IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Ananya Bandyopadhyay

W.P.A. 8496 of 2017

Sunil Kumar Bhattacharjee
-Vs-
The Chairman and Managing Director Central Bank of India & Ors.

For the Petitioner	: Mr. Suvadeep Sen Mr. Debasish Ghosh
For the Respondents	: Mr. S. Pal Choudhuri Ms. Shilpi Paul
Heard on	: 18.07.2024, 04.09.2024, 13.09.2024, 27.11.2024
Judgment on	: 19.05.2025

<u>Ananya Bandyopadhyay, J.:-</u>

1. The petitioner, a former Senior Manager at the Central Bank of India, had retired on 31.12.2004 and had sought full pensionary benefits with interest, alleging that the disciplinary proceedings initiated against him post-retirement had been unjust. Following his retirement, a show-cause notice had been issued to him in January 2005, and disciplinary proceedings had subsequently been initiated under the Central Bank of India (Employees) Pension Regulations, 1995. It had been alleged that he had committed serious irregularities in sanctioning multiple housing loans,

which had later become Non-Performing Assets (NPAs), causing substantial losses to the respondent bank. A charge-sheet had been issued in 2006, but the petitioner had repeatedly failed to attend scheduled hearings despite multiple notices. As a result, an ex parte enquiry had been conducted. The petitioner had been found guilty of misconduct for sanctioning several high-value loans that had turned into NPAs, and a final order had been passed by the disciplinary authority on 27.03.2007, which the petitioner had attempted to challenge nearly a decade later, in 2017.

2. The petitioner had prayed for a writ in the nature of mandamus commanding the respondent authorities to grant him full pensionary benefits from 1st January, 2005, along with commutation of pension and interest thereon, interest on the gratuity payment for the period from 1st January, 2005 to 23rd February, 2006, and the differential amount of pension from 1st January, 2005 to February 2017 along with interest.

3. The petitioner had joined the Central Bank of India (referred to as “the Bank”) in July 1967 as a Clerk and had subsequently been promoted to the position of Senior Manager. He had retired from service on 31st December, 2004 while posted at the College Street Branch. It had been alleged that, while serving in that position, the petitioner had committed several irregularities in sanctioning housing and other loans, which had eventually turned into Non-Performing Assets, causing significant loss to the Bank.

4. A show-cause notice had been issued by the Bank on 24th January, 2005, asking the petitioner to explain why disciplinary action should not be

initiated for misconduct. The Bank had also withheld the petitioner's retiral dues. The petitioner had challenged the same before the Hon'ble High Court, and upon hearing, the Hon'ble Court had directed the Chairman and Managing Director of the Bank to pass a reasoned order, which had subsequently been passed in compliance with the said direction.

5. On 14.06.2006/23.06.2006, a charge sheet had been issued by the Bank within four years of retirement, proposing a departmental enquiry under Regulations 45 and 48 of the Central Bank of India (Employees) Pension Regulations, 1995 in respect of alleged misconduct during the petitioner's tenure as Senior Manager. The charge sheet had included Articles of Charges and Statements of Imputation. It had been conveyed to the petitioner that the charges would constitute misconduct within the meaning of Regulation 3 read with Regulation 24 of the Central Bank of India Officer Employees' (Conduct) Regulations, 1976. The charge sheet had been received by the petitioner on 24.02.2006, and he had submitted his reply on 14.04.2006.

6. The Bank had informed the petitioner by letter dated 08.04.2006 that a preliminary hearing had been scheduled on 17.05.2006. The petitioner had acknowledged receipt of this letter dated 08.05.2006 but had refused to participate in the proceedings from 17.05.2006 onward.

7. Despite being aware of the initiation and continuance of the disciplinary proceedings, the petitioner had refused to take part. Consequently, an ex parte enquiry had been conducted, and evidence had been recorded. The

enquiry had concluded on 12.07.2006. The petitioner had acknowledged that he had not been granted time and had stated that the Bank had acted arbitrarily and with an ulterior motive, yet he had still declined to participate.

8. The Enquiry Officer had issued several letters by registered post with acknowledgment due (A/D) between May and June 2006, informing the petitioner of the scheduled hearing dates: 17.05.2006, 02.06.2006, 15.06.2006, and finally 12.07.2006. On each occasion, the petitioner had failed to appear. After the Bank's evidence had been closed, the enquiry officer had sent the records to the petitioner on 23.08.2006 requesting him to submit his evidence within seven days. However, the letter had been returned undelivered, and no submission had been received from the petitioner.

9. The Enquiry Officer had submitted the findings to the appropriate authority. On 17.02.2007, the Bank's Board had approved the final order, which had then been passed by the Disciplinary Authority on 27.03.2007. Attempts had been made to serve the final order both by hand and registered post. On 29.03.2007, the Bank's representatives had visited the petitioner's residence, but his wife had refused to accept the documents on his instruction. The sealed envelope sent by post had also not been received. The petitioner had challenged the order in 2017—ten years later.

10. It had been acknowledged that the petitioner had been informed of the effect of the final order on his retiral benefits as early as 21.08.2008, when the Bank had communicated the outcome to him.

11. The petitioner had been proceeded against under Regulations 45 and 48 of the Central Bank of India (Employees) Pension Regulations, 1995

> "*The Competent Authority may withhold or withdraw a pension or a part thereof, whether permanently or for a specific period and order recovery from pension of the whole or part of any pecuniary loss caused to the bank if in any departmental or proceedings the petitioner is found guilty of misconduct or negligence*".

12. It had been stated that all relevant details had duly been recorded in the order passed by the Disciplinary Authority. It had been found that, in respect of Charge No. 1, a loan amounting to ₹30 lakh and another of ₹12 lakh had been sanctioned by the petitioner, and both accounts had subsequently been classified as NPAs. In relation to Charge No. 2, a loan of ₹15 lakh had been sanctioned by the petitioner, and that account had also turned into an NPA. Under Charge No. 3, it had been recorded that a loan limit of ₹48 lakh had been sanctioned, and the said account had become an NPA. For Charge No. 4, it had been noted that a loan limit of ₹10 lakh had been sanctioned by the petitioner, and that account too had become an NPA. In Charge No. 5, it had been found that the petitioner had sanctioned six housing loans, and all those loan accounts had subsequently turned into NPAs.

13. It had further been recorded that banking transactions relating to advances, income recognition, and asset classification had been guided by the circulars of the Reserve Bank of India. The position of the accounts had been governed by the Master Circular on Prudential Norms on Income Recognition, Asset Classification and Provisioning Pertaining to Advances, which had been referred to as "the said circular."

