

**BEFORE THE HON'BLE HIGH COURT OF JAMMU AND
KASHMIR AT SRINAGAR.**

IN THE CASE OF: O. W. P No. _____ of 2020 titled below:

1. Mr. Parvez Ahmad Nengroo
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██ **...Petitioner**

Versus

1. Union Territory of Jammu and Kashmir
Through Commr./Secy. to Government,
Finance Department,
Civil Secretariat, Srinagar/ Jammu.
2. Jammu & Kashmir Bank Limited
Through its Chairman,
Corporate Headquarters,
M.A. Road, Srinagar
Jammu & Kashmir.
3. Reserve Bank of India
Through its Governor,
New Central office Building,
P.O. Box 901,
Shahid Bhagat Singh Road,
Mumbai – 400 001.
4. Mr. R. K. Chibber
Chairman & CEO
J & K Bank Limited
Office at: M.A. Road-Srinagar
Jammu & Kashmir. **...Respondents**

...

IN THE MATTER OF: Issuance of Writ under Article 226 of the Constitution of India in the nature of Certiorari or any other appropriate Writ, Direction or Order quashing the Impugned Notification dated 08.06.2019 as *non-est* and invalid in law on account of being arbitrary, illegal and contrary to Banking Regulation Act, 1949 and the Articles of Association of the Respondent No. 2 Bank and hence liable to be quashed by an appropriate Writ, Direction or Order of this Hon'ble Court and issuance of Writ, Direction or Order in the nature of Mandamus or any other appropriate Writ Direction or Order, quashing the Impugned communication dated 09.07.2019 as being illegal, arbitrary and being in violation of the Service Manual of the Respondent No. 2 Bank and a Writ, Order of Direction reinstating the Petitioner as the Chairman & CEO of the Respondent No. 2 Bank in order to serve the remaining time of his tenure as Chairman & CEO of the Respondent No. 2 Bank and other alternate relief(s).

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MAY IT PLEASE YOUR LORDSHIPS:

The Writ Petition of the Petitioner above named most respectfully showeth:

1. That the Petitioner is a permanent resident of the Union Territory of the Jammu & Kashmir and is permanently residing at the address as mentioned in the Memo of Parties and is thus entitled to invoke the Writ Jurisdiction of this Hon'ble Court. The Petitioner was the Chairman & CEO of the Respondent No. 2 Bank and was illegally removed by the Respondent No. 1 vide an illegal and arbitrary impugned Notification dated 08.06.2019. The Petitioner is also an employee of the Respondent No. 2 Bank being in employment since 1998 and slated to be in employment till 2024, however vide impugned Communication dated 09.07.2019, the services of the Petitioner were illegally terminated under a wholly misconceived pretext of a 'deemed retirement'. That both such Notifications have been impugned in the present Petition.
2. That the Respondent No. 1 is the Union Territory of Jammu and Kashmir (erstwhile State of J & K) acting through Commissioner/ Secretary to the Government. The Respondent No. 1 is the single largest shareholder of the Respondent No. 2 Bank and had issued the impugned Notification dated 08.06.2019 pursuant to which the Petitioner ceased to be a Nominee Director of the Respondent No. 1 on the Board of Directors of the Respondent No. 2 Bank

and was also consequently removed (albeit illegally) as the Chairman & CEO of the Respondent No. 2 Bank.

3. That the Respondent No. 2 Bank is Public Sector Undertaking (PSU) Bank under the 'deep and pervasive' control of the Respondent No. 1. The Respondent No. 2 Bank by virtue of such control (which is substantiated in detail hereinafter in the present Petition) by the Respondent No. 1 is an instrumentality/ agency of State for the purpose of Article 12 of the Constitution of India and as such the illegal, arbitrary, whimsical and fanciful decisions of the Respondent No. 2 that have been impugned in the present Petition are amenable to the Writ Jurisdiction of this Hon'ble Court and deserve to be indicted by an appropriate Writ of this Hon'ble Court. The Respondent No. 2 Bank has passed the impugned Communication dated 09.07.2019 wherein, against all known canons of service law jurisprudence, the services of the Petitioner have been terminated under the wholly misplaced and utterly irrelevant concept of a 'deemed retirement' and in gross disregard of the Service Manual, Compensation Policy and the Articles of Association of Respondent No. 2 Bank. The said action of the Respondent No. 2 Bank has been impugned in the present Petition.
4. That the Respondent No. 3 is the Reserve Bank of India (RBI) and is the apex regulatory authority for all banking companies in India. The Respondent No. 3 is the authority by law empowered

to regulate the appointment/ termination of Chairman/ CEO of the Respondent No. 2 Bank.

5. That the Respondent No. 4 is the present Chairman & CEO of the Respondent No. 2 Bank. The appointment of the Respondent No. 4 being illegal and contrary to the statute, namely the Banking Regulation Act, 1949, Companies Act, 2013 and the Articles of Association of the Respondent No. 2 Bank and the same has been impugned in the present Petition.
6. That the present Petition seeks to challenge the utterly illegal, arbitrary and whimsical actions of the Respondent No. 1 removing the Petitioner as the Chairman & CEO of the Respondent No. 2 Bank; and the decision of Respondent No. 2 Bank terminating the services of the Petitioner with the Respondent No. 2 Bank in the pretext of 'deemed retirement' in a wholly misconceived, illegal, arbitrary and *malafide* manner in gross disregard of the rules set down in the Service Manual and the Articles of Association of the Respondent No. 2 Bank.

The Brief facts leading to the filing of the Petition are as under:

7. That the Petitioner is an employee of the Respondent No. 2 Bank who, after successful appraisal of his impeccable credential and professional experience with various leading companies in India including Kelvinator & JK Group of companies, was appointed

as the first qualified company secretary in the Respondent No. 2 Bank vide Appointment Letter dated 19.01.1998. That after successful completion of probation period of 1 year, the services of the Petitioner were confirmed in the general cadre of the Respondent No. 2 Bank. A copy of appointment letter dated 19.01.1998 and copy of confirmation letter dated 01.04.1999 are annexed herewith and marked as **ANNEXURE I (Colly)**.

