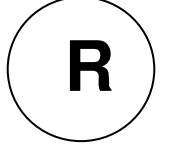




HC-KAR



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 4TH DAY OF DECEMBER, 2025
BEFORE
THE HON'BLE MR. JUSTICE M.NAGAPRASANNA
WRIT PETITION NO. 102593 OF 2024 (S-RES)

BETWEEN:

BAHUBALI S/O. LATE NEMIRAJ GOUDA ALIAS JAIN
AGED ABOUT 62 YEARS,
EX-CHIEF EXECUTIVE OFFICER / MANAGER,
VIKAS URBAN CO-OPERATIVE BANK, YELLAPUR,
(DISMISSED ON 30-06-2016
SUPERANNUATION DATE 31-05-2020)
RESIDING AT KALAMMANAVAR,
YELLAPUR-TQ., UTTAR KANNADA DIST,
PIN-581359.

...PETITIONER

(BY SRI.NAGARAJ S. JAIN AND
SRI. RAVI HEGDE, ADVOCATES)

AND:

1. JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES
(RULE-441), ARBITRATOR,
KARNATAKA STATE CO-OP. URBAN BANKS
FEDERATION LTD.,
REGIONAL OFFICE AT NO.I-9/10
DOLLARS COLONY,
BEHIND NEW BUS STAND,
GOKUL ROAD, HUBBALLI-580030
2. VIKAS URBAN CO-OP BANK LTD.,
REP. BY ITS PRESIDENT,
SITUATED AT MAIN ROAD YELLAPUR,
YELLAPUR-TQ.,
UTTAR KANNADA DIST.,
PIN-581359
3. VIKAS URBAN CO-OP. BANK LTD.,
REP. BY ITS GENERAL MANAGER,
SITUATED AT MAIN ROAD YELLAPUR,
YELLAPUR-TQ.,





UTTAR KANNADA DIST.
PIN-581359.

...RESPONDENTS

(BY SMT. GIRIJA S. HIREMATH, HCGP FOR R1;
SRI. DR. B.B. BALLARI, ADVOCATE FOR R2 AND R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI BY QUASHING OR SETTING ASIDE THE ORDER DATED. 24-08-2023 PASSED BY THE KARNATAKA APPELLATE TRIBUNAL, BANGALORE IN CO-OP APPEAL NO. 88/2020 AT ANNEXURE-AH SO FAR AS IT RELATING TO RESERVING THE LIBERTY TO THE RESPONDENT NO. 3 TO INITIATE A FRESH ENQUIRY AS ILLEGAL AND OPPOSED TO LAW AND ETC.,

THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING IN B GROUP THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE M.NAGAPRASANNA)

1. The petitioner is before this Court calling in question an order of the Karnataka Appellate Tribunal, which sets aside the order passed by the respondent Nos.2 and 3 imposing penalty of dismissal from service.

2. Heard the learned counsels Sri.Nagaraj S. Jain and Sri.Ravi Hegde for the petitioner, learned HCGP Smt.Girija S. Hiremath for the respondent-State and the learned counsel Dr.B.B.Ballari for respondent Nos.2 and 3.

3. Facts in brief germane are as follows:

The petitioner is said to have been appointed as a Chief Executive Officer of the 2nd respondent-Vikas Urban Co-operative



Bank Ltd. (hereinafter referred to as "the Bank", for short). After rendering about 21 years of service, it transpires that the petitioner's services comes to be terminated by the Board of the respondent Bank owing to certain omissions and commissions. The petitioner challenged the said order of termination before the 1st respondent, the Joint Registrar of Co-operative Societies. The Joint Register of Co-operative Societies has negated the challenge of the petitioner and rejected the claim. This was challenged by the petitioner before the Karnataka Appellate Tribunal. The Karnataka Appellate Tribunal by its order dated 24.08.2023 sets aside the order of dismissal from service, on the score that there has been gross violation of principles of natural justice, but reserves liberty to the respondents to hold a *de novo* enquiry to be in consonance with law. The petitioner, the employee is before this Court being aggrieved upon that portion of the order that permits a *de novo* enquiry to be conducted against the petitioner.

