IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE DEEPAK KHOT

ON THE 27th OF JULY, 2026

WRIT PETITION No. 3601 of 2016

PHOOL CHAND KOSTA

Versus

CENTRAL M.P. GRAMIN BANK AND OTHERS

Appearance:

Mr. Puneet Chaturvedi - Advocate for petitioner.

Mr. Rajesh Maindiretta and Mr. Dev Kumar Ramchandani - Advocates for respondents.

ORDER

The present petition has been filed by the petitioner under Article 226 of the Constitution of India seeking the following reliefs:

"7.1. This Hon'ble Court may kindly be pleased to set aside/quash the order dated 17-07-2014 passed by respondent No. 2 on the basis of order passed by disciplinary authority dated 10-07-2014.

7.2 And also quashed the order passed by the appellate authority on 17/03/2015 and dismissed the departmental appeal and also direct the respondent to grant all consequential benefits to the petitioner with interest.

7.3 To further direct the respondent to pay the litigation expenses and the litigation cost to the petitioner.

7.4 And pass such other and further order which this Hon'ble Court deems fit and proper."

2. The brief facts of the case are that the petitioner was serving as an Officer in the Central M.P. Gramin Bank with an unblemished service record. On 30.11.2012, a trap was conducted by the Special Police Establishment, Lokayukta, Bhopal, pursuant to which a criminal case was registered against the petitioner and a charge-sheet (challan) was filed before the competent Special Court. During the pendency of the criminal proceedings, the respondent-Bank initiated departmental proceedings by issuing a charge-sheet containing three articles of charge. However, the said charge-sheet was never served upon the petitioner. Subsequently, by order dated 01.02.2014, the disciplinary authority appointed an Enquiry Officer and a Presenting Officer. The said order erroneously recorded that the petitioner had refused to receive the charge-sheet on 10.09.2014, though the order itself was issued on 01.02.2014, demonstrating patent non-application of mind. On 20.03.2014, the Lokayukta sought clarification from the respondent-Bank regarding the procedure relating to the deposit receipts involved in the incident. By letter dated 26.03.2014, the Regional Manager categorically stated that the receipts bore the petitioner's signatures and official seal as per the prescribed banking procedure and that no irregularity had been committed by the petitioner. After learning about the departmental proceedings, the petitioner requested supply of the charge-sheet and relied-upon documents. However, on 15.04.2014 only three pages of the charge-sheet were supplied, while the relevant documents and annexures were

withheld. The petitioner, by representation dated 23.04.2014, requested that the departmental proceedings be kept in abeyance as the criminal case arising from the same incident was pending and continuation of the enquiry would prejudice his defence. Despite the petitioner's request, the disciplinary authority proceeded with the enquiry. On account of illness, the petitioner sought adjournment on 20.05.2014 by forwarding a medical certificate, but the Enquiry Officer ignored the request, proceeded *ex-parte* and submitted the enquiry report dated 03.06.2014 holding all the charges proved.

3. During the pendency of the enquiry, the petitioner attained the age of superannuation and retired from service on 30.06.2014. Nevertheless, on the basis of the enquiry report, the disciplinary authority passed the order dated 10.07.2014, communicated on 17.07.2014, imposing the major penalty of dismissal from service under the applicable Service Regulations. Aggrieved thereby, the petitioner preferred a statutory appeal on 04.09.2014, specifically raising the grounds of non-service of the charge-sheet, non-supply of documents, denial of reasonable opportunity, illegal ex parte enquiry, violation of the principles of natural justice and pendency of the criminal proceedings on identical facts. However, by a cryptic and non-speaking order dated 17.03.2015, the appellate authority dismissed the appeal without considering the specific grounds raised by the petitioner. Being aggrieved by the illegal initiation and conduct of the departmental proceedings, the *exparte* enquiry report, the order of dismissal and the appellate order, the petitioner has preferred the present writ petition seeking appropriate reliefs.

4. It has been submitted by the learned counsel for the petitioner that the order of punishment dated 10.09.2014 (Annexure-P/3) has been passed in violation of the principles of natural justice, as the petitioner was not afforded a proper opportunity at any stage of the departmental enquiry. Therefore, the said order deserves to be quashed. The second ground raised by the petitioner is that the punishment of dismissal from service after superannuation cannot be inflicted, as per the Banking Regulations applicable in the present case.