8. That since his employment with the Respondent No. 2 Bank, the Petitioner has been instrumental in the growth and surge of the Respondent No. 2 Bank and has played various pivotal roles with the Respondent No. 2 Bank including but not limited to his role as a Company Secretary during the maiden Initial Public Offering (IPO) of the Respondent No. 2 Bank that not only successfully placed the Respondent No. 2 Bank in the upper echelons of Banking Sector in India but also resulted in the Respondent No. 2 Bank becoming the first listed company of J & K on both the Bombay Stock Exchange (BSE) and National Stock Exchange (NSE).
9. That the Petitioner has also steered the merchant banking business of the Respondent No. 2 Bank and amongst other achievements is also accredited with successfully managing the Apple Finance Project in the Valley, which brought qualitative improvement in horticulture sector and helped transform the said industry in J & K. That the Petitioner outperformed on various

parameters and amongst other accomplishments achieved 100% coverage of households under the Pradhan Mantri Jan Dhan Yojna (PMJDY)

10. That in keeping with the impeccable performance of the Petitioner in the Respondent No. 2 Bank, the Petitioner rose within the ranks in the Respondent No. 2 Bank and in a span of more than 20 years with the Respondent No. 2 Bank held various positions of Deputy General Manager (June 2006-April 2008), President (April 2008-September 2011), Executive President (September 2011-October 2016) and was eventually appointed as the Chairman & CEO on 06.10.2016 for a tenure period of 3 years.. A copy of brief career profile of the Petitioner in the Respondent No. 2 Bank is annexed herewith and marked as **ANNEXURE II.**

11. That on 20.09.2016 and consequent upon the superannuation of the incumbent Chairman, the candidature of the Petitioner, who at the relevant time was a high-ranking Bank employee holding the post of Executive President, was proposed, based on his seniority and merit, by the Board of Directors of the Respondent No. 2 Bank to hold the Apex position of the Chairman & CEO of the Respondent No. 2 Bank. That accordingly amongst three candidates whose names were shortlisted and forwarded to the Respondent No. 3 for its approval thereof, the name of the Petitioner being best suited amongst the lot, featured at the top of

the list that was admittedly drawn as per order of preference. A copy of Board Resolution dated 20.09.2016 is annexed herewith and marked as **ANNEXURE III**.

12. That on 30.09.2016, the Respondent No. 3, exercising supervisory control over the Respondent No. 2 Bank in terms of the Banking Regulation Act, 1949 particularly section 35B thereof, responded to the Communication dated 21.09.2016 issued by the Respondent No. 2 Bank, by selecting and approving the candidature of the Petitioner as the Chairman & CEO of the Respondent No. 2 Bank with effect from 6.10.2016. A copy of letter of approval dated 20.09.2016 is annexed herewith and marked as **ANNEXURE IV**.

13. That consequent upon the approval of the Respondent No. 3 for the appointment of the Petitioner as the Chairman & CEO of the Respondent No. 2 Bank, the Respondent No. 1 appointed the Petitioner as a Government Director in terms of clause 69 of the Articles of Association of the Respondent No. 2 Bank on 03.10.2016. A copy of Notification dated 03.10.2016 is annexed herewith and marked as **ANNEXURE V**.

14. That on 06.10.2016, the Board of the Directors of the Respondent No. 2 Bank took note of the approval of the Respondent No. 3 dated 30.09.2016 and the approval of the Respondent No. 1 dated 03.10.2016 and accordingly accorded approval to the

appointment the Petitioner as the Chairman & CEO of the Respondent No. 2 Bank for a period of three years with effect from 06.10.2016. A copy of the Board Resolution dated 06.10.2016 is annexed herewith and marked as **ANNEXURE VI**.

15. That it is pertinent to mention here that the Petitioner was the first serving employee of the Respondent No. 2 Bank who was elevated to the position of the Chairman & CEO of the Respondent No. 2 Bank whereas in the past, the post of the Chairman & CEO of the Respondent No. 2 Bank was invariably occupied by either retired high ranking banking or government officials or in case of a lateral hiring, independent industry experts.
16. That concomitant with the appointment as the Chairman & CEO, the Petitioner was accorded a cumulative salary package of INR 66 Lakhs per annum along with other perquisites that were extended to the office of the Chairman & CEO. The same was also duly approved by the Respondent No. 3 as well. A copy of details of remuneration payable to the Petitioner as Chairman & CEO is annexed herewith and marked as **ANNEXURE VII**.
17. That the Petitioner was a serving employee of the Respondent No. 2 Bank and that since his employment with the Respondent No. 2 Bank was to continue till his superannuation on 31.03.2024, the pensionary benefit accruing to the Petitioner prior

to his appointment as the Chairman and CEO was continued as per the Compensation Policy and the Pension rules in vogue. That in fact, the continuation of pensionary benefits due to the Petitioner as the Chairman & CEO was approved specifically by the Board of Directors of the Respondent No. 2 Bank on 27.12.2018 and was also further approved by the Respondent No. 3 on 15.05.2019. A copy of Board Resolution dated 27.12.2018 and approval of the Respondent No. 3 dated 15.05.2019 is annexed herewith and marked as **ANNEXURE VIII (COLLY)**.

18. That in the financial quarters leading up to the appointment the Petitioner as the Chairman & CEO, the Respondent No. 2 Bank was staring into various challenges at such time including that of loss of INR 1632 Crores as capital erosion, increase in Net Non-Performing Asset percentage at 6.8%, inadequacy of capital for regulatory compliance and increase in Gross Net Non-Performing Assets being pegged at 11.26%.
19. That the ascendancy of the Petitioner as Chairman & CEO saw the turnaround of the Respondent No. 2 Bank from reported net losses to the tune of INR 1632 Crores in Financial Year 2016-17 to a reported net profit of INR 465 Crores for Financial Year 2018-19. Under the leadership of the Petitioner, the Respondent No. 2 Bank saw an unprecedented eight consecutive quarters of reported profits with a new paradigm of growth with sustainable profitability. The Net Non-Performing Asset (NPA) percentage

also plummeted to as low as 4.9% as opposed to 6.8% in the past and the Gross Net NPA percentage was, through assiduous planning, brought down from 11.26% to 8.97%. The Capital adequacy ratio was also improved to 12.46% from 10.80%. A copy of achievements of the Respondent No. 2 Bank on various parameters during the tenure of the Petitioner is annexed herewith and marked as **ANNEXURE IX**.

20. That the Petitioner, during his tenure as Chairman & CEO brought laurels to the Respondent No. 2 Bank by bagging prestigious awards like “*Outstanding Contribution through Innovative Initiatives in the Housing Sector under the Pradhan Mantri Awas Yojana (Urban)*” by the Housing and Urban Development Corporation (HUDCO) and ‘SKOCH award in Banking and Finance (B&F) silver category’ for inclusive banking and expansion in rural areas with establishment of 35 easy payment units in the Himalayan District of Leh in J & K. Under the leadership of the Petitioner, the Respondent No. 2 Bank was also bestowed with the ‘*Top Banker*’ award for its outstanding performance under the Prime Minister Employment Generation programme by the Ministry of MSME. That the Petitioner was also personally bestowed with the ‘*Elite Ambassador of the Institute of Company Secretaries of India-the Golden Memoir*’ award by the Institute of Company Secretaries of India.