14. Said Circular says as:-

"*2. DEFINITIONS of NPA*

2.1 Non-performing Assets

2.1.1 An asset, including a leased asset, becomes non performing when it ceases to generate income for the bank.

2.1.2 A non-performing asset (NPA) is a loan or an advance where;

a) interest and/or instalment of principal remain overdue for a period of more than 90 days in respect of a term loan,

b) the account remains out of order' as indicated at paragraph 2.2 below, in respect of an Overdraft/Cash Credit (OD/CC),

c) the bill remains overdue for a period of more than 90 days in the case of bills purchased and discounted,

d) the instalment of principal or interest thereon remains overdue for two crop seasons for short duration crops, *e) the instalment of principal or interest thereon remains overdue for one crop season for long duration crops,*

f) the amount of liquidity facility remains outstanding for more than 90 days, 2 DBOD-MC On IRAC Norms 2014 in respect of a securitization transaction undertaken in terms of guidelines on securitization dated February 1, 2006.

g) in respect of derivative transactions, the overdue receivables representing positive mark-to-market value of a derivative contract, if these remain unpaid for a period of 90 days from the specified due date for payment.

...

Classification Assets:

ASSET CLASSIFICATION:

a) Categories of NPAs Banks are required to classify nonperforming assets further into the following three categories based on the period for which the asset has remained nonperforming and the realisability of the dues:

i. Substandard Assets

ii. Doubtful Assets

iii. Loss Assets

b) *Substandard Assets With effect from March 31, 2005, a substandard asset would be one, which has remained NPA for a period less than or equal to 12 months. Such an asset will have well defined credit weaknesses that jeopardize the liquidation of the debt and are characterized by the distinct possibility that the banks will sustain some loss, if deficiencies are not corrected.*

c) *Doubtful Assets With effect from March 31, 2005, an asset would be classified as doubtful if it has remained in the substandard category for a period of 12 months. A loan classified as doubtful has all the weaknesses inherent in assets that were classified as substandard, with the added characteristic that the weaknesses make collection or liquidation in full, on the basis of currently known facts, conditions and values - highly questionable and improbable.*

d) *Loss Assets A loss asset is one where loss has been identified by the bank or internal or external auditors or the RBI inspection but the amount has not been written off wholly. In other words, such an asset is considered uncollectible and of such little value that its continuance as a bankable asset is not warranted although there may be some salvage or recovery value.*

e) *What are the treatment of NPA (Loss Assets)*

…

f) Loss assets Loss assets should be written off. If loss assets are permitted to remain in the books for any reason, 100 percent of the outstanding should be provided for.

Effect of NPA (Loss Assets)

…

g) Loss assets The entire asset should be written off. If for any reason, an asset is allowed to remain in books, 100 percent of the sum of the net investment in the lease and the unrealized portion of finance income net of finance charge component should be provided for.”

15. The learned advocate for the petitioners submitted that the disciplinary proceeding was conducted ex parte without furnishing the petitioner with copies of the daily proceedings, deposition of witnesses, materials relied upon by the Bank, the enquiry report, or the final penalty order. It was argued that no communication of the disciplinary authority’s decision had been made to the petitioner until the filing of the writ petition.

16. It was further submitted that the charge sheet had been issued by the Assistant General Manager and the Disciplinary Authority, whereas in terms of the applicable Service Regulations, the Board of Directors was the Affiliated Authority. The communication dated 21st August, 2008, was alleged to be an instance of highhanded and illegal action on the part of the Bank. The Bank, by its letter dated 15th March, 2013, admitted it had no

record of serving the findings of the enquiry or the final order on the petitioner.

17. The learned advocate for the petitioners submitted that the respondent Bank reduced the petitioner's pensionary benefits invoking Regulation 48 of the Pension Regulations, 1995, without any quantified loss, and in contravention of Regulations 46 and 20(3) of the Pension and Discipline & Appeal Regulations, respectively. It was contended that Regulation 46, introduced in 1995, entitled the petitioner to provisional pension during pending proceedings, and that Regulations 9 and 20 of the Central Bank of India Officer Employees' (Discipline and Appeal) Regulations, 1976 required service of orders on the petitioner.

18. It was submitted that Regulation 20(3), introduced in 1998, permitted withholding of retrial dues only where disciplinary proceedings had been initiated before superannuation, which was not the case here. A comparative reading of Regulations 46 and 48 of the Pension Regulations and Regulation 20(3) of the Discipline and Appeal Regulations was said to indicate that the Bank lacked jurisdiction to initiate disciplinary proceedings against a retired employee. The Bank's own clarifications under Regulation 20, uploaded on its website, were relied upon to support this position.

19. The learned advocate for the petitioners submitted that the Pension Regulations could only govern pension-related recovery and could not override the Discipline and Appeal Regulations, which were special provisions dealing with conduct proceedings. It was submitted that the judgment dated 19th November, 2024 in State Bank of India and Others -

Vs.- Navin Kumar Sinha in Civil Appeal No. 1279 of 2024 held that disciplinary proceedings could not be initiated after the officer's superannuation.

20. The learned advocate for the petitioners further submitted that the purported disciplinary action was initiated post-superannuation without compliance with Regulation 20(3), and no order was served upon the petitioner. The recovery under Regulation 48 was stated to be impermissible in the absence of a quantified loss. It was argued that neither the charge sheet dated 14/23.02.2006 nor the final order dated 19.03.2007 specified any pecuniary loss, and the punishment of withdrawal of 50% pension was thus unlawful.

21. It was submitted that the petitioner was entitled to the full commuted value of pension calculated on the basis of Rs.3,25,000/- as of January 2005, with interest. The petitioner was also entitled to a differential amount of Rs.15,52,250/- for the period from January 2005 to February 2017, full pension from March 2017 amounting to Rs.31,140/-, interest on gratuity from 01.01.2005 to 23.02.2006, and the restoration of one-third commuted pension under Regulation 41 of the Pension Regulations, since the fifteen-year period ended on 31.12.2019.

22. The learned advocate for the petitioners submitted that the purported final order dated 19.03.2007 and the subsequent administrative order dated 27.03.2007 were never served on the petitioner, and were received for the first time upon filing of the affidavit in opposition. These orders, it was submitted, were ex facie illegal, void, and without jurisdiction, and were

liable to be quashed. The petitioner prayed for all consequential pensionary benefits, including revised scale arrears and interest.

23. The learned advocate for the respondents submitted that disciplinary action was lawfully commenced and concluded under Regulations 45 and 48 of the Central Bank of India (Employees) Pension Regulations 1995, which empower the competent authority to withhold or withdraw pension, permanently or for a period, and to order recovery of any pecuniary loss proved in departmental proceedings. The petitioner, having received the charge-sheet, notices and preliminary-hearing intimation, replied on 13 April 2011 but thereafter declined to participate; the enquiry therefore proceeded ex parte, the charges of unauthorised credit facilities and consequent non-performing assets were proved, and the competent authority imposed punishment strictly in conformity with Rule and natural-justice requirements.