5. To bolster his submission, learned counsel for the petitioner has relied upon the judgments passed by the Hon'ble Apex Court in the case of **UCO Bank and Another Vs. Rajinder Lal Capoor**, reported in **(2007) 6 SCC 694**, and in the case of **UCO Bank and Others Vs. Prabhakar Sadashiv Karvade**, reported in **(2018) 14 SCC 98**, and on these two grounds, the impugned order has been challenged. It is also submitted that, upon filing of an appeal against the said order, the order of punishment was affirmed vide order dated 17.03.2015 (Annexure-P/10).

6. It is submitted by learned counsel for the petitioner that the regulations, namely, Madhya Pradesh Gramin Bank (Officers and Employees) Service Regulations, 2010, are applicable in the case in hand. It is submitted that Regulation 45 is in respect of the infliction of punishment upon a superannuated employee of the Bank. It is submitted that, according to Regulation 45(1) and (3), if a person, on attaining the age of superannuation, is allowed to superannuate, then in no case the punishment of dismissal from service be inflicted. It is further submitted that earlier, the

respondent had issued a memorandum dated 06.12.2012 (Annexure-P/1), by which an explanation was sought regarding certain irregularities or negligence alleged to have been committed by the petitioner. However, thereafter, a charge-sheet was issued on 25.10.2013 stating that the petitioner had not submitted a reply to the earlier show-cause notice. It is submitted that, as the said letter was neither issued nor served upon the petitioner, there was no question of the petitioner submitting a reply to the said letter. Therefore, the charge-sheet issued without giving a show-cause notice is bad in law.

7. It is further submitted that the charges which are levelled in the charge-sheet are vague and bald. Therefore, on the basis of the said charges, no punishment can be inflicted. It is further submitted that the respondent, in their reply to the Lokayukta Organisation, has made certain observations to the effect that the petitioner was not at fault vide letter dated 26.03.2014. However, the respondent, on the same charges, in an *ex parte* proceeding, has inflicted punishment. Therefore, the entire departmental proceedings and the order of punishment passed on the basis thereof are perverse, violative of the principles of natural justice, and bad in law; therefore, the same deserve to be quashed.

8. To buttress his submission, learned counsel for the petitioner has relied upon the judgment of the Hon'ble Apex Court in **Kumaon Mandal Vikas Nigam Ltd. Vs. Girja Shankar Pant and Others**, reported in **(2001) 1 Supreme Court Cases 182.**

9 . *Per contra*, learned counsel for the respondent has vehemently

opposed the submissions made by learned counsel for the petitioner and has submitted that the petitioner was afforded due opportunity of hearing at all stages. The petitioner was served with a memorandum to submit an explanation on the points raised by the respondent-Bank vide Annexure-P/1 dated 06.12.2012. As the petitioner did not file any reply, and after forming an opinion, the authorities initiated the departmental enquiry vide Annexure-P/2. The petitioner was served with the charge-sheet, memorandum of charges, list of witnesses, and list of documents. The petitioner did not file any reply. Therefore, the Enquiry Officer was appointed, and the departmental enquiry was concluded on the basis of the evidence and material available on record produced by the departmental witnesses. On the basis of the enquiry report, the disciplinary authority found that the petitioner was guilty of dereliction of duty and accordingly awarded the punishment of dismissal from service vide the impugned order. Upon filing of an appeal, the same was affirmed by the appellate authority.

10. It is submitted that the Hon'ble Apex Court, while considering the case relied upon by the petitioner, i.e., **UCO Bank (Supra)**, has passed the judgment in **State Bank of India Vs. Ram Lal Bhaskar and Another**, reported in **(2011) 10 SCC 249**, and held that, in that case, as the delinquent employee was served with a charge-sheet post-retirement, therefore, upon reading the Regulations of UCO Bank in the earlier judgment, the Hon'ble Supreme Court rightly held that the punishment of withdrawal or withholding of pensionary benefits could have been awarded in that case, as the punishment of dismissal was beyond the jurisdiction and against the

Regulations. However, in the present case, as the petitioner was served with the charge-sheet prior to retirement, therefore, for all purposes, the petitioner would be treated to be in service in the context of the departmental enquiry and awarding of punishment, which includes dismissal from service as per Regulation 39.

