



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

WRIT PETITION NO. 1074 OF 2018

**Bhupinder Singh Passi**

Age 60 years, Occupation : Retired  
Formal General Manager of Punjab  
National Bank and presently residing  
at 501, Kartar Niwas, Plot 122,  
Sher-e-Punjab Society,  
Andheri (East), Mumbai – 400 093.

...Petitioner

Vs.

**Punjab National Bank**

A state-owned banking and financial  
services company having its head office  
at Plot 4, Sector 10, Dwarka, New Delhi  
- 110 075 and a zonal office at Dalamal  
House, 11<sup>th</sup> floor, Nariman Point,  
Mumbai – 400 021.

...Respondent

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**Mr. Akash Menon** with Ms. Isha Porje - Advocate for the Petitioner

**Mr. Vishal Kanade** with Mr. Anant Upadhyay i/by ANP Chambers - -  
for the Respondent

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CORAM : S. M. MODAK AND  
SANDEEP V. MARNE, JJ.

RESERVED ON : 26<sup>th</sup> MARCH 2026

PRONOUNCED ON : 24<sup>th</sup> APRIL 2026

JUDGMENT (PER S. M. MODAK, J.) :-

1. The issues involved in this petition are, ‘*Whether disciplinary*

*enquiry can be initiated under Discipline and Appeal Regulations against an officer, who has retired on superannuation?’ and ‘whether the disciplinary proceedings commence with issuance of a show cause notice or they commence only on issuance of a memorandum of charge-sheet?’.*

2. After hearing the submission advanced by both sides, this Court as per order dated 18<sup>th</sup> April 2018, directed Respondents “*not to proceed with disciplinary enquiry further*” till the next date. Thereafter for several reasons, since 2018 this petition was pending. We are not going into reasons for its pendency, but when this petition was placed before us on 25<sup>th</sup> March 2026, by consent, it was decided to hear the petition finally at an admission stage.

3. That is how we have heard, learned advocate Shri Akash Menon for the Petitioner and learned advocate Shri Kanade for Respondent-Bank.

4. Before going into the legal aspects, it will be material to record few facts which are relevant for deciding the controversy. They are as follows :-

## FACTS

- (a) In or about September 2011, the Petitioner was posted as Managing Director of Punjab National Bank (International) Limited at London, United Kingdom. It was wholly owned subsidiary of Respondent-Bank. His deputation came to an end in and around May 2015. Then he returned back to India.
- (b) It was observed in December 2016 that there were unusual large number of Non-performing assets accumulated at Punjab National Bank (International) Limited. It was noticed that they were opened during the tenure of the Petitioner.
- (c) As per Staff Accountability Policy issued vide circular dated 29<sup>th</sup> October 2013, before initiating disciplinary action, certain steps are required to be followed. It was decided to examine staff accountability in those NPA accounts.
- (d) The Committee of five members was constituted. Report was submitted identifying the irregularities/lapses in the accounts and officials responsible for the same. 31 such cases were identified.
- (e) On the basis of report, explanation of the Petitioner was called as per several letters, including 26<sup>th</sup> December 2016, 7<sup>th</sup> January 2017, 3<sup>rd</sup> February 2017.
- (f) Petitioner replied them vide his letters dated 8<sup>th</sup>

February 2017 and 20<sup>th</sup> February 2017 (ground is taken in the affidavit-in-reply that the Petitioner deliberately delayed in replying those letters because his date of superannuation is on the forthcoming).

- (g) The note was submitted to the Inspection and Audit division. Staff accountability of the Petitioner was examined on 22<sup>nd</sup> February 2017 in isolation, because the Petitioner was about to retire on 28<sup>th</sup> February 2017.
- (h) Involvement of the Petitioner was found in 17 out of 31 cases. The note was placed before disciplinary authority and decision was taken to initiate the major penalty proceedings after seeking 1<sup>st</sup> stage advice from the vigilance department.
- (i) First stage reference was sent to the Vigilance department on 27<sup>th</sup> February 2017. However, vigilance advice was not received till 28<sup>th</sup> February 2017. As petitioner was about to retire on that date, notice was issued to him along with annexures-I giving the necessary details to show cause why disciplinary action should not be initiated against him in terms of **Punjab National Bank Officers Employees (Discipline and Appeal) Regulations, 1977.**
- (j) Retirement order was passed on 28<sup>th</sup> February 2017 and it was made clear that disciplinary proceeding will continue as if he was in service until the proceedings are

concluded. This was done in pursuance to the Regulation 20 (3)(iii) of the Punjab National Bank (Officers') Service Regulations, 1979. He was granted provisional pension as he has opted to be governed by Punjab National Bank (Employees) Pension Regulation 1995 He was disqualified from getting other retirement benefits.