21. That for reasons unknown and undisclosed and in a manner unknown to law, the Respondent No. 1 in arbitrary exercise of power purportedly vested under clause 69 (iii) of the Articles of Association of the Respondent No. 2 Bank, issued Notification dated 08.06.2019 wherein a decision was arbitrarily taken by the said Respondent No. 1 for cessation of the Petitioner as the Nominee Director of the Respondent No. 1 and the consequent removal the Petitioner as the Chairman & CEO of the Respondent No. 2 Bank. That in addition to the above, the present incumbent Chairman was also appointed as an Interim Chairman of the Board of Directors on the same day vide the same notification. A copy of Notification dated 08.06.2019 is annexed herewith and marked as **ANNEXURE X**.

22. That it is pertinent to mention that no meeting of the board of directors of the Respondent No. 2 Bank was ever convened in the past wherein apprehensions, if any, with respect to the performance of the Petitioner were discussed. Per contra the steady growth of the Respondent No. 2 Bank on various parameters bore eloquent testimonials in favour of the Petitioner's performance as the Chairman & CEO of the Respondent No. 2 Bank.

23. That it is further pertinent to mention that no notice was given to the Petitioner before the decision of his cessation as a director and consequent removal was taken by the Respondent No. 1 and

that no reasons were disclosed for such cessation and removal nor was an opportunity given to the Petitioner to make representation against any such reason that would have formed the basis of the said decision. That patent non-compliance with the basic principles of fairness and natural justice in addition to the legal grounds as mentioned hereinafter vitiates the said decision rendering it unsustainable in law and liable to be set aside.

24. That it is further submitted that what is more egregious is the fact that till date no order has been issued by the Respondent No. 1, addressed to the Petitioner herein specifying its decision for removal of the Petitioner as a nominee director and as the Chairman & CEO of the Respondent No. 2 Bank.

25. That it is further pertinent to submit that the unceremonious and unwarranted removal of the Petitioner as the Chairman & CEO of the Respondent No. 2 Bank saw the constant plummeting of share value of the Respondent No. 2 Bank at the stock exchange from INR 60.85 (as on 04.06.2019) per share to INR 18.00 (as on 17.02.2020) per share. The Respondent No. 2 Bank is yet to recover from the self-afflicted problems occasioned by the illegal and arbitrary decisions that have caused huge loss to the state exchequer and the public at large.

26. That it is pertinent to point out that the appointment of the Petitioner to the tenure post of Chairman & CEO was done as per

the rigors of the Banking Regulation Act and that in sync with the mandate of Section 35B, any termination of the said tenure post of Chairman & CEO required the mandatory prior approval of the Respondent No. 3 before any such termination would take effect. For convenient appreciation, Section 35 B of the Banking Regulation Act, 1949 (hereinafter BR Act, 1949) is excerpted hereunder:

Section 35B - Amendments of provisions relating to appointments of Managing Directors, etc., to be subject to previous approval of the Reserve Bank

(1) In the case of a banking company-

(b) no appointment or re-appointment or termination of appointment of a Chairman, a Managing or whole-time Director, manager or chief executive officer by whatever name called, shall have effect unless such appointment, re-appointment or termination of appointment is made with the previous approval of the Reserve Bank.

That it is further pertinent to point out that the provisions of the BR Act, 1949 have an overriding effect over the Articles of Association of any Banking Company or any resolution passed by any Banking Company in contravention of the provisions of the BR Act, 1949. For convenient appreciation Section 5A of the Banking Regulation Act, 1949 is reproduced hereunder:

[5A. Act to override memorandum, articles, etc save as otherwise expressly provided in this Act. –

(a) the provisions of this Act shall have effect notwithstanding anything to the contrary contained in the memorandum or articles of a banking company, or in any agreement executed by it, or in any resolution passed by the banking company in general meeting or by its Board of Directors, whether the same be registered, executed or passed, as the case maybe, before or after the commencement of the Banking Companies (Amendment) Act, 1959 (33 of 1959); and

(b) any provision contained in the memorandum, articles, agreement or resolution aforesaid shall, to the extent to which it is repugnant to the provisions of this Act, become or be void, as the case may be.]

27. That manifestly when the decision of cessation of the Petitioner as the Nominee Director was taken by the Respondent No. 1, which in the opinion of the Respondent No. 1 led to his termination as the Chairman & CEO of the Respondent No. 2 Bank, the said decision did not have the necessary prior approval of the Respondent No. 3 and as such the decision dated 08.06.2019 is *non-est* in the countenance of law being in naked breach of the mandate of Section 35 B of the Banking Regulation Act, 1949.

28. That it is further submitted that the power of removal of Chairman & CEO of a Banking Company prior to the completion of his tenure is vested only with the Respondent No. 3 i.e. the

RBI under the Banking Regulation Act, 1949 and even such power of removal entails the serving of Notice upon the incumbent Chairman affording him reasonable opportunity of being heard and making effective representation against his removal.

29. That it is pertinent to point out that as per the Articles of Association of the Respondent No. 2 Bank and the Banking Regulation Act, no power is vested in the Board of Directors much less the Respondent No. 1 acting unilaterally, to remove a serving Chairman from his office. As mentioned hereinbefore, such power, for a pressing cause as mentioned in the relevant sections, is vested only in the Respondent No. 3 exercising supervisory control under Section 10B or Section 36 AA of the Banking Regulation Act, 1949. It is reiterated herein that even such power as available to the Respondent No. 3 is not unbridled in nature and entails the serving of notice upon the incumbent Chairman affording him reasonable opportunity of being heard and making effective representation against his removal.
30. That it is clear from the record that Respondent No. 3 has not exercised its supervisory powers under the BR Act, 1949 to remove the Petitioner but the Respondent No. 1 has utilized a non-existent power and usurped powers not vested in it either by the Statute and/ or the Articles of Association of the Respondent No. 2 Bank to remove the Petitioner and has thus brought about

an unsanctioned result that effectively negates the whole intendment of the Banking Regulation Act, 1949. The impugned executive fiat of the Respondent No. 1 apart from being arbitrary, illegal and unwarranted also effectively usurps the regulatory and supervisory powers vested in Respondent No. 3 in terms of the Banking Regulation Act. It is respectfully submitted that the State Government has no power to make decisions with respect to regulatory and managerial supervision and control which are expressly vested in the banking sector regulator, namely, Respondent No. 3.

