had been in continuation of the administrative practice followed by his predecessor who, notably, was never subjected to disciplinary action for identical conduct. The disciplinary

authority, however, failed to summon or peruse the relevant branch records that could have corroborated the petitioner's justification, thus, denying him the benefit of a complete and fair enquiry.

9. It was further contended that the respondent, being statutory authorities, were bound to act within the confines of their governing regulations and in consonance with the tenets of Article 14 and 21 of the Constitution of India. Yet, their actions reflected a vindictive and inimical mindset, as evinced by the continued demand for repayment of loan amounts even after judicial directions had been rendered by this Hon'ble Court. The impugned proceedings, therefore, revealed the exercise of power and a conscious departure from statutory obligations enshrined in the Punjab National Bank Officer Employees' (Discipline and Appeal) Regulations, 1977, the Bank Employees' Pension Regulations, 1995 and the relevant Bipartite Settlements governing the service conditions of bank officers.
10. The Learned Advocate for the petitioner drew the Court's attention to Regulation 22 of the Pension Regulations, 1995, which, in its unamended form, provided for forfeiture of pension upon dismissal or removal from service. However, it had been demonstrated that this provision, in view of subsequent judicial pronouncements and the circulars issued by the Indian Banks' Association (IBA), stood amended with retrospective effect, thereby entitling even a dismissed or removed employee to pensionary benefits. The respondent bank's own circulars, coupled with the judgment of the Hon'ble Supreme Court in *Bank of Baroda v. S. K. Kool* (2014) 2 SCC 715, fortified the

proposition that pension, being a deferred portion of earned wages and not a bounty, could not be withheld except in accordance with law.

11. The Learned Advocate for the petitioner further emphasized that the disciplinary authority imposed the punishment of removal from service- which, as per Regulation 4(i) of the Discipline and Appeal Regulations, 1977- did not entail disqualification from future employment. Therefore, such removal, by itself, did not extinguish the petitioner's entitlement to pension, particularly when the loss allegedly sustained by the bank had already been recovered from the petitioner's gratuity amount. The dual deprivation of both employment and pension, thus, amounted to a double punishment, antithetical to the principles of proportionality and fairness that were intrinsic to service jurisprudence.
12. It was further urged that the denial of pension constituted a violation of the petitioner's fundamental rights under Articles 21 and 300A of the Constitution, as pension forms an integral part of the right to livelihood and property, as held by the Constitution Bench in *Deokinandan Prasad v. State of Bihar* (1971) and subsequently reaffirmed in *UCO Bank v. Vijay Kumar Handa* (2022). It was contended that the court's interpretative duty lied in adopting a harmonious construction of the statutory provisions one that upheld the legislative intent of social welfare, rather than extinguishing accrued rights of retired employees.
13. The petitioner's counsel, invoking the principles of social justice as enshrined in the Preamble to the Constitution, submitted that terminal benefits such as gratuity, pension, and leave encashment were not mere

contractual entitlements but form the "life-blood" of employees who had devoted the prime years of their life to public service. The respondent bank, being a public sector institution, was expected to act as a model employer and could not be permitted to operate with an adversarial or punitive attitude towards its former employees.

14. It was also contended that the amended Pension Regulations of 2024, read conjointly with the Explanatory Memorandum thereto, made it abundantly clear that the provisions applied equally to all employees and officers of the respondent bank, and such amendment carried retrospective effect from 1995. Consequently, the petitioner, having been removed from service in October 2014, stood entitled to pensionary benefits from that date, along with interest on arrear to be determined by this Court.
15. The Learned Advocate representing the respondents submitted during hearing of the earlier writ petition being No.30297(W) of 2015, the petitioner abandoned his challenge to the order of removal and had restricted his claim solely to the release of terminal dues. The Hon'ble Court, upon due consideration, directed the respondent Bank to release the admitted amount of Rs.71,643/-, failing which interest of 6% per annum was to accrue. The petitioner accepted the said sum unconditionally and without protest, thereby bringing the matter to a closure. Hence, the doctrine of estoppels by conduct squarely applied disentitling the petitioner from reopening the issue.
16. It was contended that the petitioner had availed multiple personal loans and overdraft facilities and a sum of Rs.9,45,560/- remained outstanding at the time of his removal. The Bank lawfully adjusted these dues from the

petitioner's gratuity and provident fund, in strict compliance with Section 4(6) of the Payment of Gratuity Act, 1972.