- (k) On 1<sup>st</sup> March 2017, he was served with charge-sheet as per Regulation 6 of Punjab National Bank Officer Employees' (Discipline and Appeal) Regulations, 1977.
- (l) He was also served with statement of Article of Charge and statement of imputation of lapses.
- (m) Vide order dated 9 May 2017, the disciplinary authority appointed enquiry officer and presenting officer.
- (n) The All India PNB Officers' Association vide letter dated 28<sup>th</sup> September 2017 addressed to the Managing director and protested the action of the Bank to invoke the provisions of Regulation 20 (3) (iii) of PNB (Officers') Service Regulation 1979.
- (o) The Petitioner by his letter dated 28<sup>th</sup> September 2017 has also protested '*action of initiating disciplinary enquiry against him and making request to release retirement dues*'.

5. On this background, the present petition is filed for quashing and setting aside Show Cause Notice dated 28<sup>th</sup> February 2017, order

dated 28<sup>th</sup> February 2017 and quashing and setting aside the Charge-sheet dated 1<sup>st</sup> March 2017. Writ of Mandamus is sought for issuing directions to withdraw the disciplinary proceeding and to release him retirement dues.

6. The Respondent-bank by affidavit-in-reply has opposed the petition on several grounds. Grounds in nutshell are as follows:-

- A) Show cause notice cannot be challenged because it does not cause any prejudice to the Petitioner.
- B) Though the Petitioner claims to have unblemished record, there are two penalties of reduction by one stage for three years and giving a note of caution to the Petitioner.
- C) As disputed question of facts are involved, it cannot be enquired in a Writ Petition. Though the Show cause notice and charge-sheet were issued on 28<sup>th</sup> February 2017 and 1<sup>st</sup> March 2017 respectively, this petition was filed belatedly in November 2017.
- D) The allegation in the disciplinary enquiry involves misappropriation of money of the public sector bank and hence enquiry is required to be conducted in the interest

of the public at large.

- E) A reliance is placed on invocation of provision of Regulation 48 of the Punjab National Bank (Employees) Pension Regulation, 1995.

The Petitioner by filing an affidavit-of-rejoinder has disputed the contentions raised in the affidavit-in reply. It is true the enquiry officer and presiding officer were appointed. However, further disciplinary enquiry could not be conducted in view of the order passed by this Court on 18<sup>th</sup> April 2018.

#### CONSIDERATION

7. There is no dispute about the documents which are referred by both the sides. The dispute is whether the provisions of Regulation 20 (3)(iii) of Punjab National Bank (Officers) Service Regulations, 1979 can be invoked after the officer is superannuated. The Bank has heavily relied upon the said clause and there is also reference about the same in the order dated 28<sup>th</sup> February 2017 thereby superannuating the Petitioner. It will be relevant to consider that clause for the purpose of better understanding it is reproduced below :-

**REGULATION NO. 20(3)(iii)**

*The officer against **whom disciplinary proceedings have been initiated** will cease to be in service on the date of superannuation but **the disciplinary proceedings will continue** as if **he was in service** until the proceedings are concluded and final order is passed in respect thereof. The concerned officer will not receive any pay and/or allowance after the date of superannuation. He will also not be entitled for the payment of retirement benefits till the proceedings are completed and final order is passed thereon except his own contribution to CPF.*

8. The relevant portion is “disciplinary proceedings have been initiated”. So the question is when it can be said that the disciplinary proceedings are initiated. That is to say, the date when show cause notice is issued on 28/2/2017 or 1/03/2017 the date on which charge-sheet is filed. Both the events have occurred in this case. Show cause notice was issued when the Petitioner was in-service and charge-sheet was issued when the Petitioner has already superannuated.