24. The learned advocate for the respondents submitted that judicial review cannot revisit the merits of such findings: reliance was placed on K. Vinod Kumar v. S. Palanisamy (2003) 10 SCC, Union of India v. P. Gunasekaran (2015) 2 SCC 610, and Apparel Export Promotion Council v. A.K. Chopra AIR 1999 SC, which confine writ-court scrutiny to the decision-making process. It was argued that technical rules of evidence are inapplicable in departmental enquiries and that determinations based on preponderance of probabilities are sufficient, citing Lalit Popli and Deputy General Manager (Appellate Authority) v. Ajay Kumar Srivastava (2021) 2 SCC. The Bank emphasised that officers hold positions of trust demanding “utmost integrity”, referring to Disciplinary Authority-cum-Regional

Manager v. Nikunj Behari Patnaik (1996) 9 SCC 69, Ajay Kumar Srivastava (supra) and Pravin Kumar v. Union of India (2020) 9 SCC 471; accordingly, the dismissal was not shockingly disproportionate, echoing United Bank of India v. Bachan Prasad Lall AIR 2022 SC 943.

25. The learned advocate for the respondents submitted that the petitioner's challenge is barred by delay, laches and acquiescence: the disciplinary order of 21 August 2008 was allowed to stand unchallenged for a decade, attracting the bar noted in AIR 2022 SC 582 and (2014) 4 SCC 108. The petitioner chose neither to appeal within the Bank nor to seek timely judicial relief, thereby forfeiting any equitable claim. It was contended that the Bank's enquiry observed all statutory procedures, no legal right of the petitioner has been violated, and the established loss on the loan accounts—classified as NPAs under Reserve Bank of India guidelines—justified recovery under Regulation 48; hence no interference is warranted with the disciplinary and appellate orders.

26. The petitioner, a former Senior Manager of the Central Bank of India, superannuated from service on 31st December, 2004. The grievance of the petitioner is with respect to the withholding of his pensionary benefits, including commuted pension and interest thereon, on the purported ground of disciplinary proceedings initiated post-retirement. The petitioner has, accordingly, prayed for setting aside the orders dated 19th and 27th March, 2007, whereby the disciplinary authority imposed a penalty under the Central Bank of India (Employees) Pension Regulations, 1995, and has sought direction for the restoration of full pensionary benefits with interest.

27. Pursuant to the petitioner's retirement, the bank issued a show cause notice dated January 2005, followed by initiation of departmental proceedings alleging grave irregularities in sanctioning housing loans to multiple parties which subsequently turned into Non-Performing Assets (NPAs), thereby allegedly causing substantial financial loss to the bank. A charge-sheet was issued in 2006. However, despite repeated notices, the petitioner chose not to participate in the enquiry, resulting in the proceedings being concluded ex parte. The disciplinary authority ultimately found the petitioner guilty of misconduct and issued a final order on 27th March, 2007. The petitioner sought to assail the same belatedly in 2017.

28. The Learned Advocate for the petitioner contended that the proceedings were without jurisdiction and vitiated by procedural irregularity. It was urged that the Central Bank of India Officer Employees' (Discipline and Appeal) Regulations, 1976, under which disciplinary action had allegedly been initiated, ceased to have applicability post-superannuation and, thus, no authority vested with the Bank to initiate or continue disciplinary proceedings after the petitioner's retirement. It was further submitted that the petitioner was never served with the enquiry report, charge-sheet, or the penalty order, nor was he granted any opportunity of appeal, thereby rendering the enquiry in breach of the principles of natural justice. The invocation of Regulation 48 of the Pension Regulations, 1995, was also challenged on the ground that no quantified loss had been demonstrated in the charge-sheet or final order, and thus the penalty imposed was arbitrary and disproportionate. The petitioner asserted his entitlement to full pension,

including restoration of commuted pension after 15 years in terms of Regulation 41, and placed reliance on the judgment of the Hon'ble Supreme Court in *SBI v. Navin Kumar Sinha*, to contend that post-retirement disciplinary proceedings are impermissible in law.

29. Per contra, the Learned Advocate representing the respondent-Bank submitted that the disciplinary proceedings had been conducted strictly in accordance with the provisions of the Central Bank of India (Employees) Pension Regulations, 1995, particularly Regulations 45 and 48, which expressly permit such proceedings and empower the competent authority to withhold pension wholly or in part in cases of proven misconduct. It was contended that the petitioner had full knowledge of the proceedings, having received the charge-sheet and notice of hearing, but wilfully abstained from participating. The findings in the enquiry revealed that the petitioner had sanctioned multiple high-value loans without due diligence, which had turned into NPAs and caused tangible loss to the bank. The respondents emphasized that under RBI guidelines, such NPAs, especially those classified as 'loss assets', are to be fully written off, thereby establishing pecuniary loss. The Bank urged that the penalty imposed was neither disproportionate nor illegal, given the nature of the misconduct and the fiduciary position held by the petitioner.

30. It was further argued that judicial review under Article 226 does not entail re-appreciation of evidence or interference with findings rendered in domestic enquiries held in accordance with law. Reliance was placed on multiple decisions of the Hon'ble Apex Court, including *K. Vinod Kumar v. S.*

Palanisamy, *(2003) 10 SCC*, and *Union of India v. P. Gunasekaran*, *(2015) 2 SCC 610*, to underscore that the High Court ought not interfere in the merits of disciplinary decisions unless shown to be perverse or in violation of natural justice. The respondents also invoked the principles of delay and laches, submitting that the writ petition, having been filed nearly a decade after the final order, was not maintainable and deserved outright dismissal.