17. Further, the Learned Advocate representing the respondents asserted that the petitioner's pension stood forfeited under Regulation 22 of the Punjab National Bank (Employees') Pension Regulations, 1995, since removal from service constituted forfeiture of past service for pensionary purposes. The leave encashment claim too was rendered untenable under Regulation 38 of the PNB (Officers') Service Regulations, 1979, as leave lapsed automatically upon removal.
18. All departmental proceedings were conducted in accordance with the guidelines of the Central Vigilance Commission (CVC) and the internal regulations of the Bank. The Disciplinary, Appellate and Reviewing Authorities acted within their jurisdiction and the findings were supported by evidence on record.
19. As regard the petitioner's reliance on a Certificate of Appreciation, it was clarified that such a certificate was merely of token recognition for routine service and could not exonerate acts of proven misconduct. The certificate could not, by any stretch, invalidate or supersede the findings of the disciplinary authority based on established violations of banking norms and fiduciary obligations.
20. The supplementary affidavit filed by the petitioner in 2022 was not maintainable being a mere reiteration of matters already adjudicated upon. It was alleged to be an attempt to mislead the Hon'ble Court by presenting a repetitive narrative devoid of fresh cause of action. It was emphasized that

the petitioner's plea of disproportionate punishment was misplaced as the penalty of removal from service was commensurate with the gravity of the misconduct which involved financial irregularities and unauthorized expenditure.

21. The Learned Advocate representing the respondents relied on the principles of finality of litigation asserting that the petitioner's acceptance of the earlier settlement and failure to challenge the disciplinary orders in time precluded any further judicial interference. The writ petition was harassing, misconceived and devoid of merit, warranting dismissal with exemplary costs to prevent abuse of judicial process.

22. The communication dated 29.12.2015 of the Chief Manager, Inspection and Audit Department, CO, Burdwan(WB), Punjab National Bank addressing to the Assistant General Manager, HRD, CO-Kolkata stated as follows:-

“.....

*Reg: Outstanding dues in the name of Sri Goutam Chandra Dey,
Officer, PF. No.56811, Removal from service on 27.10.2014.*

Actual loss of the Bank after crystallization in the case of fraud committed by the above mentioned official is as under:

1) According to chargesheet and report of the enquiry officer he has debited different Expenditure Heads and SFF account of BO-Talai unauthorizedly and used the amount for personal benefit. Hence the amount is loss to Bank.

<i>Loss to Bank in non-borrowal accounts</i>	<i>: Rs.3,42,967/-</i>
<i>Recovered from his account</i>	<i>: Rs.35,900/-</i>
<i>Actual loss</i>	<i>: Rs.3,07,067/-</i>

2) *He has unauthorizedly sanctioned personal loan in his own name in BO-Talai & BO-Berhampur, both of the accounts are overdue.*

Hence Loss to Bank in Borrowal accounts : Rs.127275/- + Rs.5,11,218/- = Rs.6,38,493/-

Hence total loss to Bank : Rs.3,07,067/- + Rs.6,38,493/- = Rs.9,45,560/-.”

23. A communication dated 27.03.2017 of Senior Manager, Punjab National Bank, Circle Office, HRD Department, Kolkata-700017 addressing to Shri Goutam Chandra Dey stated as follows:-

“.....

Reg: Payment of Gratuity to Shri Goutam Chandra Dey, Ex-Officer, PF No.56811, compulsorily retired from bank's service on 27/10/2014 from Keyatala Branch

This has reference to your application form for payment of gratuity dated 27/02/2017.

In this context, this is to inform that you have been paid Rs.71,643/- (P.F. own contribution Rs.33,104/- + Gratuity Rs.38,539/-) as per direction of Hon'ble High Court at Calcutta on 20.02.2016 through demand draft. Further, bank have already paid you interest for delayed payment of gratuity i.e. Rs.5,081.35/- on 17.01.2017.

.....”

24. The petitioner in the instant writ petition prayed for the following reliefs:-

(a) “A writ in the nature of mandamus commanding the respondents to show cause as to why the impugned order dated 27.10.2014, appellate order dated 25.03.2015 and reviewing order dated 30.09.2015 being annexure P1, P2 and P3 should not be quashed or set aside and why petitioner's prayer for grant of service benefit like leave encashment and pension shall not be granted as per Bipartite Settlement of the said Bank.

(b) A writ in the nature of certiorari, calling upon the respondents, their men, agents, subordinates to transmit all the records of the case to this Hon'ble Court such that conscionable justice may be rendered to the petitioner by setting aside or quashing any of the same.