31. That it is submitted that notwithstanding the above infraction that vitiate the decision dated 08.06.2019 rendering the same liable to be set aside, it is further pertinent to point out that even as per the extant Articles of Association of the Respondent No. 2 Bank, even if the Petitioner would have ceased to be a nominee director of the Respondent No. 1, the said cessation would have had no impact over the Chairmanship of the Petitioner in the Respondent No. 2 Bank and that notwithstanding such cessation as nominee director, the tenure post of the Petitioner as Chairman would continue till the expiry of the said tenure in the ordinary course or unless removed by the Respondent No. 3 in pursuance of the provisions of the Banking Regulation Act. A copy of the Articles of Association of the Respondent No. 2 Bank is annexed herewith and marked as **ANNEXURE XI**.

32. That to vindicate the aforesaid the attention of the Hon'ble Court is drawn to clause 118 (b) of the Articles of Association of the Respondent No. 2 Bank that reads as under:

118 (b) Subject to the provisions of the Companies Act, 2013, and the Banking Regulation Act, 1949, the Directors may from time to time, appoint one of themselves, who shall be a government director, to be the Chairman of the Board of Directors for such period not exceeding 5 years at any one time as may be fixed by the Board of Directors. The Chairman shall be the Chief Executive Officer. The Chairman shall not cease to be the Chairman as a result of his ceasing to hold office as the Director, except where he ceases to be a Director as a result of some act or omissions of his own.

33. That it is most respectfully submitted that it is *ex-facie* clear that even assuming on a demur that the Respondent No. 1 had validly taken the decision to withdraw the candidature of the Petitioner as a Nominee Director, the same would have had no impact whatsoever on the Chairmanship of the Petitioner would continue to hold the tenured post of the Chairman & CEO being unrelieved by the arbitrary and whimsical decision of the Respondent No.1 dated 08.06.2019.

34. That thus the decision of the removal of the Petitioner as Chairman was not only in blatant violation of the BR Act, 1949 but was also in utter disregard of the Articles of Association of

the Respondent No. 2 Bank. Consequently, the removal of the Petitioner as Chairman & CEO vide notification dated 08.06.2019 is bad, illegal and *non-est* in law and hence liable to be set aside by issuing appropriate Writ, Direction or Order by this Hon'ble Court.

35. That it is further pertinent to mention that the appointment of Respondent No. 4 as an Interim Chairman *vide* notification dated 08.06.2019 was also manifestly illegal and in contravention of the Articles of Association of the Respondent No. 2 Bank, the Banking Regulation Act, 1949 as well as the Companies Act, 2013 and as such deserves to be set aside.
36. That it is brought to the attention of this Hon'ble Court that as mentioned hereinbefore the appointment of the Respondent No. 4 as an Interim Chairman required the previous approval of the Respondent No. 3 and without such previous approval of the Respondent No. 3 no appointment with respect to the Chairman & CEO of a Banking Company would take effect.
37. That it is further submitted that the appointment of a Chairman, whether interim or permanent, subject to the concurrence of the Respondent No. 3, is a power vested only in the Board of Directors of the Respondent No. 2 Bank and not the Respondent No. 1. The relevant provision of the Articles of Association of the

Respondent No. 2 Bank is reproduced herein for the convenient appreciation of this Hon'ble Court.

118 (B) Subject to the provisions of the Companies Act, 2013 and the Banking Regulation Act, 1949, the Directors from time to time, appoint one of themselves, who shall be a Government Director, to be the Chairman of the Board of Directors for such period not exceeding five years at any one time as may be fixed by the Board of Director...'

38. That it is manifest that the power of appointment of Chairman is vested only with the Board of Directors and subject to previous approval of the Respondent No. 3 and the Respondent No. 1, even by virtue of being the single largest shareholder, had no power for appointment of any individual, whether interim or otherwise, as the Chairman of the Respondent No. 2 Bank.
39. That thus it is submitted that the appointment of the Respondent No. 4 is illegal, unlawful and void-ab-initio having been occasioned by a power not vested in the Respondent No. 1. That it is further submitted that even subsequent ratification by the Board of Directors or the Respondent No. 3, if done *ex-post facto*, does not cure the illegality attached to the appointment of the Respondent No. 4.
40. That it is further brought to the attention of this Hon'ble Court that in sequel to the illegal order dated 08.06.2019 and despite its

patent illegality as mentioned hereinbefore, the services of the Petitioner were unceremoniously terminated and the Respondent No. 2 Bank being maliciously unmindful of the fact that even after the termination of the Petitioner's tenure as Chairman, the employment of the Petitioner would nonetheless continue till his superannuation, the Respondent No. 2 Bank arbitrarily and illegally withheld the salary and other monthly emoluments due and payable to the Petitioner.

41. That on non-disbursal of his monthly salary for the month of June 2019, the Petitioner moved a representation to the Respondent No. 2 Bank on 09.07.2019 seeking disbursal of his salary pointing out inter-alia that he has not reached the age of superannuation and that despite his termination as Chairman & CEO he substantively continued to be in the employment of the Respondent No. 2 Bank. A copy of representation dated 09.07.2019 is annexed herewith and marked as **ANNEXURE XII.**

42. That the Respondent No. 2 Bank through its Human Resource Department responded Petitioner's representation on 09.07.2019 itself and against all known canons of service jurisprudence riposted that the Petitioner was deemed to have retired as an employee of the Respondent No. 2 Bank w.e.f. 06.10.2016 i.e. the date on which the Petitioner was appointed as the Chairman and CEO of the Respondent No. 2 Bank. A copy of

communication dated 09.07.2019 issued by the Respondent No. 2 Bank is annexed herewith and marked as **ANNEXURE XIII**. The Petitioner further responded to the said Notification by way of another representation dated 12.07.2019 wherein the Petitioner substantiated that the said clause was inapplicable to the Petitioner and that the Petitioner continues to be in employment of the Respondent No. 2 Bank. A copy of representation dated 12.07.2019 is annexed herewith and marked as **ANNEXURE XIV**.

43. That the legal perversity of the said communication dated 09.08.2019 is writ large in the purported use of rationale of 'deemed retirement' that is utterly misconceived and wholly misapplied in the case of the Petitioner.
44. That it is most respectfully submitted that the concept of 'deemed retirement' is simplicitor a tool and concept for computing qualifying service for the purposes of calculation of pension under the Jammu and Kashmir Bank Employees (Pension) Regulations 1995 and has absolutely no application in the present factual scenario and that the expression 'deemed to have retired' finds no place in the Service Manual of the Respondent No. 2 Bank and has nothing to do with the service of an employee in the Respondent No. 2 Bank. A copy of Jammu and Kashmir Bank Employees (Pension) Regulations 1995 is annexed herewith and marked as **ANNEXURE XV**.

