

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.1929 OF 2024

Chandrakant Shinde

....Petitioner

V/S

1. The Chairman
Maharashtra Gramin Bank
CIDCO, Aurangabad &
2. General Manager,
Maharashtra Gramin Bank
CIDCO, Aurangabad

....Respondents

Mr. R.D. Bhat *for the Petitioner.*

Mr. Dhananjay Bhange with Ms. Gargi U. Warunjikar *for Respondents.*

**CORAM : SANDEEP V. MARNE, J.
RESERVED ON : 18 DECEMBER 2025
PRONOUNCED ON : 23 DECEMBER 2025**

JUDGMENT:

1. **Rule.** Rule is made returnable forthwith. With the consent of the learned counsel appearing for the parties, the Petition is taken up for final hearing and disposal.
2. Petitioner has filed the present Petition challenging Part-I Award dated 22 January 2020 passed by the learned Presiding Officer, Central Government Industrial Tribunal-2, Mumbai (**CGIT**) holding that the enquiry conducted against the Petitioner is fair and proper and that the findings of the Enquiry Officer are not perverse.
3. Maharashtra Gramin Bank is a Regional Rural Bank (**RRB**) established under the Regional Rural Banks Act, 1976. Government of

India vide Notification dated 25 March 2008 amalgamated the two RRBs i.e. Aurangabad Jalna Gramin Bank & Thane Gramin Bank into a single RRB named Maharashtra Godavari Gramin Bank. Maharashtra Gramin Bank came into existence on 20 July 2009 after amalgamation of erstwhile Maharashtra Godavari Gramin Bank and Marathawada Gramin Bank. Respondent-Bank is sponsored by the Bank of Maharashtra. The share capital of the Bank is contributed by Government of India, Government of Maharashtra and Bank of Maharashtra.

4. Petitioner was appointed as Clerk in the Respondent-Bank on 27 April 1982. He was elected as working President of the Maharashtra Regional Rural Bank Employees Union and was also elected as a Member of Maharashtra Regional Rural Bank Officers Union. On 12 August 2010, Petitioner was placed under suspension under Regulation No.45 of the Maharashtra Gramin Bank (Officers and Employees) Service Regulations 2009 (**Service Regulations, 2009**). On 30 October 2010, Petitioner was issued chargesheet alleging violation of Regulation Nos.17, 19, 21 and 38 of the Service Regulations, 2009. The charges levelled against Petitioner related to collection of donations for advertisements for Unions publications, pressuring the employees of the Bank to collect advertisements/ donations on the large scale, collection of donations from clients/ borrowers of the Bank. It was further alleged that Petitioner delivered his own cash of Rs.4,00,000/- for opening five accounts in the names of his family members by showing it as if it was officials/authorized outward cash remittance from Shiradhon Branch to Osmanabad Branch. It was further alleged that on 26 June 2009, Petitioner delivered cash of Rs.6,00,000/- for deposit in the account of his wife showing it to be

officials/authorized outward cash remittance from one Branch to another. It was further alleged that Petitioner delivered personal cash amount of Rs. 30,37,400/- once again showing it as officials /authorized outward cash remittance. It is further alleged that during the period from 2005 to 2010 Petitioner had deposited cash aggregating Rs.55,00,000/- in his own account and the accounts of his family members. It was further alleged that Petitioner actively promoted LIC business in the names of his family members by misusing his position as office bearer of the Union. Petitioner submitted his response to the charge-sheet on 15 November 2010. The Enquiry Officer conducted enquiry and submitted report dated 27 January 2012 holding that all the charges levelled against the Petitioner were proved. The Disciplinary Authority issued show-cause notice dated 13 February 2012 proposing to impose punishment of removal in respect of two charges and dismissal in respect of one charge. Petitioner made representation dated 13 January 2012 against the show-cause notice. The Petitioner was granted personal hearing on 13 April 2012. The Disciplinary Authority thereafter proceeded to pass order dated 30 May 2012 imposing the punishment of removal from service in respect of Charge Nos.1 and 3 and dismissal from service in respect of Charge No.2. Petitioner preferred Appeal under Regulation Nos.49, 50 and 51 of the Service Regulations, 2009 before the Appellate Authority. The Appeal was however rejected by order dated 29 September 2012 by Appellate Authority and Chairman of the Respondent-Bank.

5. Petitioner raised industrial dispute and conciliation proceedings were held. Petitioner approached this Court, Bench at Aurangabad by filing Writ Petition No.3576 of 2020, which was disposed of by order dated 29 July 2025 recording withdrawal of the Petition and permitting

Petitioner to resort to statutory remedy. Petitioner filed Statement-of-Claim before CGIT, Mumbai challenging the punishment of dismissal/removal. The claim of the Petitioner was resisted by Respondent-Bank by filing Written Statement. The CGIT took up for consideration preliminary issues of (i) allegations in the charge-sheet not amounting to employment misconduct, (ii) supersession of Service Regulations 2009/2010 by Model Standing Orders, (iii) fairness in the enquiry, (iv) perversity in the findings of the Enquiry Officer, and (v) availability of legally admissible evidence for recording findings by the Enquiry Officer. By the impugned Part-I Award dated 22 January 2020, the CGIT has answered all the four preliminary issues against the Petitioner. It has held that the allegations levelled against the Petitioner in the charge-sheet constitutes employment misconduct. It is further held that Service Regulations are applicable in respect of departmental enquiry against the Petitioner and not the Model Standing Orders (**MSO**). The enquiry is held to be fair and proper. The findings of the Enquiry Officer are held to be based on legally admissible evidence and not perverse. Aggrieved by the Part-I Award dated 22 January 2020, the Petitioner has filed the present Petition.