11. It is submitted that the record has also been produced before the Court to submit that the petitioner was served with the charge-sheet dated 25.10.2013 (Annexure-P/2), which contains envelops with endorsement of refusal to accept by the petitioner. Thereafter, the petitioner did not file any reply, and the Enquiry Officer, Mr. R.S. Paul, was appointed, who conducted the enquiry. Finally, the report was submitted, and on the basis of the said report, the punishment of dismissal from service was imposed. It is further submitted that an appeal was also filed by the appellant, which was dismissed vide order dated 17.03.2015 (Annexure-P/10). Accordingly, learned counsel for the respondent prayed for dismissal of the petition.

12. Heard learned counsel for the parties and perused the record of the departmental enquiry produced during the course of arguments.

13. From perusal of the record, it is found that the petitioner was served with the charge-sheet, the envelope of which contains the endorsement "लेने से इंकार" (Refused to accept). Thereafter, several letters were issued by the petitioner through registered post and were received by the Bank, stating that such departmental enquiry had no meaning as a criminal case is pending at Raisen, instituted by the Lokayukta Organisation. There are letters available on record dated 12.03.2014,

07.05.2014, and 02.06.2014, which themselves show that the petitioner was very much aware of the fact that the departmental enquiry was going on and that he did not participate in the same. The petitioner was also given a letter informing him about the appointment of the Enquiry Officer dated 01.02.2014, which was also sent through registered post and is attached with the file. The petitioner was served with the charge-sheet through registered post, which also contains the endorsement of the postal authority "लेने से इंकार" (Refused to accept) and bears the date 12.11.2013 on the registered postal receipt. There is also a letter dated 09.11.2013 written by the wife of the petitioner, stating that the petitioner had sustained injuries in an accident and as they had been receiving letters from the Bank which could not be replied to, no communication be made either through written documents or telecommunication for a period of two months. This itself shows that the petitioner and his family were very much aware that the departmental enquiry had been initiated against the petitioner. Despite the pendency of the departmental enquiry, the petitioner did not participate in the proceedings for one or another reason. However, the letters submitted by the petitioner seeking certain copies of documents from the Bank, including copies of cheque and receipts, on the ground that they were required for the criminal trial pending at Raisen, show that the petitioner was very much aware of the pendency of the departmental enquiry. The petitioner deliberately did not participate in the enquiry but was participating in the criminal trial by seeking documents through repeated letters. Therefore, in the considered opinion of this Court, the petitioner was granted ample opportunity to submit his defence in the departmental enquiry. As the petitioner refused to accept the documents from the Bank, the proceedings culminated into an *ex-parte* enquiry and *ex-parte* punishment.

14. It is the case of the petitioner that, as the criminal case is pending on the same charges before the competent Court of law, no punishment can be inflicted in the departmental enquiry, as the charges are identical. It is submitted that the departmental enquiry ought to have been stayed till the conclusion of the criminal trial, as held in ***Depot Manager, A.P. State Road Transport Corporation Versus Mohd. Yousuf Miya and Others***, reported in **(1997) 2 SCC 699**.

15. From perusal of the record, it appears that the petitioner has not filed the charges framed in the criminal trial. Therefore, without examining the details of the charges framed against the petitioner in the criminal trial, no opinion can be formed.

16. The Hon'ble Apex Court in the case of ***Shashi Bhushan Prasad Vs. Inspector General, Central Industrial Security Force and Others,*** reported in **(2019) 7 SCC 797**, has held that the departmental enquiry is based on the principle of preponderance of probabilities, whereas the criminal trial is based on strict proof. Both proceedings can proceed simultaneously, and punishment in the departmental enquiry can be imposed on the basis of the evidence available on record. Paragraph No. 19 of **Shashi Bhushan Prasad (Supra)** is reproduced as under:-

> *"19. We are in full agreement with the exposition of law laid down by this Court and it is fairly well settled that two proceedings criminal and departmental are entirely different. They operate in different fields and have different objectives. Whereas the object*

of criminal trial is to inflict appropriate punishment on an offender, the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with the service Rules. The degree of proof which is necessary to order a conviction is different from the degree of proof necessary to record the commission of delinquency. Even the rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law, burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of the accused beyond reasonable doubt, he cannot be convicted by a Court of law whereas in the departmental enquiry, penalty can be imposed on the delinquent on a finding recorded on the basis of 'preponderance of probability'. Acquittal by the Court of competent jurisdiction in a judicial proceeding does not ipso facto absolve the delinquent from the liability under the disciplinary jurisdiction of the authority. This what has been considered by the High Court in the impugned judgment in detail and needs no interference by this Court."