(c) A Rule NISI in terms of prayer (a) and (b) above.

(d) An interim order directing the respondent to disburse his prospective pension during pendency of this application even if it considered the petitioner has been removed from service.

.....”

25. The Learned Advocate representing the petitioner primarily submitted the single point for adjudication and determination in the instant writ petition focuses the release of pension with interest. It was further submitted in view of the annexed provision of Rule 22 of the Bank's Pension Regulations, 1995, the petitioner was entitled to pension since the forfeiture clause in existence prior to such amendment had been abrogated whereby the petitioner being at par with the employees stipulated therein had been entitled to receive pensionary benefit concerning the retrospective effect.

26. The Co-ordinate Bench in its order dated 03.02.2016 in W.P. No.30297(W) of 2015, Sri Goutam Chandra Dey Vs. Punjab National Bank & Ors., *inter alia*, observed as follows:-

“Pursuant to the order dated January 14, 2016, the bank has filed an affidavit detailing the amounts due to the petitioner under different heads. Since such affidavit has been served on the petitioner only on February 1, 2016, no reply has been used by the petitioner. However, the petitioner cannot demonstrate that any money in excess of what has been stated in the bank's affidavit is due or receivable by the petitioner from the bank.

The petitioner was removed from service. Though the order of punishment, as upheld in appeal, has been assailed in the present petition, when the matter appeared on January 14, 2016, the challenge to the order of punishment was abandoned and a prayer was made for the immediate release of the money due to the petitioner consequent upon his removal from service. Accordingly, the bank was required to indicate the money due under various heads.

In the affidavit filed by the bank, it has stated that leave encashment is not due to the petitioner upon his termination of service Rule 38 of the Punjab National Bank Officer Employees' Regulations has been relied upon for such purpose. The bank claims that since the provident fund contributed by the employer stands forfeited upon the termination of the service of an employee in accordance with the regulations, the petitioner would only be entitled to the employee's contribution towards provident fund and gratuity.

At paragraph 14 of its affidavit, the bank has indicated that against the accumulated amount of Rs.1,23,850/- in the petitioner's provident fund account made up of only the petitioner's contribution, the petitioner had obtained a loan of Rs.96,837/-. The bank is agreeable to make over the balance due of Rs.33,104.49.

At paragraph 18 of the bank's affidavit, it has indicated that it is entitled to adjust a sum of Rs.9,45,560/- on account of the loss suffered by the bank due to the petitioner's conduct for which the petitioner was punished with removal. After adjusting such amount of Rs.9,45,560/- from the gratuity entitlement of the petitioner of Rs.9,84,099/-, a sum of Rs.38,539/- is payable to the petitioner on account of gratuity.

At paragraph 20 of the bank's affidavit, it has been indicated that a total sum of Rs.71,643/- is due from the bank to the petitioner on account of terminal dues.

Since the petitioner accepts that he was not entitled to any money in lieu of unavailed leave and the petitioner cannot demonstrate that any further amount than the sum indicated in the bank's affidavit is due to the petitioner either on account of provident fund or on account of gratuity, WP 30297 (W) of 2015 is disposed of by directing the bank to release the admitted sum of Rs.71,643/- to the petitioner within four weeks from date, failing which the petitioner will be entitled to interest on such amount at the rate of six per cent per annum from the first calendar month after the petitioner's date of removal from service till payment.

There will be no order as costs."

27. In view of the aforesaid order, the petitioner having accepted the order of his dismissal from his service is precluded to reagitate the same through a fresh writ application on the self same cause of action. The principle of *res judicata* prevented the petitioner to challenge his dismissal from service yet again through the instant writ petition having foregone to oppose the same as would be evident from the tone and tenor of the order pronounced by the Co-ordinate Bench as aforesaid.

28. In ***Ramesh Chandra Sharma vs Punjab National Bank & Anr.***¹, the Hon'ble Supreme Court held as follows:-

"16. We may also at this juncture notice the relevant provisions of the Punjab National Bank Employees'(Pensions) Regulations, 1995. Regulation 22 of the said Regulation reads as under:

"22 (i)- Resignation or dismissal or removal or termination of an employee from the services of the Bank shall entail forfeiture of his entire past service and consequently shall not qualify for pensionary benefits."