6. Mr. Bhat, the learned counsel appearing for Petitioner would submit that the CGIT has erred in holding that provisions of Service Regulations, 2009, and not MSO, are applicable to the Petitioner. He relies on provisions of Section 13B of the Industrial Employment (Standing Orders) Act, 1946 (**the Act of 1946**) in support of his contention that application of Model Standing Orders is excluded only in relation to industrial establishments where the workmen employed are governed by Rules and Regulations which are notified by the appropriate Government in the official gazette. That mere general

notification of Rules in the official gazette is not sufficient and what needs to be published in the official gazette is notification under Section 13B of the Act of 1946. In support, he would rely upon judgment of this Court in *Divisional Forest Officer, Gadchiroli vs. Madhukar Ramaji Undirwade and Ors.*¹. He would also rely upon judgment of the Apex Court in *Union of India & Ors. vs. K. Suri Babu*² in support of his contention that the Nuclear Complex under the Department of Atomic Energy of Government of India, which had adopted provisions of Central Civil Services (Classification, Control and Appeal) Rules, 1965 is held to be governed by the Model Standing Orders, in absence of issuance of notification under Section 13B of the Act of 1946. He also relies on judgment of the Apex Court in *U.P. State Electricity Board & Anr. vs. Hari Shankar Jain & Ors.*³ in support of his contention that Service Regulations must be notified under Section 13B of the Act of 1946 or certified by the Certifying Officer.

7. Mr. Bhat would submit that the Service Regulations of the Respondent-Bank are not notified under Section 13B of the Act of 1946. That general publication of the Service Regulations is irrelevant, and the notification must be under Section 13B of the Act of 1946. That there is distinction between mere notification of Rules and Regulations and notifying them for the purpose of exclusion under Section 13B of the Act of 1946. That in the present case, the Service Regulations of the Respondent-Bank have not been notified under Section 13B of the Act of 1946. That therefore MSO would continue to apply to the employees of the Respondent-Bank.

1 1995 II CLR 292

2 (2023) SCC OnLine SC 1591

3 (1978) 4 SCC 16

8. Mr. Bhat would further submit that the CGIT has erred in holding that the allegations levelled in the charge-sheet amount to employment misconduct. That Petitioner was charged with allegations relating to his Union activities which have nothing to do with discharge of his official duties. Furthermore, the allegation of transfer and deposit of private cash does not have any connection with Petitioner's functioning as the Bank employee. That the charge-sheet does not allege any misconduct relating to discharge of official duties.

9. Mr. Bhat would further submit that the Industrial Court has erred in holding that the enquiry conducted against the Petitioner is fair and proper. He would further submit that the findings of the Enquiry Officer are actually perverse. They are not based on legally admissible evidence. He would therefore submit that the CGIT has grossly erred in passing Part-I Award. He would pray for setting aside the Part-I Award.

10. *Per contra*, Mr. Bhange, the learned counsel appearing for the Respondent-Bank would submit that the CGIT has rightly held that the Disciplinary Enquiry conducted against the Petitioner would be governed by Service Regulations and not by the Model Standing Orders. He would submit that the Service Regulations of the Respondent-Bank have been formulated under provisions of Section 30 of the Regional Rural Banks Act, 1976. That the Service Regulations are statutory in nature and have been published in the Gazette of India on 2 May 2001. He would therefore submit that the Service Regulations are accordingly published in the Gazette of India within the meaning of Section 13B of the Act of 1946. Relying on judgment in ***U.P. State Electricity Board*** (supra), Mr. Bhange would submit that

the judgment has expressly recognized the right of statutory corporations, who are authorized by statute to make Rules and Regulations, to notify them in the Official Gazette. That once Service Regulations are formulated under statutory powers and are notified in the official gazette, there is no necessity of separate publication of the Service Regulations referring to provisions of Section 13B of the Act of 1946. In support of his contention, he relies on judgments of the Apex Court in *Chairman, Ganga Yamuna Gramin Bank and Ors. vs. Devi Saha*⁴, and *Prathama Bank, Head Office, Muradabad vs. Vijay Kumar Goel*⁵.

11. Mr. Bhangе would further submit that the Petitioner has misused his position as Union leader for making collections from clients and borrowers of the Bank. That he has misused the channel of Bank for the purpose of executing his private transactions. That he has indulged in deposit of huge amount of private cash in the Bank's account. That he has also misused his position for the purpose of canvassing LIC business of his relatives. That all these acts clearly constitute misconduct under the Service Regulations.

12. Mr. Bhangе would further submit that the enquiry has been conducted after affording full opportunity of hearing to the Petitioner. That principles of natural justice have been duly adhered to. That Petitioner has participated in the enquiry and has been duly heard. He would submit that the findings of the Enquiry Officer are based on evidence. That the case does not involve total absence of evidence. He would submit that this Court cannot re-appreciate the evidence

4 (2009) 11 SCC 266

5 (1989) 4 SCC 441

recorded in the domestic enquiry. In support, he relies on judgment of the Apex Court in *Union of India vs. P Gunasekaran*⁶ and *Neeta Kaplish vs. Presiding Officer, Labour Court*⁷. Mr. Bhange would pray for dismissal of the Petition.