17. The question as to whether the petitioner, who has been superannuated from the respondent-Bank, can be punished with the penalty of dismissal from service or not, is to be examined on the basis of the Regulations applicable in the present case. Regulation 39 reads as under:-

"39. Penalties -

Without prejudice to the foregoing regulations of this Chapter, an officer or employee who commits a breach of these regulations or who displays negligence, inefficiency or indolence or who commits acts detrimental to the interests of the Bank or in conflict with its instructions, or who commits a breach of discipline or is guilty of any other acts of misconduct, shall be liable for any one or more penalties as follows, namely,-

1. Officers :

(a) Minor Penalties

(i) censure;

(ii) withholding or stoppage of increments of pay without cumulative effect;

(iii) withholding of promotion;

(iv) recovery from emoluments or such other amounts as may be due to him, of the whole or part or any pecuniary loss caused to the Bank by negligence or breach of orders;

(v) reduction to a lower stage in time scale of pay for a period not exceeding two years without cumulative effect;

(b) Major Penalties:

(i) save as provided in item (v) of clause (a) of sub-regulation (1) of regulation 39, reduction to a lower stage in time scale of pay for a specified period with further directions as to whether or not the officer shall earn increments of pay during the period of such reduction and whether on expiry of such period the reduction shall or shall not have the effect of postponing the future increments of his pay;

(ii) reduction to a lower grade or post; (iii) compulsory retirement;

(iv) removal from service which shall not be a disqualification for future employment;

(v) dismissal which shall ordinarily be a disqualification for future employment.

Explanation: *For the purposes of this regulation, - the* *following shall not amount to be a penalty, namely, -*

(i) withholding of one or more increments of an officer on account of his failure to pass a departmental test or examination in accordance with the terms of appointment to the post which he holds;

(ii) stoppage of increment(s) of an officer at the efficiency bar in a time scale on the grounds of his unfitness to cross the bar;

(iii) not giving an officiating assignment or non-promotion of an officer to a higher grade of post for which he may be eligible for consideration but for which he is found unsuitable after consideration of his case;

(iv) reserving or postponing the promotion of an officer for reasons like completion of certain requirement for promotion or pendency of disciplinary proceedings;

(v) reversion to a lower grade or post of an officer officiating in a higher grade or post, on the ground that he is considered, after trial, to be unsuitable for such higher grade or post or on administrative grounds unconnected with his conduct;

(vi) reversion to the previous grade or post of an officer appointed on probation to another grade or post during or at the end of the period of probation, in accordance with the terms of his appointment or rules, or orders governing such probation;

(vii) reversion of an officer on deputation to his parent organization;

(viii) termination of service of an officer, -

(a) appointed in a temporary capacity otherwise than under a contract or agreement on the expiration of the period for which he was appointed, or earlier in accordance with the terms of his appointment;

(b) appointed under a contract or agreement, in accordance with the terms of such contract or agreement; and

(c) as part of retrenchment:

Provided that no minor penalties as specified in items (i) to (v) of clause (a) of sub-regulation (1) of regulation 39, shall be imposed by the Competent Authority unless the officer is given a notice in writing, -

(i) informing him of the grounds on which it is proposed to impose the said penalties;

(ii) giving him a reasonable opportunity for making a statement of defense in writing within a period of 15 days from the date of receipt of notice, and statement of defense, if any, submitted by the Officer shall be taken into consideration and of being heard.