¹2007 (9) SCC 15

Indisputably as a consequence of the order imposing the punishment of dismissal from service the appellant would not have qualified for the pensionary benefits. Our attention, however, has been drawn by Mr. Saxena to Regulations 43 and 48 to contend that even for the purpose of withholding pension, a specific order in that behalf by a competent authority was required to be passed. Pension Regulation is meant to be applicable where pension is required to be paid. It also provides for recovery of pecuniary loss caused to the Bank from the pensionary benefits of the employee.

Regulations 43 and 48 of the Pension Regulation are as under:

"43. Withholding or withdrawal of pension. The Competent Authority may, by order in writing, withhold or withdraw a pension or a part thereof, whether permanently or for a specified period, if the pensioner is convicted of a serious crime or criminal breach of trust or forgery of acting fraudulently or is found guilty of grave misconduct.

Provided that where a part of pension is withheld or withdrawn, the amount of such pension shall not be reduced below the minimum pension per mensem payable under these regulations."

"48. Recovery of Pecuniary loss caused to the Bank (1) The Competent Authority may withhold or withdraw a pension or a part thereof, whether permanently or for a specified period and order recovery from pension of the whole or part of any pecuniary loss caused to the Bank if in any departmental or judicial proceedings the pensioner is found guilty of grave misconduct or negligence or criminal breach of trust or forgery or acts done fraudulently during the period of his service:

Provided that the Board shall be consulted before any final orders are passed;

Provided further that departmental proceedings, if instituted while the employee was in service, shall, after the retirement of the employee, be deemed to be proceedings under these regulations and shall be continued and concluded by the authority by which they were

commenced in the same manner as if the employee had continued in service;

(2) No departmental proceedings, if not instituted while the employee was in service, shall be instituted in respect of an event which took place more than four years before such institution:

Provided that the disciplinary proceedings so instituted shall be in accordance with the procedure applicable to disciplinary proceedings in relation to the employee during the period of his service. (3) Where the Competent Authority orders recovery of pecuniary loss from the pension, the recovery shall not ordinarily be made at a rate exceeding one-third of the pension admissible on the date of retirement of the employee:

Provided that where a part of pension is withheld or withdrawn, the amount of pension drawn by a pensioner shall not be less than the minimum pension payable under these regulations."

17. Where a proceeding is initiated for withholding or withdrawal of pension, Regulation 43 of the Pension Regulations would be attracted. But provisions of the said Regulation if read in its entirety clearly go to show that an officer would not qualify for pensionary benefits, if inter alia, he is dismissed from services.

Regulation 48 empowers the Bank to recover pecuniary loss caused to it from the pensionary benefits. Regulation 20(3)(iii) of the Discipline and Appeal Regulations must be read in conjunction with the Pension Regulations. Where the employees are pension optees, Regulation 48(1) shall apply. In any event, if an officer is removed or dismissed from service under Regulation 4 of the (Discipline & Appeal) Regulations, the Bank need not take recourse to Regulation 48 of the Pension Regulations as Regulation 22 thereof would be attracted.

We are, therefore, of the opinion that the High Court committed a manifest error in passing the impugned judgment."

29. In the aforesaid decision of the Hon'ble Supreme Court observed that an officer would not qualify to the benefit of pension if he had been dismissed from service in accordance to Regulation 43 of the Pension Regulation. Moreover, if an employee was removed or dismissed from service under Regulation 4 of the (Discipline and Appeal Regulations), Regulation 22 thereof would be attracted.

30. Such an observation was prior to the publication of notification being No. HO: Pension/Misc/2024(E) dated New Delhi, the 28th June, 2024 issued by the Punjab National Bank (Human Resources Department), Head Office, New Delhi published in the Gazette of India amending Regulation 22 with an insertion of a proviso stated as follows:-

“.....

3. In regulation 22 of the said regulations, in sub-regulation (1), the following proviso shall be inserted, namely:-

‘Provided that the removal of an employee, who is employed in the service of the Bank as a workman on full time work on permanent basis or on part-time work on permanent basis on scale wages, shall not entail for forfeiture of his entire past service and shall qualify for pensionary benefits.’

.....

Explanatory Memorandum

The regulations which have been given retrospective effect are as per the agreed terms and conditions of the settlements and Joint Notes signed between the Indian Banks' Association on behalf of member banks on the basis of specific mandate given by the respective banks in this regard and apex level workmen unions and officers' associations of the banks. Therefore, interests of no person shall be adversely affected by such retrospective effect.

.....”