9. This issue is squarely covered in the ***UCO Bank and Another Vs. Rajinder Lal Capoor***<sup>1</sup>. In that case the departmental inquiry was initiated after superannuation. Show cause notice was issued when the officer was in-service. Whereas charge-sheet was issued after he was

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1 (2007) 6 SCC 694

superannuated. The disciplinary inquiry was concluded and the officer was held guilty and he was removed from the service. When he approached the High Court, the High Court found that the penalty was disproportionate to the charges levelled against him. The High Court converted into compulsory retirement. The Bank has filed Letters Patent Appeal, but it was dismissed. That is how, the matter reached to the Hon'ble Supreme Court at the instance of *UCO Bank (supra)*. The Hon'ble Supreme Court observed it was not proper for the High Court to reduce the penalty by exercising Writ jurisdiction ( para no. 16 ). However, the Hon'ble Supreme Court set aside the penalty on different ground. The Hon'ble Supreme Court found that the disciplinary inquiry was initiated when the officer was not in-service but it was initiated after he got superannuated. The Hon'ble Supreme Court found that this is violation of service Regulation. The relevant observation is as follows:-

21. The aforementioned Regulation, however, could be invoked only when the disciplinary proceedings had clearly been initiated prior to the respondent's ceasing to be in service. The terminologies used therein are of seminal importance. Only when a disciplinary

proceeding has been initiated against an officer of the bank despite his attaining the age of superannuation, can the disciplinary proceeding be allowed on the basis of the legal fiction created thereunder i.e. continue "as if he was in service". Thus, only when a valid departmental proceeding is initiated by reason of the legal fiction raised in terms of the said provision, the delinquent officer would be deemed to be in service although he has reached his age of superannuation.

About the stage when the departmental proceedings are said to be initiated, it is further observed :-

“The departmental proceeding, it is trite law, is not initiated merely by issuance of a show-cause notice. It is initiated only when a charge-sheet is issued (see *Union of India V. K.V.Jankiraman*). This aspect of the matter has also been considered by this Court recently in *Coal India Ltd. v. Saroj Kumar Mishra* wherein it was held that date of application of mind on the allegations levelled against an officer by the competent authority as a result whereof a charge-sheet is issued would be the date on which the disciplinary proceedings are said to have been initiated and not prior thereto”.

10. Thus, it is clear that when the disciplinary proceedings are validly initiated then only the employer can take recourse to the provisions of Regulation 20 (3)(iii) of the Punjab National Bank (Officers') Service Regulation 1979.

11. After this judgment was pronounced, the UCO Bank has sought review of the said judgment and review judgment is reported in *UCO Bank and Another Vs. Rajinder Lal Capoor*<sup>2</sup>. In the said judgment Hon'ble Supreme Court has emphasized on difference in between the phrase "*disciplinary proceedings shall be deemed to be pending*" on one hand and the phrase "*disciplinary proceedings have been initiated*" on the other hand. The phrase disciplinary proceeding shall be deemed to be pending finds place in clause no. (ii) of Regulation 20 of Service Regulations, 1979. It seems that Regulations for UCO Bank and Regulations for Punjab National Bank seems to be similar. For ready reference, the Clause no. (ii) is reproduced below:-

**REGULATION NO. 20(3)(ii)**

*Disciplinary proceedings shall be deemed to be pending against any employee for the purpose of this*

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2 (2008) 5 SCC 257

*regulation if he has been placed under suspension or any notice has been issued to him to show cause why disciplinary proceedings shall not be instituted against him and will be deemed to be pending until final orders are passed by the Competent Authority.*

12. Clause no. (ii) talks of a situation wherein the officer is either under suspension or notice is issued to him to show cause why disciplinary proceedings shall not be instituted against him. Either of the two stages is completed, then it is presumed that disciplinary proceedings are deemed to be pending against him.

13. Now the question is whether this Clause can be taken recourse by the Punjab and National Bank. The answer is certainly ‘No’. Because Bank is fully aware that this clause cannot be taken recourse to. That is why, in the retirement order they have not referred to Clause no. (ii). It will be still relevant to consider the observations by the Hon’ble Supreme Court in the review judgment. In clause no. (ii) the words used are ‘*for the purpose of this regulation*’. Now the question is “*this phrase has to be interpreted for the purpose of entire Regulation including Regulation No. 20 (3)(iii) or it has to be interpreted in a limited sense*”.