4. The learned counsel Sri.Nagaraj S. Jain appearing for the petitioner submits that the petitioner has retired on attaining the age of superannuation of 31.05.2020 and the regulations or even law does not permit holding of a *de novo* enquiry against



an employee after his retirement. He would therefore seek quashment of that portion of the order which permits holding of a *de novo* enquiry against the petitioner.

5. The learned counsel appearing for the respondents submits that they have not challenged the said order but the Board was willing to settle the dispute between the parties and a settlement proposal was also submitted to the petitioner. The petitioner had in fact agreed for a settlement of a particular amount by his communication, but then chose to prosecute the appeal. Therefore, the learned counsel submits that if he is ready and willing, the Bank is also willing to settle the dispute by the petitioner on the aforesaid amount that was agreed to initially by the petitioner.

6. I have given my anxious consideration to the submissions made by the learned counsels for the parties and perused the material on record.

7. The above-narrated facts are not in dispute. The petitioner's entry into the 2nd respondent as Chief Executive Officer is on 01.05.1997. Owing to certain omissions and commissions, the petitioner was removed from service on 30.06.2018. The issue in the *lis* does not pertain to the veracity



of the removal from service. The petitioner challenges the said removal before the Joint Registrar of Co-operative Societies. The Joint Registrar of Co-operative Societies rejects the petition before him holding the removal to be valid in the eye of law. This is called in question by the petitioner before the Karnataka Appellate Tribunal. The Appellate Tribunal after a detailed order, allows the petition, sets aside the order of dismissal, on the ground that it was in gross violation of principles of natural justice. The reasons rendered by the Appellate Tribunal, is as follows:

- “14. **POINT NO.I:** The appellant and 2nd respondents are in the relationship of employee and employer. The appellant while working in the respondent Bank as Manager has committed certain omissions and commissions while performing his duty and on 02.11.2015 a charge sheet containing the following charges was issued against appellant.
- i. Insubordination to the lawful order of superiors by not complying or opposing to the same.
 - ii. Disclosing the secrecy of customers obtained during service.
 - iii. Involving in the act of causing distractions to the properties of the Bank.
 - iv. Quarrelling and causing disturbance to others during working time.
 - v. Putting pressure on the superiors unnecessarily.
 - vi. Violation of the Banking rules.



15. An Enquiry Officer was appointed on 18.11.2015, who submitted a report that the charges are proved. The disciplinary authority/management of the Bank accepted the findings of the Enquiry Officer and after issuing 2nd show cause notice along with the enquiry report on 14.06.2016 and after obtaining reply to the 2nd show cause notice on 27.06.2016, the management of the Bank in its meeting held on 30.06.2016 dismissed the appellant from service.
16. In the dispute raised by the appellant before the 1st respondent the appellant has raised several grounds namely, that definite articles of charge has not been issued by the disciplinary authority as such, the initiation of an enquiry without list of witness and documents is illegal. The Enquiry Officer has been appointed contrary to the provisions of Rule 24 (14) of service rules, that the enquiry has been conducted on some of the charges which were already finalized, the Enquiry Officer has not followed the service rules and settled principles and procedure, both Enquiry Officer and disciplinary authority have violated the principles of natural justice ect,. Further, witnesses though not material in the case have been examined and the management accepted the defective report. While the Bank relied upon issues like failure to submit reply to charge sheet, failure to avail the opportunity of taking co-employee in the enquiry, failure to avail opportunity of cross-examination of management witness who deposed against him and failure to produce his documents and depose his defense evidence.
17. The relevant portion of the employees service rules of the Bank which is in operation since 08.10.2007 which are relevant for disposal of this appeal are extracted as below:
22. ಕ್ಷಿಪ್ರ ವಿಚಾರಣೆ ಹಾಗೂ ಅಂತರಿಕ ವಿಚಾರಣೆಯ ವಿಧಿ ವಿಧಾನಗಳು-
2. ಈ ವಿಚಾರಣೆಯಲ್ಲಿ ಸಾಮಾನ್ಯವಾಗಿ ಯಾವುದೇ ನೌಕರನ ಆರೋಪಗಳನ್ನು ನಮೂದಿಸಿ ಇವು ಯಾವ ನಿಯಮವಳಿಯ ಕಲಂಗಳ ಪ್ರಕಾರ ಮಾಡಲಾಗಿದೆಯೆಂದು ಲಿಖಿತ



ಮೂಲಕ ಆರೋಪಿಸಿ ನೌಕರನಿಗೆ ತಿಳಿಸಬೇಕು ಮತ್ತು ಉತ್ತರಿಸಲು ಸಮಯವನ್ನು ನಿಗದಿಪಡಿಸಬೇಕು.