13. Rival contentions of the parties now fall for my consideration.

14. Though Part-I Award answers four preliminary issues, the main issue raised in the Petition and argued before me is about legality of enquiry held and punishment imposed under the Service Regulations formulated by the Respondent-Bank in the light of Petitioner's contention that the inquiry ought to have been conducted and the punishment could be imposed only under the Model Standing Orders formulated under the Act of 1946.

15. Petitioner was employed as a Clerk in the erstwhile Marathwada Gramin Bank, which was a joint undertaking of Government of India, Government of Maharashtra and Bank of Maharashtra. In exercise of powers conferred by Section 30 of the Regional Rural Banks Act, 1976 (**RRB Act**), the Board of Directors of Marathwada Gramin Bank, after consultation with the Bank of Maharashtra, i.e., the sponsor bank and National Bank for Agriculture and Rural Development (**NABARD**) and with previous sanction of the Central Government, made Marathwada Gramin Bank (Officers and Employees) Service Regulations, 2001. They were published in the Official Gazette.

16. The Government of India, in exercise of powers under Section 23A(1) of the RRB Act issued notification dated 20 July 2009 for

6 [2014] 13 SCR 1312

7 [1998] Supp. 3 SCR 379

amalgamation of the erstwhile Marathwada Gramin Bank and Maharashtra Godavari Gramin Bank into a single Regional Rural Bank viz. Maharashtra Gramin Bank. Accordingly, a new entity named Maharashtra Gramin Bank came into existence with effect from 20 July 2009. Accordingly, the Board of Directors of Maharashtra Gramin Bank made Service Rules namely Maharashtra Gramin Bank (Officers and Employees) Service Regulations, 2009 (**Service Regulations, 2009**) and the said Service Regulations were published in the Gazette of India on 5 September 2009. Subsequently, in exercise of powers conferred under Section 30 of the RRB Act, the Board of Directors of the Maharashtra Gramin Bank, after consultation with Bank of Maharashtra being sponsor Bank and NABARD and with previous sanction of the Central Government, made Regulations namely Maharashtra Gramin Bank (Officers and Employees) Service Regulations, 2010 (**Service Regulations, 2010**). The Services Regulations came to be published in the Gazette of India on 2 October 2010.

17. Petitioner was issued charge-sheet under Regulation No.38 of the Services Regulations, 2009 and in accordance with provisions of Regulation No.77(2) the charge-sheet issued under Service Regulations, 2009 is deemed to have been issued under Service Regulations, 2010. Thus disciplinary proceedings initiated under Service Regulations, 2009 have been continued under Service Regulations, 2010.

18. It is the contention of Respondent-Bank, which has also found favour with the CGIT, that MSO formulated under Act of 1946 are not applicable to the employees of the Bank in the light of publication in

the Official Gazette, the Service Regulations 2009 and 2010. Reliance is placed by the Respondent-Bank on provisions of Section 13B of the Act of 1946, which provides thus:

13B. Act not to apply to certain industrial establishments.

Nothing in this Act shall apply to an industrial establishment in so far as the workmen employed therein are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Services) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Service (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply.

19. Thus, the provisions of the Act of 1946 do not apply to an industrial establishment, workmen wherein are governed by provisions *inter alia* of Rules or Regulations that are notified by the appropriate Government in the Official Gazette.

20. Provisions of Section 13B of the Act of 1946 have been subject matter of interpretation in several judgments. However, Three-Judge Bench judgment in the ***U.P. State Electricity Board*** (supra) is a leading authority on interpretation of provisions of Section 13B of the Act of 1946. In case before the Apex Court, the issue was with regard to age of retirement of the workmen of the U.P. State Electricity Board. The said workers were initially workmen of a private establishment to which certified standing orders were applicable. The private establishment was purchased by U.P. State Electricity Board under the provisions of Electricity (Supply) Act, 1948 and accordingly, the said workers became employees of U.P. State Electricity Board. On 28 May 1970, the Governor of Uttar Pradesh notified under Section 13B of the

Act of 1946 and Regulations made by U.P. State Electricity Board under Section 79 of the Electricity (Supply) Act, 1948. By that notification, the age of retirement of the employees of the Board was reduced to 58 years. In the light of the above factual background, the issue before the Apex Court was whether the age of retirement would be governed by the certified Standing Orders under the Act of 1946 or by the notification of 28 May 1970. The Apex Court held that the Act of 1946 was a special Act dealing with specific subject of conditions of service enumerated in the Schedule and that the same would prevail over the Electricity (Supply) Act, 1948. The Apex Court thereafter considered the provisions of Section 13B of the Act of 1946. It was urged before the Apex Court that the expression “any other Rules or Regulations” should be read *ejusdem generis* with the other expression such as Fundamental and Supplementary Rules, Civil Services Control Classification and Appeal Rules etc. The Apex Court rejected the said contentions in paragraph 15 of the judgment and held that the expression “*workmen to whom any other Rules or Regulations that may be notified in this behalf*” means workmen enjoying a statutory status in respect of whose conditions of service, relevant statute authorizes making of Rules or Regulations. The Apex Court thus held in paragraph 15 as under:

15. The High Court expressed the views that the expression “any other rules or regulations” should be read *ejusdem generis* with the expressions “Fundamental and Supplementary Rules”, “Civil Services, Control, Classification and Appeal Rules” etc. So read, it was said, the provisions of Section 13-B could only be applied to industrial establishments in which the workmen employed could properly be described as Government servants. We are unable to agree that the application of the *ejusdem generis* rule leads to any such result. The true scope of the rule of “*ejusdem generis*” is that words of a general nature following specific and particular words should be construed as limited to things which are of the same nature as those specified. But the rule is one which has to be “applied with caution and not pushed too far”. It is a rule which must be confined to narrow

bounds so as not to unduly or unnecessarily limit general and comprehensive words. If a broad-based genus could consistently be discovered, there is no warrant to cut down general words to dwarf size. If giant it cannot be, dwarf it need not be. It is true that in Section 13-B the species specifically mentioned happen to be Government servants. But they also possess this common characteristic that they are all public servants enjoying a statutory status, and governed by statutory rules and regulations. If the Legislature intended to confine the applicability of Section 13-B to industrial undertakings employing Government servants only nothing was easier than to say so instead of referring to various rules specifically and following it up with a general expression like the one before us. The words 'rules and regulations' have come to acquire a special meaning when used in statutes. They are used to describe subordinate legislation made by authorities to whom the statute delegates that function. The words can have no other meaning in Section 13-B. Therefore, the expression "workmen. . . to whom ... any other rules or regulations that may be notified in this behalf" means, in the context of Section 13-B, workmen enjoying a statutory status, in respect of whose conditions of service the relevant statute authorises the making of rules or regulations. The expression cannot be construed so narrowly as to mean Government servants only; nor can it be construed so broadly as to mean workmen employed by whomsoever including private employers, so long as their conditions of service are notified by the Government under Section 13-B.

21. The Apex Court thereafter went on to hold in paragraph 16 of the judgment as under:

16. Shri Garg relied on certain observations of the Madras High Court in *Raman Nambissan v. State Electricity Board* [(1967) 1 LLJ 252], and *Thiruvengkataswami v. Coimbatore Municipality* [(1968) 1 LLJ 361] . In *Raman Nambissan case* it was held that the mere fact that the Electricity Board had adopted the rules and regulations of the Government of Madras as its transitory rules and regulations did not bring the workmen employed in industrial establishments under the Board within the mischief of Section 13-B of the Industrial Employment (Standing Orders) Act. In *Thiruvengkataswami case* it was held that rules made by the Government under the District Municipalities Act could not be considered to be rules notified under Section 13-B of the Standing Orders Act merely because the rules were made by the Government and published in Government Gazette. We agree with the conclusions in both cases. In *Thiruvengkataswami case* Kailasam, J., also observed that the Industrial Employment (Standing Orders) Act was a special act relating exclusively to the service conditions of persons employed in industrial establishments, and, therefore, its provisions prevailed over the provisions of the District Municipalities Act. We entirely agree. But, the learned Judge went on to say:

"Section 13-B cannot be availed of for purposes of framing rules to govern the relationships in an industrial establishment under private management or in a Statutory Corporation. This rule can apply only to

industrial establishments in respect of which the Government is authorised to frame rules and regulations relating to the conditions of employment in industrial establishments.”

There we disagree. Our disagreement however is only in regard to industrial establishments under Statutory Corporations which are authorised by statute to make rules and regulations and not in regard to those under Statutory Corporations not so authorised, nor in regard to those under private management. Our reasons are mentioned in the previous paragraph.

22. The Apex Court finally concluded in paragraph 18 of the judgment in ***U.P. State Electricity Board*** as under:

18. We, therefore, hold that the Industrial Employment (Standing Orders) Act is a special law in regard to the matters enumerated in the schedule and the regulations made by the Electricity Board with respect to any of those matters are of no effect unless such regulations are either notified by the Government under Section 13-B or certified by the Certifying Officer under Section 5 of the Industrial Employment (Standing Orders) Act. In regard to matters in respect of which regulations made by the Board have not been notified by the Governor or in respect of which no regulations have been made by the Board, the Industrial Employment (Standing Orders) Act shall continue to apply. In the present case the regulation made by the Board with regard to age of superannuation having been duly notified by the Government, the regulation shall have effect notwithstanding the fact that it is a matter which could be the subject-matter of Standing Orders under the Industrial Employment (Standing Orders) Act. The respondents were therefore, properly retired when they attained the age of 58 years. The appeal is, therefore, allowed. The Writ Petition filed in the High Court is dismissed. The appellants will pay the costs of the respondents as directed by this Court on 28-9-77. The costs are quantified at Rs 3500.

23. Mr. Bhangе has strenuously relied on observations made by the Apex Court in ***U.P. State Electricity Board*** (supra) in paragraph 16 of the judgment, in which judgments of the Madras High Court are discussed, in which it was held that Section 13B of the Act of 1946 could be availed of only in industrial establishments in respect of which Government is authorized to frame Rules and Regulations relating to conditions of employment in Industrial Establishment. The Apex Court disagreed with this finding and held that even industrial establishments under statutory corporations which are authorized by

statute to make Rules and Regulations are also covered by provisions of Section 13B of the Act of 1946.

24. Thus, the Apex Court concluded in *U.P. State Electricity Board* (supra) that the Regulations made by the Electricity Board with respect to matters enumerated in the Schedule of the Act of 1946 were of no effect unless such Regulations were either notified by the Government under Section 13B of the Act of 1946 or certified by Certifying Officer under Section 5 of the Act of 1946. The Apex Court finally concluded that Regulations dealing with age of superannuation were duly notified by the Government and therefore the said Regulation had the effect notwithstanding the fact that the age of retirement was also subject matter of standing orders under the Act of 1946.