14. In review judgment, the Hon’ble Supreme Court opined that

*'for the purpose of this Regulation'* means for the purpose of considering the contingency covered under Regulation 20 (3)(i) of Service Regulations, 1979. It will be relevant to quote Clause no. (i). It is as below :-

**REGULATION NO. 20(3)(i)**

*An officer against whom disciplinary proceedings are pending shall not leave/discontinue or resign from his service in the bank without the prior approval in writing of Competent Authority and any notice or resignation given by such an officer before or during the disciplinary proceedings shall not take effect unless it is accepted by the Competent Authority.*

15. Clause no. (i) talks about pendency of disciplinary proceedings against the officer who is in service and his resignation, leaving the service or discontinuing the service by him. If such an officer wants to leave the service in either of the mode mentioned therein, he can do so but by taking prior approval in writing of the Competent Authority.

16. Embargo is applicable only when the disciplinary proceedings are pending against him. For the purpose of explaining when it can be said that disciplinary proceedings are pending against the officer, clause no. (ii) is incorporated in the said Regulation.

17. It is true in the disciplinary proceedings, there are various stages.

So to say there is stage of issuance of show cause notice, there is stage of issuance of charge-sheet and in certain contingencies even the officer is suspended during the pendency of disciplinary proceedings. It may happen that an officer may choose to leave job, when the disciplinary proceeding are pending against him. It is very well true that these stages of issuance of show cause notice, issuance of charge-sheet and whether to suspend an employee or not depends upon the facts and circumstances. It is very well true that when charge-sheet is issued it is presumed that the competent authority is satisfied that there are materials to charge-sheet him. So that the disciplinary proceedings can be conducted against him. It is settled law that the decision to issue charge-sheet is always taken after considering the materials and after applying the mind. So to say when the show cause notice is only issued, yet the disciplinary authority has to apply its mind to the materials placed before him. So when the disciplinary proceedings are at stage of issuance of charge-sheet or on the stage of suspension, in such contingency the officer want to quit the job, he has to obtain approval of the competent authority. That is why clause no. (ii) is incorporated so as to explain the contingency covered in clause no. (i). It will be

material to consider the relevant observations in the review judgment.

They are as follows:-

15. Sub-regulation (3) of Regulation 20, however, places an embargo on an officer to leave or discontinue or resign from service without the prior approval in writing of the competent authority and a notice or resignation given by such an officer before or during the disciplinary proceedings shall not take effect unless it is accepted by the competent authority. Clause (ii) of sub-regulation (3) of Regulation 20 must be considered from that aspect of the matter. It raises a legal fiction. Such legal fiction has been raised only for the purpose of "this Regulation" and for no other, which would mean Regulation 20(1). The final orders which are required to be passed by the competent authority although indisputably would be in relation to the disciplinary proceedings but evidently it is for the purpose of accepting resignation or leaving or discontinuing of the service by the employee concerned or grant of approval thereof. Clause (ii) of sub-regulation (3) of Regulation 20 in effect and substance acts as a proviso to Clause (i) thereof.

18. In view of this interpretation, in order to justify the continuation of the disciplinary proceedings, the Bank cannot take recourse to the provision of Clause No. (ii) of Service Regulations, 1979. Because it comes into picture only when the employee wants to quit the job during pendency of disciplinary proceedings and not otherwise. For the above discussion, the decision of the Bank to continue the disciplinary proceedings against the Petitioner cannot be sustained in

the eyes of law. It has to be held that disciplinary proceedings were not initiated against the Petitioner when he was in service on 28/2/2017 (even though last day). It is for the reason the Petitioner has already superannuated. In view of that the decision of the Bank to take recourse to Service Regulation 1979 cannot be justified in the eyes of law and the order and charge-sheet needs to be set aside. We are not of the view to set aside show cause notice because bank was justified in issuing show cause notice as the petitioner was very much in service. We have not gone into issue whether the materials available with the Bank was sufficient or not to issue show cause notice. Mr. Kanade relied upon the observations in case of *Kadir Khan Ahmed Khan Pathan Vs. Maharashtra State Warehousing Corporation and Ors.*<sup>3</sup>. They are not helpful to him because facts and the service regulations are different.

19. It is very well true the learned Advocate Mr. Kanade in order to justify the continuation of disciplinary proceedings, has relied upon the provisions of Punjab National Bank (Employees) Pension Regulations, 1995. It will be relevant to reproduce the said clause.