45. That with respect to the legal position qua the concept of 'deemed retirement', it is submitted that for the purposes of pensionary benefit, the elevation of an employee from a 'Career Level Post' (positions held in a bank below the Board of Directors) to 'Board Level Post' (position on the Board of Directors) is deemed in law to have entailed a break in service and for the purpose of quantifying 'qualifying years' for pension, only the time served by an employee at 'career level posts' is counted and the date of elevation of an employee to a 'Board Level Post' is deemed to be the date on which the said employee retired from the services of the Bank and the period after such elevation is thus excluded for the purpose of computing 'qualifying years' of service.
46. That it is with such intendment that the concept of deemed retirement was introduced and applied. That the said concept albeit has no relation with one's service and is even otherwise not applicable to Chairman/ CEO and whole-time directors who were serving employees of the bank and had subsequent to their service in the bank at a career level post been elevated to a Board Level Post in the same bank.
47. That the factual position in that regard was clarified by the Respondent No. 3 and the same finds mention in the Compensation Policy of the Respondent No. 2 Bank that is admittedly drawn as per the blueprint of the Respondent No. 3. A

copy of compensation policy of the Respondent No. 2 Bank is annexed herewith and marked as **ANNEXURE XVI**.

Clause 4 of the Compensation Policy of the Respondent No. 2 Bank being relevant is reproduced hereunder for the convenient appreciation of this Hon'ble Court:

...Chairman and Whole Time Directors shall not be covered under pension schemes unless Whole Time Directors have been appointed from amongst the serving management and covered as regular employees of the Bank.

48. That it is thus submitted that the concept of deemed retirement was manifestly inapplicable in case of the Petitioner and that the employment of Petitioner with the Respondent No. 2 Bank continued unabated and uninterrupted. That admittedly the continuation of pensionary benefits due to the Petitioner as the Chairman & CEO was approved specifically by the Board of Directors of the Respondent No. 2 Bank on 27.12.2018 and was also further approved by the Respondent No. 3 on 15.05.2019 rendering the concept of 'deemed retirement' for the purpose of pension wholly inapplicable and utterly misapplied in the case of the Petitioner herein.
49. That the subterfuge of the Respondent No. 2 Bank that the Petitioner was deemed to have retired with effect from 06.10.2016 i.e. the date on which he was appointed as the Chairman and CEO of the Respondent No. 2 Bank has no factual

or legal basis and is patently based on an utter misconception of law.

50. That without prejudice to the foregoing, it is further submitted that the 'President HRD' being the authority which has issued the impugned communication dated 09.07.2019 is not the competent authority to terminate the services of the Petitioner herein. That as per the Articles of Association of the Respondent No. 2 Bank, the only authority which can terminate the services of an employee (except by way of disciplinary action) is the Board of Directors of the Respondent No. 2 Bank. The President HRD has no authority to terminate the services of the Petitioner herein.
51. That save and except the communication dated 09.07.2019 no termination letter has been served upon the Petitioner being an employee of the Respondent No. 2 Bank and that no disciplinary proceedings or any steps involving termination as specified in the Service Manual of the Respondent no. 2 Bank have been initiated against the Petitioner herein.
52. That thus the communiqué dated 09.07.2019 issued by the Respondent No. 2 Bank has no legal or factual basis and is liable to be set aside by this Hon'ble Court.
53. That it is pertinent to submit that the illegal and arbitrary decisions dated 08.06.2019 and 09.07.2019 and the consequent

withholding of salary/ emoluments legally due and payable to the Petitioner by virtue of his continued service at the Respondent No. 2 Bank has caused great financial distress not only Respondent No. 2 Bank but to his immediate dependent family as well. That it is pertinent to the Petitioner was and continues to be in full employment of the Respondent No. 2 Bank and has as such no other employment and/or means of financial resources save and except his salary due and payable from the Respondent No. 2 Bank.

54. That being aggrieved by the illegal actions of the Respondent No. 1 and Respondent No. 2 Bank and the continued inaction on the request of the Petitioner, the Petitioner served a legal notice upon the Respondent No. 1 and Respondent No. 2 Bank on 23.12.2019 calling upon the said Respondents to recall the impugned decision dated 08.06.2019 and 09.07.2019 and the immediate disbursal of salary and other emoluments due and payable to the Petitioner. A copy of Legal Notice dated 23.12.2019 is annexed herewith and marked as **ANNEXURE XVII**.
55. That it is also pertinent to add that subsequent to the service of the legal notice, the Petitioner was arraigned as an accused in illusory and motivated charge-sheet that was filed before the Court of Special Judge Anti-Corruption, Srinagar. The said charge-sheets have no link with the removal of the Petitioner as the Chairman & CEO as admittedly the said charge-sheet is based upon a FIR that was barely filed on the same day on which the

impugned removal of the Petitioner took place. The said case is pending adjudication before the Court of Special Judge Anti-Corruption Srinagar. Copy of the charge-sheets being Challan No. 3 and Challan No. 4 are annexed herewith and marked as **ANNEXURE XVIII (COLLY)**.

56. That in relation to the amenability of the Respondent No. 2 Bank to the Writ Jurisdiction of this Hon'ble Court is concerned, it is most respectfully submitted that the dictum of law as laid down by the majority opinion of the Full Bench of the Hon'ble High Court of J & K in the matter of *Firdous Ahmad Tanki vs. J&K Bank Ltd. (2006 (2) JKLJ 146)* declaring the non-amenability of the Respondent No. 2 Bank to the writ jurisdiction of the Hon'ble High Court no longer holds good since the legal position has changed in light of the State Administrative Council (SAC) Decision No. 148/ 20/ 2018 dated 22.11.2018 wherein a decision has been taken to treat the Respondent No. 2 Bank as a Public Sector Undertaking (PSU) being, amongst other things, accountable to the State Legislature, RTI Act and the CVC Guidelines. A copy of letter dated 12.02.2019 is annexed herewith and marked as **ANNEXURE XIX**.

57. That the 'deep and pervasive' control of the Respondent No. 1 on the Respondent No. 2 Bank has now become all pervasive by Government order dated 37F of 2019 wherein the recruitment process, procurement process and allocation of all contracts in the

Respondent No. 2 Bank are made subject to the approval and concurrence of the State Government The aforesaid order dated 04.07.2019 coupled with the order dated 22.11.2018 and the controlling shareholding of more than 59% (proposed to be increased to 68.18%) in the Respondent no. 2 Bank has effectively removed the basis of the judgment of *Firdous Ahmad Tanki*. A copy of order dated 04.07.2019 is annexed herewith and marked as **ANNEXURE XX**.