25. However, what needs to be noted is that in *U.P. State Electricity Board* (supra) the notification prescribing the age of retirement of 58 years was issued under Section 13B of the Act of 1946. The Notification specifically stated that it was issued under Section 13B. This is clear from following observations of the Apex Court in the judgment:

However, on May 28, 1970, the Governor of Uttar Pradesh notified, under Section 13-B of the Industrial Employment (Standing Orders) Act, 1946; a regulation made by the U.P. State Electricity Board under Section 79(c) of the Electricity (Supply) Act, 1948. The notification was as follows:

No. 3822-E/70/XXIII-PB-15EH-67.

May 28, 1970.

In pursuance of the provision of Section 13-B of the Industrial Employment (Standing Orders) Act, 1946 (Act No. 20 of 1946), the Governor is pleased to notify in the Official Gazette that the U.P. State Electricity Board has made the following Regulations under sub-section (c) of Section 79 of the Electricity (Supply) Act, 1948 (Act No. 54 of 1948):

Notwithstanding any rule if an order or practice hitherto followed, the date of compulsory retirement of an employer of the Board will be the date on which he attains the age of 58 years; provided that—

(i) in the case of the inferior servants of the Board, whose counterparts under State Government are at present entitled to serve up to the age of 60 years, the age of compulsory retirement will be the date on which they attain the age of 60 years.

(ii) the Board or its subordinate appointing authority may require an employee to retire after he attains or has attained the age of 55 years on three months' notice or three months' salary in lieu thereof without assigning any reason.

(emphasis and underlining added)

26. Thus, the notification issued in the case of ***U.P. State Electricity Board*** (supra) specifically referred to provisions of Section 13B of the Act of 1946.

27. The issue of difference between mere formulating and publication of Rules and Regulations in official gazette and notification of such Rules and Regulations under provisions of Section 13B of the Act of 1946 has been dealt with by the judgment of Single Judge of this Court (*R.M. Lodha, J. as His Lordship then was*) in ***Divisional Forest Officer, Gadchiroli*** (supra). This Court referred to the judgment of Madras High Court in ***K. Thiruvengataswami vs. Coimbatore Municipality***⁸ and ***U.P. State Electricity Board*** (supra) held in paragraphs 24 to 27 as under:

24. The Act of 1946 being the Special Act and expressly and exclusively dealing with the conditions of service of the workmen in industrial establishment enumerated in Schedule appended to the Act, shall prevail unless it is excluded under section 13-B of the Act. Perusal of the Forest Guard Recruitment Rules, 1987 published in the Official Gazette on 29-10-1987 would reveal that the said Rules have been made in exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, but the said Rules though notified in the official gazette, have not been notified for the purposes of the Act of 1946 and unless the rules or regulations are notified by the appropriate Government in the official gazette for the purposes of the Act of 1946, the provisions of the Act of

8 1968 LIC 1567

1946 and the Model Standing Orders relating to the conditions of service of the workmen in the industrial establishments enumerated in Schedule shall have an overriding effect and would prevail.

25. In *K. Thiruvengkatswami's case* (supra), the Madras High Court after considering the question whether the provisions of the District Municipalities Act would prevail over the Industrial Employment (Standing Orders) Act, 1946, held as under:—

“8. The question, therefore, arises whether the provisions of the District Municipalities Act would prevail over the provisions of the Industrial Employment (Standing Orders) Act, 1946. The District Municipalities Act is a State general enactment dealing with the administration of municipalities, whereas the Industrial Employment (Standing Orders) Act, 1946, is a special enactment relating exclusively to the service conditions of persons employed in industrial establishments. The Industrial Employment (Standing Orders) Act, being a earlier general Act, would prevail over the earlier general Act, and the provisions of the District Municipalities Act and the rules framed thereunder which are not in conformity with the Industrial Employment (Standing Orders) Act and the model standing orders will not apply. The provision in the Municipal Manual providing the age of retirement as 55 cannot prevail over the model standing orders framed under the Industrial Employment (Standing Orders) Act prescribing the age of retirement as 58”.

“11. The only other contention raised by the learned Government Pleader is that the municipal rules should be regarded as rules notified in this behalf by the appropriate Government in the official Gazette as required under section 13-B of the Industrial Employment (Standing Orders) Act. It is admitted that the rules were not notified for the purpose of the Industrial Employment (Standing Orders) Act. The clause “any other rules or regulations that may be notified in this behalf by the appropriate Government in the official Gazette” can only mean the rules and regulations that may be notified by the appropriate Government for the purpose of the Industrial Employment (Standing Orders) Act. It is admitted that no rules were notified under this Act. Rules framed under the District Municipalities Act, long before the Act came into force cannot be said to be rules notified in this behalf by the appropriate Government. It may be that section 13-B can be brought into operation when the Government is empowered to frame rules regulating the conditions of employment in certain industrial establishments and if the Government frames rules and notifies them under the provisions of section 13-B. It has been held in *Raman Nambisan v. Madras State Electricity Board by its Secretary*, (1967) 1 Lab LJ 252 (Mad.) that section 13-B cannot be availed of for purposes of framing rules to government under private management or in a statutory corporation. This rule can apply only to industrial establishments in respect of which the Government is authorised to frame rules and regulations, relating to the conditions of employment in industrial establishments. I am unable to accept the District Municipalities Act will be “rules notified in this behalf by the appropriate Government”.