Provided further that no order in imposing any of the major penalties specified above, shall be made except by an order in writing signed by the Competent Authority and no such order shall be passed without the charge or charges being framed in writing and given to the officer and enquiry held so that he shall *have reasonable opportunity to answer the charge or charges and defend himself.*

Provided further that no enquiry shall be made, if,

(i) the misconduct in such cases even if proved, the Bank does not intend to impose the punishment of removal or dismissal; and

(ii) the Bank has issued a show cause notice to the officer advising him of the misconduct and the punishment for which he may be liable for such misconduct; and (iii) the officer makes a voluntary admission of his guilt in his reply to the aforesaid show cause notice;

2. Employees:

(a) Minor Penalties :

(i) censure;

(ii) recording of adverse remarks against him;

(iii) withholding of increments for a period not exceeding six months;

(b) Major Penalties:

(i) fine;

(ii) withholding of increment(s) for a period exceeding 6 months;

(iii) withdrawal of special allowance;

(iv) reduction of pay to next lower stage upto a maximum period of two years in case the staff has reached the maximum in

the scale of pay;

(v) removal from service which shall not be a disqualification for future employment;

(vi) dismissal:

Provided that no major penalties as specified in items (i) to (vi) of clause (b) of sub-regulation (2) of regulation 39 shall be imposed by the Competent Authority unless, -

(i) an order in writing signed by the competent authority and no such order shall be passed without the charge(s) being framed in writing and given to the employee and enquiry held;

(ii) giving him reasonable opportunity to answer the charge(s) in writing, and defend himself.

Provided further that an enquiry need not be held if, -

i. the misconduct is such that even if proved, the Bank does not intend to impose punishment of removal or dismissal; and

ii. the Bank has issued a show cause notice to the employee advising him of the misconduct and the punishment for which he may be liable for such misconduct; and

iii. the employee makes a voluntary admission of his guilt in his reply to the aforesaid show cause notice."

18. Regulation 45 reads as under:-

"45. Disciplinary proceedings after retirement. *–*

(1) An officer or employee who is under suspension on a charge of misconduct and who attains the age of superannuation,

shall be deemed to be in service even after the age of superannuation for the specific purpose of continuation and conclusion of the disciplinary proceedings and issue of final orders thereon.

(2) The officer or employee who is under suspension shall not be eligible for any subsistence allowance for the period beyond the date of superannuation.

(3) The officer or employee against whom disciplinary proceeding has been initiated shall cease to be in service on the date of superannuation but the disciplinary proceeding shall continue as if he was in service until the proceedings are concluded and final order is passed in respect thereof.

(4) The officer or employee against whom disciplinary proceedings has been initiated shall not receive any pay and/or allowances after the date of superannuation and also not be entitled for the payment of retirement benefits till the proceeding is completed and final order is passed thereon except his own contribution to Contributory Provident Fund (CPF).

<u>Explanation:</u> *For the purposes of this regulation, the normal retirement benefits such as encashment of privilege leave and Gratuity may be withheld till the completion of the disciplinary proceeding and passing of final order by the Competent Authority and the release of benefits shall be as per the final order of the Competent Authority."*

19. From a conjoint reading of Regulation 39 and Regulation 45, it is clear that Regulation 39 provides for both minor as well as major punishments. Major punishment includes dismissal from service. Regulation 45 provides for the contingency upon attaining the age of superannuation. Regulation 45(1) provides that, for the purpose of departmental enquiry, if the charge-sheet has been issued, then the employee shall be treated to be in service till the departmental enquiry is concluded. Similarly, Regulation 45(3) provides that the employee ceases to be in service on attaining the age of superannuation, but for the purpose of final conclusion of the enquiry, he shall be treated to be in service.

20. From the aforesaid provision, it is clear that even if a person has been superannuated and the departmental enquiry has been initiated prior to his retirement, then, for the purpose of conclusion of the departmental enquiry,such person is treated to be in service, it means that all the punishments available under Regulation 39 can be imposed upon such person, including the punishment of dismissal from service.

21. On conjoint reading of Regulation 45(1) and Regulation 45(3), it becomes abundantly clear that if the charge-sheet is issued prior to retirement, then, for all purposes, the person shall be treated to be in service for the purpose of infliction of punishment as provided under Regulation 39.

22. Regulation 45 does not contemplate any separate punishment for an employee who has retired from service. The import has to be taken from Regulation 39. Regulation 39 provides for the imposition of penalties and the

types of penalties.