31. The order passed by the Chairperson and Managing Director of the Central Bank of India vide No.CMD:HRD:2006:192 dated 21st of February, 2006 reflected as follows:-

> *"In reference to the captioned Court's Order, I have perused the Bank's relevant records of the case, including the representations of the Petitioner. My observations with regard to the same and the Order are as under:*
>
> 1. *Petitioner retired from Bank's service on superannuation on 31/12/2004.*
> 2. *He was paid his own contribution to the PF account on 18.1.2005.*
> 3. *Since he is a Pension Optee, the Bank's contribution to his PF account stood transferred to the Pension Fund.*
> 4. *After his retirement, certain lapses on the part of the Petitioner committed in granting advances while working as the Branch Manager of College Street Branch, came to light.*
> 5. *The reported lapses are of the period June 2002 to September 2004.*
> 6. *Investigations were carried out and it was reported that the lapses were of grave nature and hence the Bank issued him a Memo dated 24.6.2005 calling for his explanation with respect to the same.*

7. *The Petitioner filed the captioned Writ Petition copy whereof was not received by the Bank and the Bank came to know of the Order passed by the Hon'ble Court only when it was served by the Petitioner on 17th December 2005.*
8. *At the time of his retirement he was entitled to be paid his Gratuity dues as also Pension, albeit subject to the Bank's right of proceeding against him under the Bank's Pension Regulations for his reported misconduct.*
9. *In the light of the above, I pass the following Order*

   'The Petitioner shall be paid his Gratuity dues, payable to him as per Bank's Gratuity Rules/The Payment of Gratuity Act, whichever would be applicable in his case. He shall also be paid the pension amount under the Pension Regulations subject to the Bank's right or proceeding against him in respect of the reported lapses/misconduct and he shall be liable for the consequences thereof.' Such dues shall be paid subject to the petitioner completing all formalities in this regard as per Bank's form.

   The Petitioner may be informed of the Bank's above decision on his representations and this Order may be served on his forthwith.

   Lastly, in view of the dues having been ordered to be paid as above, as advised, I dispense with personal hearing to be given to the Petitioner in the matter."

32. The charge-sheet issued by the Disciplinary Authority, Central Bank of India, Regional Office, Kolkata vide No. RO/N/KOL/DA/05-06/02/216 dated 14.02.2006 stated as follows:-

"CHARGESHEET

Sri Sunil Kumar Bhattacharjee is hereby informed that it is proposed to hold a departmental enquiry against him. In terms of Regulation 45 & 48 of Central Bank of India (Employees) Pension Regulation, 1995 in regard to the imputations of misconduct committed by him during the *period of his working in the bank as Senior Manager set out in the enclosed Articles of charge (Annexure-I), Statement of Imputation of misconduct in support of Article of charge (Annexure-II) is also enclosed.*

Sri Bhattacharjee is hereby directed to submit within 15 days of the receipt hereof a written statement of defence.

Sri Bhattacharjee is hereby informed that the enquiry will be held in respect of the Article of charge not admitted by him. He should, therefore, specifically admit or deny each article of charge.

Sri Bhattacharjee is informed that he will be given full opportunity at the enquiry to inspect the documents which will be filed by the management along with all the opportunity to lead evidences, documentary as well as oral. If he so desires he may take the assistance of any officer employee to represent his case before the inquiring authority.

Sri Bhattacharjee is further informed that if he does not appear in person before the Inquiring Authority on the date intimated to him or otherwise, or refuses to comply with the orders and directions issued to him, the enquiry is liable to be held ex-parte and such orders as may be passed thereupon will be binding on him.

Sri Bhattacharjee should note that the Article of charges listed would constitute misconduct within the meaning of Regulation 3 read with Regulation 24 of Central Bank of India Officer Employees' (Conduct) Regulation, 1976, attracting penal action under C.B.I. (Employees') Pension Regulation 1995.

DISCIPLINARY AUTHORITY

To: Sri Sunil Kumar Bhattacharjee,
Ex-Sr. Manager,
Central Bank of India,
College Street Branch. (Now residing at
17A, Sitaram Road, P.O. Bansdroni, Kolkata 700 070)"

33. The Annexure-I containing the Article of Charges against Sri Sunil Kumar Bhattacharjee, Ex-Senior Manager of College Street Branch issued by the Disciplinary Authority, Central Bank of India, Regional Office, Kolkata (North) vide No. File: bnpal/alpn/prsda.b contd/183 stated as follows:-

> *"While working as Senior Manager of College Street Branch during the period from 27-05-2002 to 31-12-2004, Sri Sunil Kr. Bhattacharjee committed the following lapses:*
>
> 1. *He abused his official position by sanctioning Loan & Advances to M/s. Meghna Nirman Udyog, a proprietory firm (Proprietor: Sri Kaushik Roy) when he had no power to sanction them. Thus, he exposed the Bank to financial risk by sanctioning and disbursing the said loans and advances.*
> 2. *He abused his official position by sanctioning O/D limit to M/s. Das contractors violating the guidelines for sanctioning of advances under Cent-trade scheme. He also did not make post sanction monitoring. Thus, he exposed the Bank to unnecessary risk.*
> 3. *He sanctioned Cash Credit Limit to M/s. Dataman Infotect Pvt. Ltd. ignoring the irregular features prevailing in their a/cs with other banks. Proper post-sanction monitoring was also not done. Thus, he exposed the bank to unnecessary risk.*
> 4. *He abused his official position by sanctioning O/D limit under Cent-trade to M/s. Venkateswar Balaji Industries violating bank's guidelines for sanctioning O/D limit to a party under Cent-trade scheme.*
> 5. *He disbursed Housing Loan to different parties violating bank's guidelines for disbursement of loans. Thus, he exposed the bank to unnecessary risk by disbursing the loan in irregular manner.*
>
> *(R. A. Mittal)*
>
> *<u>DISCIPLINARY AUTHORITY</u>"*

34. The Annexure-II regarding statement of imputation in respect of article of charges against Sri Sunil Kumar Bhattacharjee, Ex-Sr. Manager, College Street Branch issued by the Disciplinary Authority, Central Bank of India, Regional Office, Kolkata vide No. File: bnpal/alpn/prsda.b contd/184 is reflected as follows:-

"*STATEMENT OF IMPUTATION IN RESPECT OF ARTICLE OF CHARGES AGAINST SRI SUNIL KUMAR BHATTACHARJEE, EX-SR MANAGER, COLLEGE STREET BRANCH*

CHARGE NO.1

Sri Sunil Kr. Bhattacharjee had sanctioned an overdraft limit of Rs. 30.00 lac to Meghna Nirman Udyog on 18-08-2003 against the order of a sub-contract for construction of a boys' hostel at Haldia Institute of Technology, Haldia when he did not have any lending power for such an advance. He also allowed disbursement thereof. Thus, the facility was sanctioned by him in exercise of authority which is beyond the jurisdiction of lending power delegated to him. He also failed to make the following:

a) *The party's credit proposal was based on a sub-contract allowed by the main contractor to the said party.*
b) *No status report of other firm, to which the proprietor is associated, was obtained from other banker.*
c) *Not obtaining of the inspection report about progress of construction at any point of time.*
d) *Bills were never routed through the Bank.*
e) *Registration of Power of Attorney by the party in bank's favour was not done with the respective organizations responsible to pay the bills to the party.*
f) *He did not make proper post-sanction follow up.*

He also sanctioned a Term Loan of Rs. 12.00 lac to the same party on 24/12/03 for purchasing of machineries and allowed disbursement thereof but no inspection was carried out after disbursement of Term

Loan. The account has ultimately turned into NPA. Thus Sri Bhattacharjee acted in a manner prejudicial to the interest of the bank and had not taken all possible steps to ensure and protect the interest of the bank and put to bank financial risk which are unbecoming of an officer worked as incharge of a branch and is charged under Regulation 3(1) & 3 of the CBIOE (Conduct) Regulation 1976.