31. In **UCO Bank & Anr. Vs. Vijay Kumar Handa** in Civil Appeal No.5922 of 2024, the Hon’ble Apex Court observed as follows:-

17. *A Bipartite Settlement was arrived at between the Indian Banks’ Association and the Banks’ Workmen Union on 19.10.1966. This settlement was arrived at under Section 2(p) and Section 18(1) of the Industrial Disputes Act read with Rule 58 of the Industrial Disputes (Central) Rules, 1957. This settlement therefore has a statutory backing and is binding on the parties. Respondent was charged with committing an act of gross misconduct as defined in Clause 19.5(c) of the aforesaid Bipartite Settlement which was proved by the Enquiry Officer and accepted by the disciplinary authority. On 10.04.2002, a further settlement was arrived at between the Indian Banks’ Association, representing the management on the one hand, and the workmen represented by the All India Bank Employees’ Association, National Confederation of Bank employees and Indian National Bank Employees’ Federation on the other hand. Pursuant thereto, Clause 6(b) was inserted in the said Bipartite Settlement providing for one of the penalties which may be imposed on a delinquent employee found guilty of gross misconduct. Clause 6(b) reads as follows:*

6. An employee found guilty of gross misconduct may:

*(a) * * * * **

(b) be removed from service with superannuation benefits i.e. pension and/or provident fund and gratuity as would be due otherwise under the rules or regulations prevailing at the relevant time and without disqualification from future employment; or

17.1. *Thus, as per the aforesaid clause, an employee who is found guilty of gross misconduct may be removed from service but would be provided with superannuation benefits which would otherwise be due*

to him. Further, the penalty of removal from service would be without disqualification from future employment.

18. In the instant case, the initial penalty imposed on the respondent by the appellant was dismissal from service with immediate effect after having been found guilty of gross misconduct as per Clause 19.5(c) of the Bipartite Settlement. Appellate authority vide the order dated 16.02.2000 modified the penalty order dated 14.12.1999 passed by the disciplinary authority by substituting the penalty of dismissal from service by removal from service with terminal benefits. The substituted penalty in terms of the appellate order dated 16.02.2000 reads as under:

Shri V.K. Handa (PFM No. 22488) is hereby removed from the bank's service with immediate effect. However, he will be entitled to receive the terminal benefits for the period of service he has rendered. Removal from service will not be a disqualification for his future employment.

19. We have already seen that respondent had raised an industrial dispute which culminated in an award dated 13.02.2004. As per this award, Labour Court had invoked the provisions of Section 11A of the Industrial Disputes Act and substituted the penalty of removal from service with terminal benefits by the penalty of stoppage of four increments for one year with further direction for reinstatement in service with 75 percent back wages. This award of the Labour Court failed to stand judicial scrutiny as learned Single Judge of the High Court set aside the same which decision was affirmed by the Division Bench in letters patent appeal. This sequence of events demonstrates that the modified penalty as imposed by the appellate authority attained finality as this appellate order was not questioned by the appellant.

20. *Learned senior counsel for the appellant in the course of her submissions placed reliance on Regulation 22 of the Regulations, 1995. Regulation 22(1) of the aforesaid regulations reads thus:*

22. Forfeiture of service.-(1) Resignation or dismissal or removal or termination of an employee from the service of the Bank shall entail forfeiture of his entire past service and consequently shall not qualify for pensionary benefits.

20.1. *According to her, in view of Regulation 22, the respondent would not be entitled to pension.*

21. *Interplay of Clause 6(b) of the Bipartite Settlement and Regulation 22 of the Regulations, 1995 was examined by this Court in S.K. Kool (supra) and after due consideration answered the same in the following manner:*

13. *.....From a plain reading of the aforesaid Regulation, it is evident that removal of an employee shall entail forfeiture of his entire past service and consequently such an employee shall not qualify for pensionary benefits. If we accept this submission, no employee removed from service in any event would be entitled for pensionary benefits. But the fact of the matter is that the Bipartite Settlement provides for removal from service with pensionary benefits "as would be due otherwise under the rules or regulations prevailing at the relevant time". The consequence of this construction would be that the words quoted above shall become a dead letter. Such a construction has to be avoided.*

14. *The Regulations do not entitle every employee to pensionary benefits. Its application and eligibility is provided under Chapter II of the Regulations whereas Chapter IV deals with qualifying service. An employee who has rendered a minimum of ten years of service and fulfils other conditions only can qualify for pension in terms of Regulation 14 of the Regulations. Therefore, the expression "as would be due otherwise" would mean only such*

employees who are eligible and have put in minimum number of years of service to qualify for pension. However, such of the employees who are not eligible and have not put in required number of years of qualifying service shall not be entitled to the superannuation benefits though removed from service in terms of Clause 6(b) of the Bipartite Settlement. Clause 6(b) came to be inserted as one of the punishments on account of the Bipartite Settlement. It provides for payment of superannuation benefits as would be due otherwise.