24. ಆಂತರಿಕ ವಿಚಾರಣೆ/ಪೂರ್ವಭಾವಿ ತನಿಖೆ

1. ಈ ವಿಚಾರಣೆಯನ್ನು ಸಹಜ ನ್ಯಾಯದ ತತ್ವದ ಆಧಾರದ ಮೇಲೆ ಜರುಗಿಸಬೇಕು. ಆರೋಪಿಗೆ ಅಪರಾಧಗಳನ್ನು ಅಲ್ಲಗಳೆಯಲು ಆಧಾರಗಳಿದ್ದಲ್ಲಿ ಅದಕ್ಕೆ ಸಾಕಷ್ಟು ಅವಕಾಶವನ್ನು ಕಲ್ಪಿಸಬೇಕು. ಅದನ್ನು ಪರಿಶೀಲಿಸಿ ವಿಚಾರಣೆಯನ್ನು ಮುಂದುವರಿಸಲು ಮತ್ತು ಕೈಬಿಡಲು ನಿರ್ಣಯಿಸಬೇಕು.

6. ಯಾವ ಯಾವ ಘಟನೆಗಳ ಆಧಾರದ ಮೇಲೆ ನೌಕರನ ನಡವಳಿಕೆ ಆಕ್ಷೇಪಾರ್ಹವೆಂದು ಕಂಡುಬಂದಲ್ಲಿ ದಿನಾಂಕ, ವೇಳೆ, ಸ್ಥಳ ಸಹಿತ ಅಂತಹ ಘಟನೆಗಳ ವಿವರ ಮತ್ತು ಕಚೇರಿಯ ಆದೇಶಗಳು ಹಾಗೂ ವ್ಯಾವಹಾರಿಕ ನಿಯಮಗಳ ನಿರ್ವಹಣೆಗೆ ಸಂಬಂಧಿಸಿದ ವಿವರಣೆ ಸಹಿತ ಲೋಪಗಳ ಪಟ್ಟಿ ಸಲ್ಲಿಸತಕ್ಕದ್ದು.

7. ಇದಕ್ಕೆ ಪೂರಕವಾಗಿ ದಾಖಲಾತಿ ವಿವರಗಳು ಮತ್ತು ಸಾಕ್ಷಿಗಳ ವಿವರಗಳು.

8. ನಿಯಮಾವಳಿಗಳ ಯಾವ ಕಲಂ ಪ್ರಕಾರ ಈ ನಡವಳಿಕೆ ಶಿಕ್ಷಾರ್ಹವೆಂದು ಪರಿಗಣಿಸಲಾಗಿದೆ ಎಂಬ ಬಗ್ಗೆ ತಿಳುವಳಿಕೆ.

13. ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರ/ನಿರ್ದೇಶಕ ಮಂಡಳಿಯ ತನಿಖಾ ಕ್ರಮವನ್ನು ಮುಂದುವರಿಸುವುದಾದಲ್ಲಿ ನೇರವಾಗಿ ತಾನೇ ತನಿಖೆಯನ್ನು ಕೈಗೊಳ್ಳಬಹುದು ಮತ್ತು ಒಬ್ಬ ವಿಚಾರಣಾಧಿಕಾರಿಯನ್ನು/ಸಮಿತಿಯನ್ನು ನೇಮಿಸಿ ಅದರ ಮೂಲಕ ವಿಚಾರಣೆ ಮುಂದುವರಿಸುವ ಬಗ್ಗೆ ಕೂಡ ನಿರ್ಣಯಿಸಬಹುದು ಅವಶ್ಯವಿದ್ದಲ್ಲಿ ಒಬ್ಬ ಮಂಡಳಾಧಿಕಾರಿಯನ್ನು ಸಹ ನೇಮಿಸಬಹುದು.