Charge No.2

Sri S. K. Bhattacharjee had sanctioned on O/D limit of Rs. 15.00 lac on 22-11-2002 to a contractor firm viz. M/s. Das Contractors and not a trader under Cent-trade scheme violating the guidelines for sanctioning of advances under Cent-trade scheme and ignored that the firm was a partnership firm but Licence was for proprietorship. He also did not monitor the operation of the account after sanction and the account has turned into NPA.

Thus, Sri Bhattacharjee acted in a manner prejudicial to the interest of the Bank which is unbecoming of an offence worked as in charge of the branch and is charged under Regualtion 3(1)&3 of CBIOE (Conduct) Regulation, 1976.

Charge No.3

Sri S. K. Bhattacharjee had sanctioned Cash Credit Limit of Rs. 48.00 lac on 18-12-03 to M/s. Dataman Infotech Pvt. Ltd. without obtaining Status Report from its previous Bankers as declared where from the party had availed loan/credit facilities and ignoring the irregular features like overdues, low turnover and frequent returning of cheque as per statement of a/cs with various Banks. Also, post sanction monitoring of the account was not done. The account has slipped to NPA.

Thus, Sri Bhattacharjee failed to discharge his duties with utmost devotion and diligence and had not taken all possible steps to ensure and protect the interest of the bank and is charged under Regulation 3(1) & 3 of the CBIOE (Conduct) Regulation 1976.

Charge No.4

Sri. S. K. Bhattacharjee had sanctioned O/D limit of Rs. 10.00 lac on 05-06-2003 under Cent-trade scheme to M/s. Venkateswara Balaji Industries(an SSI Unit) despite the activity of the firm was manufacturing of Hamilton Poles and not traders of goods. Therefore, he violated the bank's guidelines for sanctioning loans under Cent-trade scheme. The account has slipped to NPA.

Thus, Sri Bhattacharjee acted in a manner prejudicial to the interest of the Bank which is unbecoming of an officer worked as Branch Manager and is charged under Regulation 3(1) & 3 of the CBIOE (Conduct) Regulation 1976.

Charge No.5

Sri S. K. Bhattacharjee sanctioned six House Building Loans to different parties as mentioned below under direct housing finance scheme for purchase of flat at different places listed below:

He disbursed the entire loan amount to each of these parties in one instalment

when the *construction of respective flats had not been fully completed which were in violation of the normal laid down policy which stipulates for disbursement of such H. B. Loan* in stages during the construction.

Sl. No.	*Name*	*Amt. of loan sanctioned & disbursed*	*Location of Flats*
1.	*Sri Monoj Chatterjee*	*Rs. 12.75 lac*	*Ground Floor Flat, Satyam Apartment, 44, P.K. Guha Lane, Kolkata-700 028*

2.	*Sri Surjit Singh*	*Rs. 14.96 lac*	*Flat No. 1&3 on 4th Floor 44, P.K. Guha Lane, Kolkata-700 028*
3.	*Sri Abhjit Biswas*	*Rs. 12.00 lac*	*Flat on 1st Floor, Sylvester Sanyal Apartment, 212, P.K. Guha Road, Dum Dum, Kolkata-700 028*
4.	*Sri Prabir Das*	*Rs. 13.76 lac*	*Flat on 1st Floor, RGM/2/5B Arjunpur, Rajarhat, Kol-59*
5.	*Sri Debasis Dutta*	*Rs. 13.50 lac*	*Flat No. E, on 1st Floor, Kaikhali Mondal Gathi, P.O. Dum Dum Airport, Kolkata-700 052.*
6.	*Smt. Maya Chakraborty*	*Rs. 14.96 lac*	*Flat No. 5B on 1st Floor, RGM/2/5B, Arjunpur Rajarhat, Kol-59*

The above mentioned account numbers 1, 2, 3, 4 & 6 have slipped to NPA.

Thus, Sri Bhattacharjee acted in a manner prejudicial to the interest of the Bank and had not taken steps to ensure and protect the interest of the Bank which is unbecoming of an officer worked as Branch Manager and is charged under Regulation 3(1) & 3 of CBIOE (Conduct) Regulation 1976.

(R. A. Mittal)

DISCIPLINARY AUTHORITY"

35. The letter of Sunil Kumar Bhattacharjee, Ex-Senior Manager, College Street Branch, addressing to Sri A. K. Mittal, Disciplinary Authority, Assistant General Manager, Regional Office (North), Central Bank of India, Kolkata dated April 14, 2006 revealed as follows:-

"To
Sri R. A. Mittal
Disciplinary Authority,
Assistant General Manager
Regional Office (North)
Central Bank of India
206 A.P.C. Road
Kolkata: 700 004 *Dated: April 14, 2006*

Sir,

On receipt of the alleged Charge Sheet dated 14/23. 2.06, within the stipulated period I prayed for extension of time owing to suffering from pre-cardial pain at the ripe-age. Enclosed therewith the medical certificate. But with utter surprise I received your letter being No. RO/KOL/N/DA/05-06/3/271 dated 13.3.06 wherein it appears that you have not allowed any time and on the next date i.e. 15.03.2006 the defence statement is to be submitted. It is pertinent to mention that the said letter was received on 16.03.2006 when I was lying in bed *completely and in a physical state of having no capacity of movement. It transpires your ulterior motive and arbitrary in nature and high-handed activities by not granting any time. It appears that during poor health condition you are to pass the Exparte-Order against me at hot haste. This is illegal act out of your bad conduct and it is gross violation of the principles of Natural Justice.*

I beg to state and submit with reference to the alleged averments made in the charge sheet dated 14/23.02,2006, I vehemently opposed that there could not be any Departmental enquiry against me in terms of Regulations 45 and 48 of Central Bank of India Employees (Regulation of 1995) in regard to the imputation of misconduct as alleged that during the period of my service in the bank as Senior Manager as set out in the enclosed articles of charges in annexure-l statement of imputation of misconduct as alleged in support of Article of charges being annexure- II. The said purported Departmental enquiry is not within the provisions of law and bias, arbitrary which appears from the averments of the impugned charge sheet is highly illegal in civilized law of the land.