#### 48. Recovery of Pecuniary loss caused to the Bank

<sup>3</sup> (2026) SCC Online SC 21

- 1) The Competent Authority may withhold or withdraw a pension or a part thereof, whether permanently or for a specified period and order recovery from pension of the whole or part of any pecuniary loss caused to the Bank if in any departmental or judicial proceedings the pensioner is found guilty of grave misconduct or negligence or criminal breach of trust or forgery or acts done fraudulently during the period of his service;  
 Provided that the Board shall be consulted before any final orders are passed;

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

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

Provided that the disciplinary proceedings so instituted shall be in accordance with the procedure applicable to disciplinary proceedings in relation to the employee during the period of his service.

- (3) Where the Competent Authority orders recovery of pecuniary loss from the pension, the recovery shall not ordinarily be made at a rate exceeding one-third of the pension admissible on the date of retirement of the employee;

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

20. Admittedly, when the charge-sheet was issued, the Bank has not

taken recourse to the provisions of Pension Regulations, 1955, but the charge-sheet was issued by quoting the provisions of Punjab National Bank Officer Employees' (Discipline and Appeal) Regulations, 1977.

Now the issue is at this stage, 'whether the bank can take recourse to the provisions of Pension Regulations, 1995'. This regulation empowers the Bank to recover the pecuniary loss from the pension, if the officer is found guilty of grave misconduct, negligence or other clauses mentioned in that Regulation. This action can be initiated if such an officer is found guilty either in departmental proceeding or judicial proceeding. One more reason, why the provisions of Punjab National Bank Officer Employees' (Discipline and Appeal) Regulations, 1977 cannot be invoked against the officers who are superannuated because Regulation No. 6 of Punjab National Bank Officer Employees' (Discipline & Appeal) Regulations, 1977 lays down the procedure for imposing the major penalties. Earlier part lays down what are the minor penalties and major penalties. Now this kind of penalties can be imposed only when an officer who is in service and not otherwise. Admittedly, in this case the Petitioner is already superannuated and we have already held that the disciplinary

proceedings were not validly initiated and cannot be continued against the petitioner. We find some guidance from the observations made by the Hon'ble Supreme Court in case of UCO Bank (supra). The observations in para nos. 22 and 23 are relevant. It is reproduced below

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22. *The respondent, therefore, having been allowed to superannuate, only a proceeding, inter alia, for withholding of his pension under the Pension Regulations could have been initiated against the respondent. Discipline and Appeal Regulations were, thus not attracted. Consequently the charge-sheet, the enquiry report and the orders of punishment passed by the disciplinary authority and the appellate authority must be held to be illegal and without jurisdiction.*
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.*

21. Mr. Kanade has strenuously contended that mere quotation of erroneous Regulation is inconsequential and the impugned charge-sheet can be treated as having been issued under the Pension Regulations, 1955. We are unable to agree. Even before the Hon'ble

Supreme Court in *UCO Bank* (Supra). Similar folly was committed by issuing a charge-sheet on 13.11.1998 under the provisions of Discipline and Appeal Regulations to the officer who had superannuated on 30.11.1996. The Hon'ble Supreme Court has however held in para nos. 22 and 23 (noted above) that since Regulation 20 of Discipline and Appeal Regulations had no application to superannuated officer, the entire disciplinary proceedings stood initiated.

22. It is true that though the charge-sheet was issued on 1<sup>st</sup> March 2017, further conduct of disciplinary proceeding was stayed by this Court, the Bank could not continue it. We cannot comment why this petition was not heard earlier on the basis of circulation moved by either of the parties.

23. We can only say that it is for the Respondent-Bank to take a call, whether they can initiate disciplinary proceeding against the Petitioner on the basis of said Pension Regulations. Ultimately, if they take a call to initiate it, they have to satisfy themselves about fulfillment of the criteria laid down in Regulation 48 of the Punjab National Bank (Employees) Pension Regulation, 1995.

24. With these observations, we are allowing the petition and passing

the following order:-

**ORDER**

- (i) The petition is allowed.
- (ii) The charge-sheet dated 1<sup>st</sup> March 2017 and order withholding retirement dues dated 1<sup>st</sup> March 2017 are hereby quashed and set aside.
- (iii) The Respondent is directed to release the retirement dues which Petitioner is entitled within a period of 12 weeks from passing of this order.

25. With the above observations, the Writ Petition is disposed of.

(SANDEEP V. MARNE, J.)

(S. M. MODAK, J.)