23. The Hon'ble Apex Court, in the case of ***UCO Bank*** **(supra)**, has categorically held in paragraph No. 23 as under:–

> *"23. An order of dismissal or removal from service can be passed only when an employee is in service. If a person is not in employment, the question of terminating his services ordinarily would not arise unless there exists a specific rule in that behalf. As Regulation 20 is not applicable in the case of the respondent, we have no other option but to hold that the entire proceeding initiated against the respondent became vitiated in law."*

24. The Hon'ble Apex Court, in the case of ***Prabhakar Sadashiv Karvade*** **(supra),** observed in paragraph 9 as under:

> *"9. A reading of the plain language of Regulation 4 of the Discipline and Appeal Regulations and Regulation 20(3) (iii) of the 1979 Regulations makes it clear that any of the penalties, whether major or minor can be imposed only on a serving officer employee of the Bank. This necessarily implies that none of the penalties specified in Regulation 4 of the Discipline and Appeal Regulations can be imposed on an officer employee after his retirement from service, though in terms of Regulation 20(3)(iii) of the 1979 Regulations, the disciplinary proceedings initiated against an officer employee before his retirement can be continued and final order is passed and further that such officer employee is not entitled to retiral benefits till the conclusion of disciplinary proceedings and passing of final order. The only exception to this is that the officer is entitled to receive his own contribution to CPF. However, there is nothing in the language of these regulations from which it can be inferred that the disciplinary authority has the power to impose a substantive punishment on retired officer employee. This becomes more explicit from a conjoint reading of Regulation 48 of the Pension Regulations which empowers the competent authority to withhold or withdraw a pension or a part thereof and order recovery from pension of the whole or part of any pecuniary loss caused to the bank if in a 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.*

Second proviso to Regulation 48 contains a fiction and lays down that if the departmental proceedings are instituted while the employee was in service, the same shall be deemed to be proceedings under the regulations and continued and concluded as if the employee had continued in service. The third proviso imposes a bar on the initiation of departmental or judicial proceedings against an employee after his retirement in respect of an event which took place more than 4 years before such institution. The sum and substance of these regulations is that even though a departmental inquiry instituted against an officer employee before his retirement can continue even after his retirement, none of the substantive penalties specified in Regulation 4 of 1979 Regulations, which include dismissal from service, can be imposed on an officer employee after his retirement on attaining the age of superannuation. Therefore, we have no hesitation to hold that order dated 12-10-2004 passed by the disciplinary authority dismissing the respondent from service, who had superannuated on 31-12-1993 was ex facie illegal and without jurisdiction and the High Court did not commit any error by setting aside the same."

25. The petitioner has relied upon the judgment passed by the Hon'ble Apex Court in the case of ***UCO Bank (Supra).*** The Larger Bench of the Hon'ble Apex Court in the case of **State Bank of India (Supra)** has held as under:-

"9. We have perused the decision of this Court in UCO Bank and Another v. Rajinder Lal Capoor (supra) and we find that in the facts of that case the delinquent officer had already superannuated on 01.11.1996 and the charge-sheet was issued after his superannuation on 13.11.1998 and this Court held that the delinquent officer having been allowed to superannuate, the charge-sheet, the enquiry report and the orders of the disciplinary authority and the appellate authority must be held to be illegal and without jurisdiction. In the facts of the present case, on the other

hand, we find that the charge-sheet was issued on 22.12.1999 when the respondent no.1 was in service and there were clear provisions in Rule 19(3) of the State Bank of India Officers' Service Rules, 1992, that in case disciplinary proceedings under the relevant rules of service have been initiated against an officer before he ceased to be in the Bank's service by the operation of, or by virtue of, any of the rules or the provisions of the rules, the disciplinary proceedings may, at the discretion of the Managing Director, be continued and concluded by the authority by which the proceedings were initiated in the manner provided for in the rules as if the officer continues to be in service, so however, that he shall be deemed to be in service only for the purpose of the continuance and conclusion of such proceedings.

10. We may mention here that a similar provision was also relied on behalf of UCO Bank in UCO Bank and Another v. Rajinder Lal Capoor (supra) in regulation 20(3)(iii) of the UCO Bank Officers Employees Service Rules, 1979, but this Court held that the aforesaid regulation could be invoked only when the disciplinary proceedings had been initiated prior to the delinquent officer ceased to be in service. Thus, the aforesaid decision of this Court in UCO Bank and Another v. Rajinder Lal Capoor (supra) does not support the respondent no.1 and there is no merit in the contention of the counsel for the respondent no.1 that the enquiry and the order of dismissal were illegal and without jurisdiction.