It is pertinent to mention that the Bank authority may constitute any misconduct within the meaning of Regulation read with Regulation 24 of the Central Bank of India Officer Employees (Conduct) Regulation, 1976 which is applicable to the Officer employees of the bank.

Thereby it is mentioned vividly that the ingredients of articles of charges as alleged could not constitute the misconduct and therefore, I deny and dispute to the alleged statement made by referring that "Attracting Penal Action under Central Bank of India (Employees) Pension Regulation 1995". I deny and dispute each and every statements as alleged made there in purported charge sheet dated 14/23.2.2006.

In reply to the article of charges as alleged against me in annexure II, I deny and dispute in toto. The alleged averments from paragraphs I *to V made therein are vague, baseless, frivolous, misconception, misinterpreted and void ab-initio and there is no leg to stand upon.*

With reference to the statements as alleged in annexure Il constituting the impugned charges No.1, I deny and dispute specifically and categorically. Your wrongful illegal act transpired in the said alleged averments made in the impugned charge sheet are false baseless and bad in law.

With reference to charges no 2 to 5 as alleged therein, I deny and dispute each and every statement. You are having no authority and legality to issue the purported charge sheet which is fabricated, after thought and concocted with high ulterior motive.

Be it mentioned that in the tenure of my service as Senior Manager in the College Street Branch, I have granted loans to the borrowers on the basis of such applications which were received, processed and recommended by the then Credit Manager taking all sorts of precaution and securities, primary and co-lateral by way of equitable/ registered mortgage along with the guarantors to safe guard the bank's interest. In turn, the Central Bank of India College Street Branch is always under Concurrent audit. As and when any loan proposal is sanctioned the Concurrent Auditors with immediate effect make routine checkup of the process notes, documents, securities, operations and all post inspection with all paraphelies, inter-alia of the stock securities establishments etc and moreover all these advances so sanctioned were duly communicated to the Regional Office for their post scruting and, therefore, the Regional Office of the Bank are always within their knowledge as they are constantly monitoring the said branches of the Bank. If there was any irregularity in sanctioning/ granting loans to the borrowers which ought to have been pointed out by the Regional Office for rectification within a month and with immediate effect. If any were there to rectify and it was immediately rectified. Subsequently audit clearance certificate were duly submitted from time to time to the Regional Office.

The Regional Office violated the Principles of Natural Justice by not issuing any show-cause Notice at the time of service tenure and without giving any opportunity of personal hearing, the Chairperson and Managing Director passed an ex parte order which is highly illegal, arbitrary in nature and after-thought action with some ulterior motive and willfully, intentionally disobeying solemn order of the Hon'ble Court.

In these pretext, I have never and ever violated any norms of the Bank as per lending parameters.

It will not be out place to mention that after 14 months of my retirement you have issued the impugned charge sheet and it transpired crystal clear that it is an afterthought action as because not only I have instituted a Writ Petition against the Bank and also the Contempt Application which is still pending before the H'onble Justice Subhrakamal Mukherjee for adjudication.

In the meanwhile, to by-pass you have at hot haste issued upon me the impugned charge sheet which is highly arbitrary in nature, bad in law and void ab-initio.

Thanking you,

Yours Sincerely,

(SUNIL KUMAR BHATTACHARJEE)

Ex- Senior Manager

College Street Branch

Residing at

17A, Sitaram Road, P.O. Bansdroni, Kolkata: 700 070".

36. Rule No.44 contained in General Conditions Chapter IX Central Bank of India (Employees') Pension Regulations, 1995 stated as follows:-

"***44. Conviction by Court. –*** *Where a pensioner is convicted of a serious crime by a Court of Law, action shall be taken in the light of the judgement of the court relating to such conviction."*

37. Rule No.45 contained in General Conditions Chapter IX Central Bank of India (Employees') Pension Regulations, 1995 stated as follows:-

> ***"45. Pensioner guilty of grave misconduct. –*** *In a case not falling under Regulation 44 if the Competent Authority considers that the pensioner is prima facie guilty of grave misconduct, it shall, before passing an order, follow the procedure specified in Officer Employees' (Discipline and Appeal) Regulations, 1976 or in Settlement as the case may be."*

38. Rule No.48 contained in General Conditions Chapter IX Central Bank of India (Employees') Pension Regulations, 1995 stated as follows:-

> ***"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;*
>
> *Provided also that no departmental or judicial proceedings, if not initiated while the employee was in service, shall be instituted in respect of a cause of action which arose or in respect of an event which took place more than four years before such institution.*

2) 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 regulation."

39. This writ petition raises a pivotal legal issue in service jurisprudence – whether the Central Bank of India in absence of proceedings instituted against the petitioner being a retired officer after his superannuation.

40. The petitioner retired from service on 31.12.2004 indisputably without any disciplinary proceeding pending against him on the date of his retirement. However, a charge-sheet was issued against him in the year 2006 whereby the respondent-bank sought to initiate departmental proceedings for certain acts as elucidated above claiming the same to have occurred during his service tenure. The petitioner has assailed the disciplinary action on the grounds that once an officer retires new disciplinary proceedings cannot be instituted against him since relationship of employer-employee ceases to be effective. The disciplinary framework under the Central Bank of India (Officers') Service Regulation, 1979 is unequivocal.

41. Rule No.44 contained in General Conditions Chapter IX Central Bank of India (Employees') Pension Regulations, 1995 stated as follows:-

*"**44. Conviction by Court. –** Where a pensioner is convicted of a serious crime by a Court of Law, action shall be taken in the light of the judgement of the court relating to such conviction."*

42. Rule No.45 contained in General Conditions Chapter IX Central Bank of India (Employees') Pension Regulations, 1995 stated as follows:-

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>
> *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;*
>
> *Provided also that no departmental or judicial proceedings, if not initiated while the employee was in service, shall be instituted in respect of a cause of action which arose or in respect of an event which took place more than four years before such institution.*
>
> *2) 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 regulation."

44. Crucially, these provisions do not contemplate nor do they confer any power to initiate fresh proceedings against an officer after retirement except on specific provisions as mentioned in Rule 48(2) of the Central Bank of India (Employees') Pension Regulations, 1995.

45. Evidently, the relationship of an employer-employee had been severed on account of superannuation which had been a pre-dominant condition incapable of artificially prolonged to institute a disciplinary proceeding against a superannuated employee except under specific statutory provisions.

46. In this context, Regulation 22 of the Central Bank of India (Employees') Pension Regulation, 1995 assumes significance. This regulation provides for forfeiture of pension in cases where an employee is dismissed, removed or resigns in lieu thereof. However, it does not expressedly grant the bank, the validity to institute new disciplinary proceedings post-retirement. It merely prescribes the consequences for loss of service benefits when the termination is on grounds of misconduct.