26. While construing the clause, “any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette”, the Madras High Court, thus, held that the said expression can only mean the rules and regulations that may be notified by the appropriate Government for the purpose of the Industrial Employment (Standing Orders) Act, 1946 and since the rules under the District Municipalities Act were not notified and framed under the Act of 1946, section 13-B cannot be brought into operation. It may be observed that this part of the judgment has been approved by the Apex Court in *U.P. State Electricity Board v. Hari Shankar* (cited supra), and the Supreme Court, thus, observed:—

“.....In *Thiruvankatswami's case* it was held that rules made by the Government under the District Municipalities Act could not be considered to be rules notified under section 13-B of the Standing Orders Act merely because the rules were made by the Government and published in the Government Gazette. We agree with the conclusions in both cases. In *Thiruvankatswami's case*, Kailasam, J. also observed that the Industrial Employment (Standing Orders) Act was a special Act relating exclusively to the service conditions of persons employed in industrial establishments and, therefore, its provisions prevailed over the provisions of the District Municipalities Act. We entirely agree...”

27. In my opinion, therefore, to carve out exception and before section 13-B of the Act of 1946 can be pressed into service to show that the provisions of the Act of 1946 would not apply because of certain rules or regulations framed by the appropriate Government, such rules have to be notified for the purposes of the Act of 1946 and such rules must be framed in pursuance of the provisions of section 13-B of the Act of 1946 to oust the applicability of the provisions of the Act of 1946 relating to service conditions of the workmen in industrial establishment enumerated in Schedule. **Merely because certain rules and regulations have been framed by the appropriate Government and published in the Official Gazette relating to the recruitment of its employees, if it concerns service conditions of workmen in industrial establishment covered by the Schedule, such rules or regulations by notification itself would not exclude the applicability of the provisions of the Act of 1946 unless such rules or regulations are notified in pursuance of the provisions of section 13-B of the Act of 1946.** If an appropriate Government is of the opinion that the provisions contained in the Act of 1946 shall not apply to the industrial establishments relating to the service conditions of the workmen employed therein then by making rules or regulations notified in the official gazette in pursuance of section 13-B the provisions of the Act of 1946 applicable to the workmen employed in industrial establishment so far as their service conditions enumerated in Schedule may be excluded and not otherwise. Though Forest Guard Recruitment Rules, 1987 have been notified in the official gazette, the same having not been notified in pursuance of section 13-B of the Act of 1946, the said rules cannot be said to exclude the applicability of the provisions of the Act of 1946. **The expression, “may be notified in this behalf” signifies the intention that to exclude the**

applicability of the provisions of the Act of 1946 to an industrial establishment relating to the workmen and their conditions of service enumerated in the Schedule should and could only be excluded by the appropriate Government by making rules or regulations notified for that purpose. Therefore, such rules and regulations should be made pursuant to section 13-B of the Act of 1946 and if such rules or regulations are not made under section 13-B then the provisions of the Act of 1946 shall have overriding effect and prevail over such rules or regulations.

(emphasis added)

28. Thus, this Court in *Divisional Forest Officer, Gadchiroli* (supra) has specifically drawn a distinction between mere formulation and publication of Rules and Regulations relating to service conditions in the official gazette and notification of such Rules under Section 13B of the Act of 1946. It is held that if appropriate Government is of the opinion that the provisions contained in the Act of 1946 shall not apply to Industrial Establishments relating to service conditions of workmen employed therein, it must notify such Rules or Regulations in the official gazette in pursuance of Section 13B of the Act, 1946. In case before this Court, Forest Guard Recruitment Rules, 1987 were notified in the official gazette, but they were not notified in pursuance of Section 13B of the Act of 1946. This Court held that the expression 'may be notified in this behalf' signifies the intention that to exclude applicability of provisions of the Act of 1946 to an Industrial Establishment relating to workmen and their conditions of service should and could only be excluded by appropriate Government by making Rules and Regulations notified for that purpose. If such Rules and Regulations are not made under Section 13B of the Act of 1946, the provisions of the Act of 1946 has overriding the effect and would prevail over such Rules and Regulations.

29. Thus, the judgment in *U.P. State Electricity Board* (supra) has been interpreted by this Court in *Divisional Forest Officer, Gadchiroli*

(supra). Mr. Bhangе has relied on judgment in *U.P. State Electricity Board* to draw an inference that the Rules and Regulations made by the statutory corporations, who are authorized by the statute to make them need not be separately notified under Section 13B of the Act of 1946. I am unable to agree. This is not the ratio of the judgment of the Apex Court in *U.P. State Electricity Board*. The Apex Court has distinguished the views expressed in judgment of Madras High Court in *K. Thiruvеnkataswami* (supra) wherein the High Court had recognized power of only the Governments to notify the Rules and Regulations under Section 13B of the Act of 1946. The Apex Court in *U.P. State Electricity Board* has expanded the said power even to statutory corporations, who are authorized by a statute to make Rules and Regulations. This means that a statutory corporation who is authorized by the statute to make rules and regulations can also notify service rules and regulations under Section 13B of the Act of 1946. Thus what is recognized by the Apex Court in *U.P. State Electricity Board* is mere power of statutory corporations to notify Rules and Regulations under Section 13B of the Act of 1946. *U.P. State Electricity Board* is not an authority on proposition that once a statutory corporation published its own service rules and regulations governing its employees, application of Act of 1946 gets excluded. It is well settled position that a judgment is an authority for what it decides and not what can be logically deduced therefrom. The issue before the Apex Court in *U.P. State Electricity Board* was whether the power of making rules and regulations under Section 13B is restricted to Governments or whether even statutory corporations can make such rules and regulations. The Apex Court has recognised the power of even statutory corporations to make such rules and regulations under Section 13B. However, if such statutory corporation merely makes and

publishes the rules and regulations relating to service conditions, but does not notify the same under Section 13B of the Act of 1946, provisions of that Act would still prevail over such Rules and Regulations. This is the reason why I have referred to the notification in the case of *U.P. State Electricity Board* (supra) which was specifically issued under Section 13B of the Act, 1946.