11. Coming now to the contention of the appellant, we find that the enquiry officer has found that charges no. 1, 2, 4 and 6 had been proved against the respondent no.1. While arriving at these findings on the four charges proved against the respondent no.1, the enquiry officer has considered a number of documents marked as exhibits and has also considered the documents produced on behalf of the respondent no.1 and marked as exhibits. The findings of the enquiry officer were based on evidence and the appointing authority had agreed with the findings of the enquiry officer."

26. On the basis of the charges levelled against the petitioner and the enquiry conducted by the Enquiry Officer, it has been found that the petitioner was involved in activities under the Prevention of Corruption Act. Therefore, the respondent authorities have taken the decision to impose the punishment of dismissal from service, which cannot be said to be disproportionate to the charges levelled against the petitioner.

27. Therefore, the case law relied upon by the learned counsel for the petitioner has been considered by the Hon'ble Apex Court in the subsequent judgment passed by a Bench of larger strength, wherein it was found that, in the earlier case, the charge-sheet was issued after retirement. Therefore, the punishment of dismissal granted in a case where the charge-sheet was issued prior to retirement is in accordance with the Regulations.

28. The petitioner has also relied upon the judgment passed by the Hon'ble Apex Court in the case of ***Prabhakar Sadashiv Karvade*** **(supra)**. From perusal of the said judgment, it is found that the same was passed by

the Hon'ble Apex Court by a Bench of lesser strength, and the earlier judgment passed by a larger Bench was not considered therein. Therefore, the ratio laid down by the larger Bench, which has not been subsequently considered or overruled, is required to be relied upon, and the subsequent judgment passed by a Bench of lesser strength cannot be relied upon in view of the judgment passed by the Full Bench of this Court in ***Jabalpur Bus Operators Association and Others v. State of Madhya Pradesh and Others***, reported in **(2003) 1 MPLJ 513**. The Full Bench, while considering the issue in detail, has held in paragraph No. 9 as under:–

> *"9. Having considered the matter with broader dimensions, we find that various High Courts have given different opinion on the question involved. Some hold that in case of conflict between two judgments on a point of law, later decision should be followed; while others say that the Court should follow the decision which is correct and accurate whether it is earlier or later. There are High Courts which hold that decision of earlier Bench is binding because of the theory of binding precedent and Article 141 of the Constitution of India. There are also decisions which hold that Single Judge differing from another Single Judge decision should refer the case to Larger Bench, otherwise he is bound by it. Decisions which are rendered without considering the decisions expressing contrary view have no value as a precedent. But in our considered opinion, the position may be stated thus-*
>
> *With regard to the High Court, a Single Bench is bound by*

the decision of another Single Bench. In case, he does not agree with the view of the other Single Bench, he should refer the matter to the Larger Bench. Similarly, Division Bench is bound by the judgment of earlier Division Bench. In case, it does not agree with the view of the earlier Division Bench, it should refer the matter to Larger Bench. In case of conflict between judgments of two Division Benches of equal strength, the decision of earlier Division Bench shall be followed except when it is explained by the latter Division Bench in which case the decision of later Division Bench shall be binding. The decision of Larger Bench is binding on Smaller Benches.

In case of conflict between two decisions of the Apex Court, Benches comprising of equal number of Judges, decision of earlier Bench is binding unless explained by the latter Bench of equal strength, in which case the later decision is binding. Decision of a Larger Bench is binding on smaller Benches. Therefore, the decision of earlier Division Bench, unless distinguished by latter Division Bench, is binding on the High Courts and the Subordinate Courts. Similarly, in presence of Division Bench decisions and Larger Bench decisions, the decisions of Larger Bench are binding on the High Courts and the Subordinate Courts. No decision of Apex Court has been brought to our notice which holds that in case of conflict between the two decisions by equal number of Judges, the later decision in binding in all *circumstances, or the High Courts and Subordinate Courts can follow any decision which is found correct and accurate to the case under consideration. High Courts and Subordinate Courts should lack competence to interpret decisions of Apex Court since that would not only defeat what is envisaged under Article 141 of the Constitution of India but also militate hierarchical supremacy of Courts. The common thread which runs through various decisions of Apex Court seems to be that great value has to be attached to precedent which has taken the shape of rule being followed by it for the purpose of consistency and exactness in decisions of Court, unless the Court can clearly distinguish the decision put up as a precedent or is per incuriam, having been rendered without noticing some earlier precedents with which the Court agrees. Full Bench decision in Balbir Singh's case (supra) which holds that if there is conflict of views between the two co-equal Benches of the Apex Court, the High Court has to follow the judgment which appears to it to state the law more elaborately and more accurately and in conformity with the scheme of the Act, in our considered opinion, for reasons recorded in the preceding paragraph of this judgment, does not lay down the correct law as to application of precedent and is, therefore, over-ruled on this point.*