58. That it is further submitted that as per the Board meeting of the Respondent No.2 Bank as held on 07.02.2020, the Respondent No. 2 has decide to issue further equity shares in favour of the Respondent No. 1 and after such resolution is approved by the shareholders of the Respondent No. 2 Bank, the shareholding of the Respondent No. 1 in respondent No. 2 Bank would stand at 68.18%. A copy of intimation sent to NSE on 07.02.2020 and a copy of Postal Ballot along with Explanatory Statement is annexed herewith and marked as **Annexure XXI (Colly)**.

59. That in addition to the foregoing it is further submitted that the employees of the Respondent No. 2 Bank are treated as 'Public Servants' and are subject to the Vigilance Guidelines and in fact the Petitioner himself has been treated as a 'Public Servant' and has been arraigned as an accused in the charge-sheet mentioned hereinbefore.

60. That in the light of the foregoing, the setting aside of the said impugned Notice dated 08.06.2019 and communication dated 09.07.2019 is sought on the following grounds that are taken in addition to and without prejudice to each other.

GROUNDS

- a. **BECAUSE** the impugned Notice as well as the Communication is issued wholly arbitrary, illegal and issued in utter disregard of the Banking Regulation Act, Service Manual and the extant Articles of Association of the Respondent No. 2 Bank.
- b. **BECAUSE** the impugned Notice dated 08.06.2019 has been issued in blatant disregard of the principles of Natural Justice in as much as no notice was ever given to the Petitioner before such decision was arbitrarily taken by the Respondent No 1 nor was an opportunity of being heard and/or make representation against such removal was ever provided to the Petitioner. In **Delhi Transport Corporation v. DTC Mazdoor Union**, SC held that “the audi alteram partem rule, in essence, enforce the equality clause in Article 14 and it is applicable not only to quasi-judicial bodies but also to administrative order adversely affecting the party in question unless the rule has been excluded by the Act in question.” Similarly, in **Maneka Gandhi v. Union of India**, the Hon’ble Supreme Court held that Article 14 is an authority for the proposition that the principles of natural justice are an integral part of the guarantee of equality assured by Article 14 and an

order depriving a person of his civil right passed without affording him an opportunity of being heard suffers from the vice of violation of natural justice.

- c. **BECAUSE** no reasons were ever given or provided to the Petitioner while the impugned Notice dated 08.06.2019 was issued neither the impugned notice carries any reason or allegation against the Petitioner warranting taking of the extreme step of his removal as the Chairman of the board of directors and/or severance of his employment from the Respondent No. 2 Bank, the impugned notice is *ex-facie* unreasonable and arbitrary and liable to be set aside on this ground alone.
- d. **BECAUSE** when the decision of cessation of the Petitioner as the Nominee Director was taken by the Respondent No. 1, which in the opinion of the Respondent No. 1 led to his consequential termination as the Chairman & CEO of the Respondent No. 2 Bank, the said decision did not have the necessary prior approval of the Respondent No. 3 and as such the decision dated 08.06.2019 is *non-est* in the eyes of law being in complete breach of Section 35 B (b) of the Banking Regulation Act, 1949 and is therefore, not capable of being enforced against the Petitioner.
- e. **BECAUSE** the power of removal of Chairman & CEO of a Banking Company prior to the completion of his tenure is vested only with the Respondent No. 3 under the Banking Regulation Act, 1949 and not the Respondent No. 1 and even such power as available to the Respondent No. 3 entails the serving of prior notice upon the incumbent Chairman affording him reasonable

opportunity of being heard and making effective representation against his removal.

- f. **BECAUSE** as per the Articles of Association of the Respondent No. 2 Bank, no power is vested in the Respondent No. 1 acting unilaterally, to remove a serving Chairman & CEO from his office.
- g. **BECAUSE** as per the extant Articles of Association of the Respondent No. 2 Bank, the said cessation would have had no impact over the Chairmanship of the Petitioner in the Respondent No. 2 Bank and that notwithstanding such cessation as Nominee Director, the tenure post of the Petitioner as Chairman would continue till the expiry of the said tenure in the ordinary course or unless removed by the Respondent No. 3 as per the provisions of the Banking Regulation Act, 1949.
- h. **BECAUSE** the appointment of Respondent No. 4 as an Interim Chairman vide Notification dated 08.06.2019 is manifestly illegal and in contravention of the Articles of Association of the Respondent No. 2 Bank and the applicable provisions of the Banking Regulation Act, 1949.
- i. **BECAUSE** as per the prevailing Articles of Association of the Respondent No. 2 Bank, the appointment of a Chairman, whether interim or permanent, subject to the concurrence of the Respondent No. 3, is a power vested only in the Board of Directors of the Respondent No. 2 Bank and not the Respondent No. 1.

- j. **BECAUSE** the appointment of the Respondent No. 4 as an Interim Chairman required the previous approval of the Respondent No. 3 and without such previous approval of the Respondent No. 3, the appointment of Respondent No. 4 as the interim Chairman & CEO of the Respondent No. 2 Bank could not take effect.
- k. **BECAUSE** the appointment of the Respondent No. 4 is illegal, unlawful and void-ab-initio having been occasioned by a power not vested in the Respondent No. 1 and that even subsequent ratification by the Board of Directors or the Respondent No. 3, if done *ex-post facto*, cannot cure the illegality attached to the appointment of the Respondent No. 4.
- l. **BECAUSE** the impugned Communication dated 09.08.2019 is arbitrary and illegal in as much as the purported use of rationale of 'deemed retirement' is utterly misconceived and wholly misapplied in the case of the Petitioner and is in gross violation of the Service Manual of the Respondent No. 2 Bank.
- m. **BECAUSE** the concept of 'deemed retirement' is *simplicitor* a tool and concept for computing qualifying service for the purposes of calculation of pension under the Jammu and Kashmir Bank Employees (Pension) Regulations 1995 and has absolutely no application in the present factual scenario and that the expression 'deemed to have retired' finds no place in the Service Manual of the Respondent No. 2 Bank and has nothing to do with the service of an employee in the Respondent No. 2 Bank.