30. In the present case, there is nothing on record to indicate that the Service Regulations, 2009 under which charge-sheet was issued or Service Regulations, 2010 under which Disciplinary Enquiry is conducted and concluded, issued and notified under Section 13B of the Act of 1946. The Service Regulations 2009 and 2010 do not even refer to Section 13B. Following the ratio of the judgments in *U.P. State Electricity Board* and *Divisional Forest Officer, Gadchiroli* (supra), it will have to be necessarily held that the Services Regulations 2009/2010 would not supersede the MSO formulated under the Act of 1946.

31. The recent judgment of the Apex Court in *Union of India vs. K Suri Babu* (supra) makes this position even clearer. In case before the Apex Court, disciplinary proceedings were initiated by Nuclear Fuel Complex, Hyderabad (NFC) against its employee under the provisions of Central Civil Services (Classification, Control and Appeal) Rules, 1965 [CCS (CCA) Rules]. NFC was set up as a consultant unit of Department of Atomic Energy, Government of India, who adopted the provisions of CCS (CCA) Rules. The Respondent therein was appointed as a Helper, who approached Central Administrative Tribunal for challenging the disciplinary proceedings contending that

the same could only be initiated under Standing Orders and not under the CCS(CCA) Rules. His Original Application was dismissed by the Tribunal. The High Court however, set aside the order of the Tribunal and the disciplinary proceedings were quashed. In the above background, Union of India appealed to the Supreme Court. The issue before the Apex Court was about applicability of standing orders formulated under the Act of 1946. The employer relied upon provisions of Section 13B of the Act of 1946 contending that since CCS(CCA) Rules are made applicable, the Standing Orders would not apply to the establishment. The Apex Court considered the judgment in *U.P. State Electricity Board* (supra) and took note of the fact that the notification of Rules therein was under Section 13B of the Act of 1946. In case of *Union of India vs. K Suri Babu* the Apex Court held that in case before it there was no notification under Section 13B of the Act of 1946. The Apex Court accordingly held that CCS(CCA) Rules were general rules whereas Standing Orders were special rules and that therefore Standing Orders would override CCS(CCA) Rules. The Apex Court held in paragraphs 31, 32, 33, 34 and 37 as under:

31. The logical conclusion therefore would be that the CCA Rules, 1965 are the general Rules whereas Standing Orders are the special Rules, and therefore the Standing Orders would override the CCA Rules, 1965. Moreover, the Standing Orders cover a wide area of activities of a workman and are workmen-specific yet in view of Section 13-B of the 1946 Act a specific notification can be made applying the CCA Rules, 1965 to that specific aspect. But a notification is necessary. In view of *Hari Shankar Jain* [(1978) 4 SCC 16] , this can be the only interpretation of Section 13-B of the 1946 Act.

32. NFC was established much after the 1946 Act and the CCA Rules, 1965 had come into force. Yet a conscious decision was taken by the management of NFC to submit draft Standing Orders under Section 3 of the 1946 Act, which was duly certified by the certifying authority and then notified which then became applicable since then. Once the Standing Orders have been notified and have come into force, there is a procedure prescribed under the 1946 Act for modifying or withdrawing such a Standing Order, which we have stated in the preceding paragraphs. There is nothing on record to show that after the Standing Orders, which stood

certified in the year 1973 and were in force, any subsequent modification was made or any order passed curtailing these Standing Orders, under Section 10 of the 1946 Act.

33. Nothing has also been placed on record to suggest that a notification under Section 13-B of the 1946 Act was made by the Government of India, making its intentions clear that from henceforth for such and such matters, it will be the CCA Rules, 1965 which will be applicable and not the Standing Orders. In the absence of such notification, we do not find any fault with the order of the Andhra Pradesh High Court which has held that it will be the Standing Orders and not the CCA Rules, 1965 which will be applicable.

34. This Court in *Hari Shankar Jain* (supra) held that Standing Orders have the nature of special Rules. It is a settled principle of law that only in those cases, where the special Rules fail to lay down provisions for dealing with certain subjects, can the general Rules be pressed into service. The CCA Rules are general Rules which apply to all government servants. When the Standing Orders for the Department have clearly laid down a procedure to be followed in cases of disciplinary proceedings under Order Nos. 38, 39 & 40, there is no reason for the Department to initiate the said proceedings under the CCA Rules.

37. Service conditions of the respondents will be governed by the “Standing Orders” as far as the disciplinary proceedings are concerned. “Standing Orders” being in the nature of special Rules will override any other general Rule including the CCA Rules, 1965. Further, in view of the law laid down in *Hari Shankar Jain* supra the “Standing Order” will in any case prevail until modified under Section 10 of the 1946 Act, which has not been done. This position has been reiterated by this Court in *ONGC* [(2015) 6 SCC 494] where conditions of appointment were held to be void and inapplicable to a worker if it makes any other Rule applicable in suppression of the “Standing Orders” without there being a modification under Section 10 of the Standing Orders.