(Emphasis supplied)

After having answered the reference, writ petitions be placed before the Single Judge for decision on merits."

29. The Hon'ble Apex Court, in ***Mary Pushpam v. Telvi Curusumary and Others,*** reported in **(2024) 3 SCC 224**, has held in paragraph 20 as under:-

"20. The legal position on Coordinate Benches has further been elaborated by this Court in State of Punjab & Anr. v. Devans Modern Breweries Ltd. & Anr. (2004)11 SCC 26:

"339. Judicial discipline envisages that a coordinate Bench follow the decision of an earlier coordinate Bench. If a coordinate Bench does not agree with the principles of law enunciated by another Bench, the matter may be referred only to a larger Bench.

(Emphasis supplied)"

30. From above enunciation of law, it is clear that the law laid down in ***State Bank of India (Supra)*** is binding precedent in the present case.

31. Therefore, in the considered opinion of this Court, the Regulations provide that the punishments prescribed under Regulation 39, including the punishment of dismissal from service, can be imposed upon a retired employee, i.e., the petitioner in the present case, even after his superannuation.

32. In view of the above analysis of the facts and the law laid down by the Hon'ble Apex Court, this Court finds no infirmity in the impugned order warranting interference under Article 226 of the Constitution of India.

33. The scope of interference in cases of departmental punishment is very limited. The Hon'ble Apex Court in the case of **Govt. of A.P. and Others Vs. Mohd. Nasrullah Khan**, reported in **(2006) 2 SCC 373**, in

paragraph nos. 10 and 11, has held as under:

"10. From the finding recorded by the High Court it clearly appears that the High Court re-appreciated the evidence as an Appellate Authority. Apart from re-appreciating the evidence, which is not permissible in law, the High Court also fell in grave error by directing the Govt. Pleader and the learned counsel for the respondent herein to again view the cassettes. It is on record that the Inquiry Officer relied on the video cassettes displayed during the Inquiry as part of additional evidence. The finding has been clearly recorded by the Inquiry Officer on the basis of the evidence adduced by PWs. 1,2,3 and 4 during the Inquiry.

11. By now it is a well-established principle of law that the High Court exercising power of judicial review under Article 226 of the Constitution does not act as an Appellate Authority. Its jurisdiction is circumscribed and confined to correct errors of law or procedural error, if any, resulting in manifest miscarriage of justice or violation of principles of natural justice. Judicial review is not akin to adjudication on merit by re-appreciating the evidence as an Appellate Authority."

34. The High Court, while exercising writ jurisdiction under Article 226 of the Constitution of India, cannot sit as an appellate court to re-appreciate the evidence. The case relied upon by the petitioner in the case of ***Kumaon Mandal (Supra)***, having distinguishable features and facts and therefore, the same is not applicable in the case in hand.

35. In the present case, it is admitted that the petitioner was served with the charge-sheet. The petitioner remained absent and submitted various letters on one or the other ground, but did not participate in the departmental proceedings. Therefore, it is not a case where the petitioner was not granted an opportunity; rather, it is a case where the petitioner attempted to bypass the departmental enquiry by assigning one or the other reasons, including the letter written by his wife, which itself shows the same. Therefore, no interference is called for under Article 226 of the Constitution of India.

36. Petition sans merits and is hereby dismissed.

37. The record of the departmental proceedings is returned to the counsel for the Bank on the Board.

(DEEPAK KHOT)
JUDGE

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