47. The distinction between jurisdiction to discipline and power to forfeit pension is foundational. The former pertains to control over the conduct of an employee; the latter relates to financial consequences only after lawful disciplinary action has been accomplished.

48. The Hon'ble Supreme Court in State Bank of India & Ors. vs. Navin Kumar Sinha[1] has authoritatively laid down that disciplinary proceedings must be instituted by issuance of a charge memorandum while the officer is still in service. The mere issuance of a show-cause notice or internal enquiry is not sufficient. The absence of a formal charge during service renders any post-retirement initiation of disciplinary proceedings to be entirely exceeding jurisdiction.

49. The Hon'ble Supreme Court in *State Bank of India & Ors. vs. Navin Kumar Sinha* (*supra)*, as stated above observed:-

> 24. *"From the above, it is evident that charge memo was issued to the respondent on 18.03.2011 after his extension of service was over on 01.10.2010. This is an undisputed jurisdictional fact.*
>
> 25. *Appellants have contended that respondent was paid subsistence allowance from his date of suspension i.e. 21.08.2009 till his dismissal from service vide order dated 07.03.2012 beyond 01.10.2010. Besides it was the case of the respondent himself before the enquiry officer, disciplinary authority as well as before the appellate authority that he was due to superannuate on 30.10.2012. He also did not plead either before the said authorities or before the High Court that he had ceased to be in service of SBI from 01.10.2010 and therefore the disciplinary proceeding initiated thereafter on 18.03.2011 was void-ab-initio. As such the learned Single Judge was not justified in accepting the challenge of the respondent to the order of penalty on a completely different ground.*
>
> 26. *We are afraid we cannot accept such a contention on behalf of the appellants. Where the disciplinary proceeding itself is without jurisdiction, upholding the same on the specious plea that it was*

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not challenged on the ground of lack of jurisdiction would be tantamount to giving imprimatur to a patently illegal proceeding. This aspect was gone into by the learned Single Judge in the following manner:

6. *After hearing learned counsel for the respective parties at length and on perusal of the records, I am of the considered view that the petitioner has been able to make out a case for interference due to the following facts and reasons stated hereinbelow:*

(I) *Indisputably, on completion of 30 years of service in the year 2003, the services of the petitioner was extended till 01.10.2010 as per the State Bank of India officers (determination of term & conditions of services 1979). The alleged charges pertains to the extension period of the petitioner as Branch Manager, SBI, Tangerbansali Branch, Ranchi during the period 19.01.2006 to 29.10.2008 and 23.01.2009 to 22.08.2009. After submission of explanation to the alleged charges, the disciplinary authority decided to initiate departmental proceeding vide letter dated 18.03.2011 containing article of charges. In the disciplinary proceeding the order of dismissal has been passed under Rule 67(j) of the SBI Officers Service Rules which has been affirmed by the appellate as well as revisional authority. Admittedly, there has not been extension of service after 01.10.2010 nor any provision of relevant rules has been brought to the notice of this Court as to what would be effect the disciplinary proceeding after retirement. When there is no express order by the respondent bank for extension of services after 01.10.2010, the said date is to be treated as the date of retirement in usual course. In the instant case, the charge sheet was issued on 18.03.2011 after the date of deemed retirement of the petitioner when there was no specific order* *by the banking authorities for extension of services. Therefore, on that score, the impugned order of dismissal dated 07.03.2012 passed by the appointing authority being affirmed by the appellate authority as well as reviewing authorities being not legally sustainable is liable to be quashed. The view of this Court gets fortified by the decision of Hon'ble Supreme Court in the case of Union of India Vs. J. Ahmad reported in 1979 (2) SCC 286 which still holds the fields the entire departmental proceeding initiated against the petitioner after non-extension of service in terms of State Bank of India Officers (Determination of Terms and Conditions of Service) Order, 1979 as substituted on 23.02.1984 and State Bank of India Officers Service Rules, 1992 the relationship of master and servant has come to an end after 01.10.2010. Therefore, the respondent bank had no jurisdiction to initiate departmental proceeding without extension of services of the petitioner beyond 01.10.2010. Apart from the aforesaid legal of provision in the instant case as apparent from the pleadings of the parties the bank has not suffered any pecuniary loss for any act of omission or commission on the part of petitioner. In the aforesaid backdrop of fact the initiation of departmental proceeding and imposition of extreme punishment of dismissal from services is unreasonable, illegal and not legally sustainable.*

27. When the appellants approached the Division Bench of the High Court in letters patents appeal, the Division Bench repelled the contention of the appellants and held as follows:

11. The contention of the learned counsel for the appellant Bank that as per the Rule 19(1) of the State Bank of India Officers' Service Rules, 1992, the respondent writ petitioner was to superannuate on completion of 60 years of age, is again, not *in consonance with the Rules. The relevant portion of Rule 19(1) of the aforesaid Rules reads as follows:-*

> *"19.(1) An officer shall retire from the service of the Bank on attaining the age of sixty years or upon the completion of thirty years' service or thirty years' pensionable service, if he is a member of the Pension Fund, whichever occurs first."*

A bare perusal of the Rule clearly shows that if an officer of the State Bank of India, completes thirty years of service prior to attaining the age of 60 years, he is to superannuate from service, on completion of thirty years of service, irrespective of the fact that he has not attained the age of 60 years.

12. In the case of the writ petitioner, he was made to superannuate on the date of completion of 30 years of service in the year 2003 itself, and he was again given an extension of service from 27.12.2003 to 1.10.2010. As such, by no stretch of imagination, it can be said that even in case of extension of service given to the respondent writ petitioner beyond the period of 30 years of service, he was to continue in service till he attained the age of 60 years. No other Rule has been brought on record, or to the notice of this Court to show that even after completion of 30 years of service, the officer of the Bank shall continue in service, till he attains the age of 60 years. Rule 19(1) of the State Bank of India Officers' Service Rules, 1992, is absolutely clear, without any ambiguity, wherein there is no scope of accepting the submission of learned counsel for the appellant Bank.

13. Thus, the only conclusion that can be drawn in the present case, is that the writ petitioner could not have been allowed to continue in service after 1.10.2010, in *absence of any further extension of service, which admittedly was not done in the present case. In that view of the matter, we find that the departmental proceeding had been initiated and the punishment order was passed after the superannuation of the petitioner on 1.10.2010, as the initiation of the departmental proceeding was done on 18.03.2011, and the punishment order was passed by the Disciplinary Authority on 7.03.2012, i.e., after the date of superannuation, which was not permissible in the eyes of law, in absence of any disciplinary Rules. Admittedly, no such Rules were brought to the notice of the Writ Court, or to the notice of this Court.*

14. As such, we find no illegality in the impugned Judgment dated 6.9.2016, passed by the Writ Court in W.P.(S) No.3446 of 2014, holding that the departmental proceeding could not have been initiated and continued after the superannuation of the respondent writ petitioner, and allowing the writ application, quashing the order of dismissal from service passed by the Disciplinary Authority, as well as the orders of the Appellate and the Reviewing Authorities, worth any interference in exercise of the LPA jurisdiction.