- n. **BECAUSE** the concept of 'deemed retirement' was manifestly inapplicable in case of the Petitioner and that the employment of Petitioner with the Respondent No. 2 Bank continued unabated and uninterrupted and that admittedly the continuation of pensionary benefits due to the Petitioner as the Chairman & CEO was approved specifically by the Board of Directors of the Respondent No. 2 Bank on 27.12.2018 and was also further approved by the Respondent No. 3 on 15.05.2019 rendering the concept of 'deemed retirement' for the purpose of pension wholly inapplicable and utterly misapplied in the case of the Petitioner herein.
- o. **BECAUSE** save and except the impugned communication dated 09.07.2019 no termination letter has been served upon the Petitioner being an employee of the Respondent No. 2 Bank and that no disciplinary proceedings or any steps involving termination as specified in the Service Manual of the Respondent No. 2 Bank have been initiated against the Petitioner herein.
- p. **BECAUSE** the services of the Petitioner with the Respondent No. 2 Bank would, as per the service manual continue till his superannuation on 31.03.2024.
- q. **BECAUSE** the removal of the Petitioner as Chairman & CEO of the Respondent No. 2 was stigmatic in essence and effect and therefore such an order of removal/termination could not have been passed without affording an opportunity to the Petitioner to make an effective representation and hearing against such

removal and therefore tantamount to the breach of principles of natural justice.

- r. **BECAUSE** the termination of a tenure post does not entail superannuation and notwithstanding the termination, the services of the Petitioner in the Respondent No. 2 bank would continue unabated by the impugned termination as Chairman & CEO.
- s. **BECAUSE** the illegal and arbitrary decisions dated 08.06.2019 and 09.07.2019 and the consequent withholding of salary/ emoluments legally due and payable to the Petitioner by virtue of his continued service with the Respondent No. 2 Bank has caused great financial distress not only to the Petitioner but to his immediate dependent family as well and both of these actions/ decisions are liable to be interdicted by an appropriate writ of this Court.
- t. **BECAUSE** the Respondent No. 1 is by mandate of law bound to act fairly and reasonably and any departure therefrom is liable to be corrected by way of an appropriate writ issued by this Hon'ble Court.
- u. **BECAUSE** the Respondent No. 2 Bank being an instrumentality of the State is bound to act fairly and reasonably and any departure from the principles of natural justice and fair play in action suffers from the vice of arbitrariness and unreasonableness and thus deserves to be interdicted by an appropriate writ of this Hon'ble Court.

- v. **BECAUSE** the fundamental right to life and livelihood of the Petitioner is severely violated by the illegal and arbitrary actions of the Respondent No. 1 and Respondent No. 2 Bank.
 - w. **BECAUSE** the impeccable, unblemished and prolific career of the Petitioner has been jeopardized and stigmatized by the illegal, arbitrary and fanciful decisions of the Respondent No. 1 and Respondent No. 2 Bank.
 - x. **BECAUSE** notwithstanding the challenge to the removal as Chairman & CEO, the Petitioner was and continues to be in employment of the Respondent No. 2 Bank and as such his services continues to be subsisting and the non-disbursal of salary and perquisites due and payable to the Petitioner is in gross violation of the right to life and livelihood besides being illegal, whimsical and arbitrary action of the Respondent No. 1 and Respondent No. 2 and deserves to be interfered with by an appropriate writ of this Hon'ble Court.
 - y. Any other ground that may be available to the Petitioner herein.
62. The Petitioner seeks leave of this Hon'ble Court and reserves the liberty to add and/or amend pleadings, and amend and/ or raise additional grounds, if any, and/ or to produce additional documents at a later date.
63. The Petitioner submits that the relief sought in the present petition can only be granted by this Hon'ble Court. The Petitioner

submits that there exist no alternate and efficacious legal remedy available to the Petitioner.

64. That the Petitioner has not filed any other proceedings on similar or the same cause of action in any other Court of law.
65. The cause of action for the present writ proceedings have arisen entirely within the State of Jammu and Kashmir and thus within the jurisdiction of this Hon'ble Court.
66. The Respondent No. 1 is the Government of the Union Territory of Jammu and Kashmir while Respondent No. 2 is a banking company owned and controlled by the Respondent No. 1 and within the jurisdiction of this Hon'ble Court. Respondent No. 3 is a proforma Respondent while Respondent No. 4 is a person ordinarily resident in the Union Territory of Jammu and Kashmir within the jurisdiction of this Hon'ble Court. Respondent No. 1 and the Respondent No. 2 have failed to act in a manner that is in accordance with applicable law, just, fair and reasonable and thus amenable to the writ jurisdiction of this Hon'ble Court.

In these premises, the Petitioner prays for the following reliefs:

- i. A Writ in the nature of Certiorari or any other appropriate writ, order or direction of like nature quashing the Impugned Notice dated 08.06.2019 as being illegal, arbitrary and unreasonable and being passed in utter violation of the Banking Regulation Act and

the Articles of Association of the Respondent No. 2 Bank and thus *non-est* and invalid in law.

- ii. A Writ in the nature of Certiorari or any other appropriate writ, order or direction quashing the Impugned Communication dated 09.07.2019 as being illegal, arbitrary and unreasonable and thus *non-est* and invalid in law.
- iii. A Writ in the nature of Mandamus or any other appropriate writ, order or direction reinstating the Petitioner as the Chairman and CEO of the Respondent No. 2 Bank in order to serve the remaining time of his tenure as Chairman and CEO of the Respondent No. 2 Bank.
- iv. A Writ in the nature of Mandamus or any other appropriate, order or direction in the nature of writ of mandamus declaring the appointment of Respondent No. 4 as Chairman and CEO as illegal and unlawful being in violation of the Banking Regulation Act and the Articles of Association of the Respondent No. 2 Bank.
- iv. In alterative to prayer (iii) (supra) a writ in the nature of Mandamus or any other appropriate writ, order or direction commanding the Respondent No. 2 Bank to accommodate the Petitioner at a Board Level Post in the Respondent No. 2 Bank till his superannuation from the Respondent No. 2 Bank.
- v. A writ, order or direction in the nature of Mandamus directing the Respondent No. 2 Bank to forthwith release the monthly salary along with all perquisites and benefits due and payable to the Petitioner in law.

- vi. Any other writ, order or direction that this Hon'ble Court deems just and proper to issue in the attendant facts and circumstances of the case, be also issued in favour of the Petitioner and against the Respondents;
- vii. Costs of the Petition be also awarded to the Petitioner.

For which act of kindness, the Petitioner as in duty bound by law shall ever pray.

Petitioner

Through

SHARIQ J. REYAZ/ MANISHA CHAUDHARY

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**BEFORE THE HON'BLE HIGH COURT OF JAMMU AND
KASHMIR AT SRINAGAR.**

IN THE CASE OF: O. W. P No. _____ of 2020 titled below:

1. Mr. Parvez Ahmad

s/o Mr. Mohd. Amin Nengroo

r/o Azad Basti, Natipora-Srinagar

Jammu & Kashmir.