32. Thus, even in case of a constituted unit of Department Atomic Energy of Government of India (NFC), a three Judges Bench of the Apex Court has held that Standing Orders would apply in absence of issuance of specific Notification under Section 13B of the Act of 1946. As was the case before the Apex Court in *Union of India vs. K. Suri Babu* (supra), nothing has been placed on record before me to suggest that a notification under Section 13B of the Act of 1946 is made by the appropriate Government. In my view therefore, provisions of Model

Standing Orders issued under the Act of 1946 would apply to the Petitioner and not the provisions of Service Regulations 2009/2010. Reliance by Mr. Bhangé on judgments of the Apex Court in *Prathama Bank* (supra) and *Chairman, Ganga Yamuna Gramin Bank* (supra) is of no assistance as both the cases do not deal with the issue of supremacy of model standing orders over rules and regulations framed by the Banks involved in the said cases. In *Prathama Bank*, the issue before the Apex Court was whether the employees Regional Rural Banks are public servants or not and whether Civil Suit filed by them is barred under provisions of Section 6 of the U.P. Public Services (Tribunal) Act, 1976. Similarly in *Chairman, Ganga Yemuna Gramin Bank* (supra) the issue before the Apex Court was whether employees of Gramin Banks enjoy the protection under Article 311(2) of the Constitution of India. Thus in both the cases, the issue of application of Model Standing Orders in the light of non-issuance of notification under Section 13B of the Act of 1946 was not involved.

33. In my view therefore, the CGIT has grossly erred in holding that Service Regulations 2009/2010 would supersede the Model Standing Orders framed under the Act of 1946. The Industrial Court failed to appreciate that mere publication of Service Regulations of 2001 in the Gazette of India on 2 May 2001 was meaningless as held by this Court in *Divisional Forest Officer, Gadchiroli* (supra). For application of provisions of Section 13B of the Act of 1946 and for exclusion of provisions of Act of 1946, it was required to be demonstrated by the Respondent-Bank that notification under Section 13B of the Act of 1946 has been issued by the appropriate Government. There is nothing on record to indicate that the Service Regulations 2009/2010 have been framed or notified under Section 13B of the Act of 1946.

34. One of the factors considered by the CGIT for upholding applicability of Service Regulations 2009/2010 is Petitioner's participation as defence representative in enquiries of other employees conducted under the Service Regulations 2001/2009/2010. In my view, the principle of estoppel would not apply here. Petitioner's conduct cannot determine the legal issue of applicability of MSO to the employees of Respondent Bank. Also there can be no estoppel or acquiescence against law. Thus, the findings recorded by the CGIT on issue No.2 are egregiously erroneous and are liable to be set aside.

35. Once it is held that the disciplinary proceedings initiated against Petitioner would be governed by Model Standing Orders and not by Service Regulations 2009/2010, the charge-sheet itself becomes illegal. Since the charge-sheet is illegal, the entire disciplinary proceedings as well as the final punishment order are also rendered illegal.

36. Therefore, it is not necessary to go into the other issues of fairness in the enquiry, perversity in the findings of Enquiry Officer and allegations in the charge-sheet not constituting employment misconduct. Therefore, Part-I Award dated 22 January 2020 passed by the CGIT is unsustainable and is liable to be set aside.

37. Since the charge-sheet in disciplinary proceedings and consequent dismissal order are rendered illegal, ordinarily this Court would have permitted Respondent-Bank to initiate fresh disciplinary proceedings against the Petitioner under the MSO. However, it is seen that the age of the Petitioner was 58 years as on the date of filing of the Petition which means that he has now crossed the age of superannuation. Therefore, no purpose would be served by granting an

opportunity to the Respondent-Bank to initiate fresh disciplinary proceedings against the Petitioner.

38. The Petitioner has been dismissed from service by order dated 30 May 2012 and by now period of 13 long years has passed. Since the entire disciplinary proceedings and punishment order are being set aside on account of technical reason of failure to conduct the enquiry under MSO, it would not be appropriate to impose financial burden of payment of full-back-wages on Respondent-Bank. Principles of “no work no pay” would also apply in the present case. In my view therefore, ends of justice would meet if Petitioner is awarded 50% back-wages from the date of dismissal till the date of retirement. The Petitioner shall however be entitled to full retirement benefits by computing the intervening period from the date of dismissal till the date of retirement, including for the purpose of notional pay fixation.

39. Consequently, I proceed to pass the following order:

- i) Part-I Award dated 22 January 2020 passed by the Presiding Officer, CGIT-2, Mumbai, in Application (Ref.) No.CGIT-II/11 of 2017 (Old Application No.CGIT-1 of 2015) is set aside.
- ii) Charge-sheet issued to the Petitioner on 30 October 2010, disciplinary proceedings conducted in pursuance thereof, order of disciplinary authority dated 30 May 2012 and order of Appellate Authority dated 29 September 2012 are set aside.
- iii) Petitioner shall be entitled to 50% back-wages from the date of dismissal till the date of retirement.

iv) Intervening period between date of dismissal till date of retirement shall be computed as duty for the purpose of notional pay fixation.

v) Petitioner shall be entitled to payment of all retirement benefits from the date he attained the age of retirement.

vi) The amounts towards back-wages and retirement benefits shall be paid to the Petitioner within a period of four months.

40. With the above directions, Writ Petition is **allowed**. Rule is made absolute. There shall be no order as to costs.

(SANDEEP V. MARNE, J.)

Digitally signed
by
SUDARSHAN
RAJALINGAM
KATKAM
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2025.12.23
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