28. In so far the present case is concerned, respondent was due to superannuate on 26.12.2003 apparently on completion of 30 years of service but his service was extended on 05.08.2003 from 27.12.2003 to 01.10.2010. Thus, the extended service of the respondent came to an end on 01.10.2010. The relationship of master and servant between the appellants and the respondent came to be severed on and from 01.10.2010. The factum of receipt of subsistence allowance thereafter or the respondent declaring that he would superannuate on a later date i.e. on 30.10.2012 on

attaining the age of 60 years would not make any difference to the legal and factual scenario. Therefore, it is evident that respondent was no longer in the service of SBI post 01.10.2010.

29. Attaining 60 years of service (earlier 58 years) is not the sole criterion of superannuation of an officer serving in SBI. As already noted and discussed above, it is one of the three contingencies. If any of the three contingencies are fulfilled, an officer would be superannuated. Respondent had actually superannuated from service in SBI on 26.12.2003 on completion of 30 years of service but his service was extended prior thereto on 05.08.2003 from 27.12.2003 to 01.10.2010. Post 01.10.2010 there was no further extension of service.

30. Disciplinary proceeding against the respondent was not initiated on 18.08.2009 when the first notice to show cause was issued but was initiated only on 18.03.2011 when the disciplinary authority issued the charge memo to the respondent."

50. The articles of charge as enumerated above delineated explicitly and vividly the lapses committed by the petitioner in his official capacity by sanctioning overdraft limit to certain individuals/agencies violating the guidelines for sanctioning of such loans contravening the statutory provisions exposing the banks to unnecessary risk. It was further alleged in Charge No.1 that the petitioner failed to detect the following:-

a) *"The party's credit proposal was based on a sub-contract allowed by the main contractor to the said party.*
b) *No status report of other firm, to which the proprietor is associated, was obtained from other banker.*
c) *Not obtaining of the inspection report about progress of construction at any point of time.*
d) *Bills were never routed through the Bank.*

e) Registration of Power of Attorney by the party in bank's favour was not done with the respective organizations responsible to pay the bills to the party.

f) He did not make proper post-sanction follow up."

51. Charge No.2 indicated failure on the part of the petitioner to have ignored the loanee for a partnership firm but licence was granted for proprietorship.

52. According to the Charge No.3 the loan was sanctioned to certain company as mentioned therein without obtaining status report from its previous bankers.

53. Charge No.4 imputed violation of bank's guidelines for sanctioning loan under Cent-trade scheme in case of a firm being a manufacturing unit and not traders of goods.

54. Charge No.5 was directed against disbursing six house building loans to different parties as mentioned therein under Direct Housing Finance Scheme in one instalment when the construction of respective flats had been fully completed in violation of the normal laid down policy which stipulated disbursement of such house building loans in stages during the construction.

55. The petitioner communicated reply to the Disciplinary Authority dated April 14, 2006, *inter alia*, stating to have prayed for extension of time to address the charge-sheet dated 14/23, 2006 owing to his age old ailments.

56. The Disciplinary Committee hastily concluded the proceedings, ex parte without granting further time to the petitioner to address the articles of charges framed against him. What prompted the disciplinary authority to expeditiously dispose of the proceedings adverting the principles of natural justice is unfathomable.

57. The petitioner did not contribute towards his pension before opting for the pension scheme where the sole contribution was deposited by the respondent. The petitioner upon being superannuated had been deprived of his retirement benefits arbitrarily and surreptitiously in deception and in the disguise of a disciplinary proceedings.

58. According to RBI Guidelines being RBI/2011-12/48, dated July 1, 2011 which defined NPA it was incumbent upon the respondent bank to identify the assets as NPA on an ongoing process:- *"The system should ensure that identification of NPAs is done on an ongoing basis and doubts in asset classification due to any reason are settled through specified internal channels within one month from the date on which the account would have been classified as NPA as per prescribed norms. Banks should also make provisions for NPAs as at the end of each calendar quarter i.e. as at the end of March/June/September/December, so that the income and expenditure account for the respective quarters as well as the P&L account and balance sheet for the year end reflects the provisions made for NPAs."*

59. The nature of lapses described in the article of charges cannot be exclusively attributable to petitioner discharging his functions in a supervisory category. The ground work or the field work was definitely not conducted by the petitioner functioning as a Senior Manager of the Bank. It should have been a team work with the report submitted by persons engaged in clerical posts as also outsourced persons who were responsible for collection of data and necessary information regarding the identity of individual loanee vis-à-vis the capacity to reimburse the loan. The articles of charge cited the lapses

resulting in NPA without determining the exact financial loss sustained by the respondent/bank. Moreover, the articles of charges did not explicitly mention the petitioner to have wrongfully gained consequentially.

60. The specific provision under Rule 48 cannot be resorted to with mala fide arbitrariness treating the lapses on the part of the petitioner to fall within the exception of 4 years in the instant case, where the respondent-Bank failed to ascertain the constituents and effect of NPA within 90 days, the unascertained loss accrued to the bank, moreover in view of the judgment of the Hon'ble Apex Court in *State Bank of India & Ors. vs. Navin Kumar Sinha* (*supra)*, wherein it had been in essence prescribed that disciplinary proceedings initiated against a retired employee was void ab initio.

61. High Court cannot reappreciate evidence and usurp the role of a trial court, however, can definitely interfere to address an act which is harassive, arbitrary and motivated to the detriment of the petitioner, whose lawful claim of retirement benefits have been deprived and such action on the part of the respondent bank to penalize the petitioner post retirement is definitely and absolutely disproportionate where the proceedings have been concluded ex parte, contrary to principles of natural justice which this Court cannot be oblivious not to address and intervene for redressal.

62. In view of the above discussions, this Court finds that the articles of charge dated 14.02.2006 and all consequential actions are unsustainable in law and are accordingly quashed.

63. The respondents are directed to release all pending retiral dues to the petitioner including pension, gratuity and leave encashment within six weeks from the date of communication of this order at any rate.
64. In view of the above discussions, the instant writ petition being WPA 8496 of 2017 is allowed.
65. Dues to be paid within 3 months of communication of this order.
66. The instant WPA 8496 of 2017 is disposed of.
67. There is no order as to costs.
68. 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.)