...Petitioner

Versus

1. Union Territory of Jammu and Kashmir

Through Commr./Secy. to Government,

Finance Department,

Civil Secretariat, Srinagar/ Jammu.

2. Jammu & Kashmir Bank Limited

Through its Chairman,

Corporate Headquarters,

M.A. Road, Srinagar

Jammu & Kashmir.

3. Reserve Bank of India

Through its Governor,

Main Building, P.O. Box 901,

Shahid Bhagat Singh Road,

Mumbai – 400 001.

4. Mr. R. K. Chibber

Chairman & CEO

J & K Bank Limited

Office at: M.A. Road-Srinagar

Jammu & Kashmir.

...Respondents

IN THE MATTER OF: Application seeking pending final decision in the main Writ Petition, stay of the operation of the impugned Notice dated 09.07.2019 and the consequential disbursement of monthly salary/ emoluments due and payable to the Petitioner by virtue of his continued employment in the Respondent No. 2 Bank.

MAY IT PLEASE YOUR LORDSHIP

The Application of the Applicant Petitioner above named most respectfully showeth:

1. That the Applicant Petitioner has preferred accompanying Writ Petition in this Hon'ble Court *inter alia* impugning the action of the Respondent Bank in the form of impugned communication dated 09.07.2019 on a variety of grounds as urged in the Writ

Petition. The said Writ Petition is pending adjudication before this Hon'ble Court and the Applicant craves the leave of this Hon'ble Court to refer to the said Petition, the contents whereof are not repeated herein for the sake of brevity but may be read as a part and parcel of the present Petition.

2. That the Writ Petition of the Applicant Petitioners is legally firm and strong and as such is highly likely to succeed on merits.
3. That the regard being had of the fact that the impugned action of the Respondent bank in the form of Impugned Communication dated 09.07.2019 is without any warrant or authority in law and that the said notification has the deleterious impact of non-disbursal of monthly salary/ emoluments otherwise due and payable to the Petitioner by virtue of his continued employment at the Respondent No. 2 Bank, the said Notification, pending the final disposal of the present Writ, deserves to be stayed.
4. That it is submitted that the Petitioner was and continues to be in the full employment of the Respondent No. 2 Bank and the monthly salary due and payable to the Petitioner by the Respondent No. 2 Bank is the only source of income for the Petitioner and that the non-disbursal of the same has not only caused legal injury to the Petitioner herein but has also jeopardized the livelihood of the immediate family members of

the Petitioner that are otherwise wholly dependent upon the Petitioner herein.

5. That the Respondent No. 2 Bank has since July 2019 illegally withheld the salary of the Petitioner herein and despite repeated requests and even after service of a legal Notice, the Respondent No. 2 Bank has failed to disburse the monthly salary due and payable to the Petitioner herein.
6. That even though the Petitioner is entitled to full salary however without prejudice to the same it is submitted that even if the Petitioner would have been suspended from services (which admittedly he is not), the Petitioner would be entitled to subsistence allowance that would ensure that the Petitioner is not inflicted by a financial injury wholly unwarranted in law that would financially cripple the Petitioner and his dependent family.
7. That it is further submitted that the Hon'ble Supreme Court, has in a catena of judicial pronouncements held that an employee is entitled to subsistence allowance as a matter of right and that the deprivation of same is unfair and highly prejudicial to the employee in question.
8. That the Hon'ble Apex Court in *Jagdamba Prasad Shukla vs. State of U.P. and Ors.* (2000) IILLJ1513SC has held that 'The payment of subsistence allowance, in accordance with the Rules,

to an employee under suspension is not a bounty. It is a right. An employee is entitled to be paid the subsistence allowance'.

9. The same position is reiterated in *State of Maharashtra vs. Chandrabhan Tale* (1983) IILLJ 256 SC wherein the Hon'ble Apex Court has held that, *Payment of subsistence allowance at the normal rate pending the appeal filed against the conviction of a civil servant under suspension is a step that makes the right of appeal fruitful and it is therefore obligatory. Reduction of the normal subsistence allowance to the nominal sum of Re. 1 per month on conviction of a civil servant under suspension in a criminal case pending his appeal filed against that conviction, whether the civil servant is on bail or has been lodged in prison on conviction pending consideration of his appeal, is an action which stultifies the right of appeal and is consequently unfair and unconstitutional. Just as it would be impossible for a civil servant under suspension who has no other means of subsistence to defend himself effectively in the Trial Court with the normal subsistence allowance-there is nothing on record in these cases to show that the civil servants concerned in these cases have any other means of subsistence it would be impossible for such civil servant under suspension to prosecute his appeal against his conviction fruitfully without payment of the normal subsistence allowance pending his appeal.*

10. That admittedly the case of the Petitioner stands on a higher footing because the Petitioner has neither been put under suspension nor any departmental inquiries are pending against the Petitioner. The Petitioner has been removed in a manner unknown to law and the withholding of salary whether in the form of subsistence allowance or otherwise is highly prejudicial to the interest of the Petitioner and his dependent family.

11. That it is reiterated at the cost of repetition that the Petitioner has no other source of income save and except the salary due and payable to him by the Respondent No. 2 Bank. That it is further pertinent to submit that the financial prospect of the Petitioner has been further prejudiced in as much as the credit facilities availed by the Petitioner from the Respondent No.2 Bank in the form of employee consumer loan is susceptible to slippage into NPA category on account to non-payment to salary to the Petitioner. The salary being the only source of Income, the Petitioner is further prejudiced in as much as various Insurance policies as taken by the Petitioner are in jeopardy on account of inability of the Petitioner to pay the premiums for the said policies.

12. That by virtue of the present Application the Applicant seeks immediate directions be given to the Respondent No. 2 Bank to disburse monthly salary whether in the form of subsistence allowance or otherwise in favour of the Petitioner herein.

13. That the balance of convenience also lies in favour of granting the interim relief as prayed, for otherwise the Applicant Petitioner is sure to suffer incorrigible legal injury.

14. That the Applicant Petitioner hereby crave leave to refer to, rely upon and adopt in extenso the detailed submissions, averments and contentions made in the Writ Petition for the purposes of disposal of this Application as well.

In these premises, it is, therefore, prayed that pending final decision in the main Writ Petition, the operation and implementation Impugned communication dated 09.07.2019 be stayed and that the monthly salary/emoluments whether in the form of subsistence allowance or otherwise due and payable to the Applicant herein be released forthwith, for same would be in consonance with law and justice.

For which act of kindness, the Applicant Petitioner as in duty bound by law shall ever pray.

Applicant Petitioner

Through

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