15. *The Bipartite Settlement tends to provide a punishment which gives superannuation benefits otherwise due. The construction canvassed by the employer shall give nothing to the employees in any event. Will it not be a fraud Bipartite Settlement? Obviously it would be. From the conspectus of what we have observed we have no doubt that such of the employees who are otherwise eligible for superannuation benefit are removed from service in terms of Clause 6(b) of the Bipartite Settlement shall be entitled to superannuation benefits. This is the only construction which would harmonise the two provisions. It is well-settled rule of construction that in case of apparent conflict between the two provisions, they should be so interpreted that the effect is given to both. Hence, we are of the opinion that such of the employees who are otherwise entitled to superannuation benefits under the Regulations if visited with the penalty of removal from service with superannuation benefits shall be entitled for those benefits and such of the employees though visited with the same penalty but are not eligible for superannuation benefits under the Regulations shall not be entitled to that.*

22. *Both the learned Single Judge and the Division Bench had followed the aforesaid decision of this Court. Learned Single Judge noted that respondent had submitted his option for pension on*

05.10.2010. Learned Single Judge also held that objection of the appellant to the claim of pension by the respondent was without any basis in as much as the appellate authority had specifically held that respondent would be entitled to receive terminal benefits for the period of service he had rendered. This order of the appellate authority has attained finality. Therefore, it was held that respondent was entitled to receive pension in view of the order passed by the appellate authority. This view of the learned Single Judge has been endorsed by the Division Bench in the impugned judgment. The decision in S.K. Kool (supra) is binding on us. Therefore, we do not find any compelling reason to interfere with the concurrent findings of the learned Single Judge and the Division Bench while exercising our jurisdiction under Article 136 of the Constitution of India.

.....”

32. The Hon'ble Supreme Court considering the decision in **S.K. Kool (supra)** had categorically opined that the employees who had been otherwise entitled to superannuation benefits under the regulations were penalized with removal from service along with superannuation benefits should be entitled to such benefits. However, the employees to have been punished with a penalty of removal from service without being considered eligible for superannuation benefits should not receive the same under the regulations.
33. The petitioner herein was removed from service being imposed of a major penalty without disqualifying from future employment by order dated 27.10.2014 under Regulation 4(i) of the aforesaid Pension Regulation.
34. Since the Disciplinary Proceedings Authority as well as the Appellate Authority imposed the major punishment of removal from service without

granting any superannuation benefit in favour of the petitioner, the same was not entitled to such benefits.

35. Moreover, the petitioner had admitted his claim consensually as reflected in the order of the Co-ordinate Bench as aforesaid. The petitioner having approbated his claim through filing of the writ petition being disposed of cannot re-approbate the same by filing the instant writ petition contradicting his earlier stance which had been favorably disposed of by the Co-ordinate Bench as aforesaid exercising writ jurisdiction of this Hon'ble Court.
36. However, the petitioner may invoke Rule 31 being the "*Compassionate Allowance*", a provision of Bank of India (Employees') Pension Regulations, 1995, applicable to the respondent Punjab National Bank.
37. Rule 31 of the Bank of India (Employees') Pension Regulations, 1995 as aforesaid stipulated as follows:-

"31 Compassionate Allowance

(1) An employee, who is dismissed or removed or terminated from service, shall forfeit his pension;

Provided that the authority higher than the authority competent to dismiss or remove or terminate him from service may, if –

- (i) such dismissal, removal or termination is on or after the 1st day of November, 1993; and*
- (ii) the case is deserving of special consideration, sanction a compassionate allowance not exceeding two-thirds of the pension which would have been admissible to him on the basis of the qualifying service rendered up to the date of this dismissal, removal, or termination.*

(2) The Compassionate Allowance sanctioned under the proviso to sub-Regulation (1) shall not be less than the amount of minimum pension payable under Regulation 36 of these Regulations.”

38. In view of the aforesaid rule, the petitioner is to file a representation before the respondent bank for consideration to sanction compassionate allowance accordingly, within a month of passing of this order and the respondent bank is to dispose of such representation within a period of thirty days from the receiving the representation filed by the petitioner.

39. In view of the above discussions, the writ petition being WPA 1340 of 2018 is disposed of.

40. There is no order as to costs.

41. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)