14. ವಿಚಾರಣಾಧಿಕಾರಿಯನ್ನಾಗಲೀ ಬ್ಯಾಂಕಿನ ಅಧಿಕಾರಿಗಳಲ್ಲಿ ಸೂಕ್ತವೆಂದು ಕಂಡವರನ್ನು ನೇಮಕ ಮಾಡಬಹುದು.

15. ನೇಮಕಗೊಂಡ ವಿಚಾರಣಾಧಿಕಾರಿ/ವಿಚಾರಣಾ ಸಮಿತಿಗೆ ಆರೋಪಿ ನೌಕರನ ಆರೋಪಗಳ ಪಟ್ಟಿಯನ್ನು ಎಲ್ಲಾ ವಿವರಗಳೊಂದಿಗೆ ಕೊಡತಕ್ಕದ್ದು.

26. ವಿಚಾರಣೆ ವೇಳೆಗೆ ಸಹಜ ಅನುಷ್ಠಾನಕ್ಕೆ ನಿಯಮಗಳನ್ನು ಅನುಸರಿಸುವ ಕುರಿತು.

10. ಮಂಡಳಾಧಿಕಾರಿಯ ನ್ಯಾಯವಾದಿ ಆಗಿದ್ದಲ್ಲಿ ಮತ್ತು ಕಾನೂನು ತಜ್ಞನಾದಲ್ಲಿ ಆರೋಪಿ ನೌಕರನಿಗೆ ಅಂತಹ ತಜ್ಞರೊಬ್ಬರಿಂದ ತನ್ನ ಆಹವಾಲನ್ನು ವಿಚಾರಣಾಧಿಕಾರಿಗೆ ತಿಳಿಸಲು ವಿಚಾರಣಾಧಿಕಾರಿಗಳು ಅನುವು ಮಾಡಿಕೊಡಬಹುದು. ಇದು ಕಾನೂನುಬದ್ಧವಾದ ಹಕ್ಕು. ಅಲ್ಲದೇ ಇದ್ದ ಪ್ರಯುಕ್ತ ನ್ಯಾಯವಾದಿಯನ್ನು ಆರೋಪಿಯ ಪರವಾಗಿ ಪ್ರತಿನಿಧಿಸಲು ವಿಚಾರಣಾಧಿಕಾರಿಯು ವಿಶೇಷ ನಿರ್ಧಾರವನ್ನು ಕೈಗೊಂಡು ಲಿಖಿತಗೊಳಿಸಿ ಆರೋಪಿ ನೌಕರನನ್ನು ತನ್ನ ಸಹಾಯಕ್ಕೆ ಪಡೆಯಬಹುದು.

The Disciplinary authority has failed to follow its own service rules in the case of appellant.



HC-KAR

18. A perusal of the lower court records reveals that on 02.11.2015. 6 charges as mentioned elsewhere were issued by the President of the Bank. One Sri. P. D. Upadyaya was appointed as enquiry officer to conduct enquiry against the appellant. Whether the president of the Bank was competent to issue the charge list to delinquent employee?, the service rules are silent in this regard. The appellant has also not taken this contention in this regard. However, in the charge list issued it does not appear that the documents supporting the charges and the list of witnesses are enclosed. It is only mentioned that the documents mentioned in the charge list can be obtained during the office hours in the office, vide Ex D-30 page no: 415 to 422. From the above, it is clear that the documents and the list of witnesses were not communicated when the charge list was issued. Further, it appears from Ex D-40 page no: 499 of the lower court record that the list of witnesses was communicated by the Presenting Officer to Enquiry Officer on 18.12.2015 subsequent to the appointment of Enquiry Officer. From the above, it is crystal clear that the documents and the list of witnesses were not communicated along with the charge sheet. The contention of the appellant that the charges do not specifically refer to the violation of specific service rules is also proved. The charge list refers to the previous misconduct of the appellant. The charges are not definite but appears to be in nature. The appellant also submitted several letters requesting for furnishing of documents. The action of the management in this regard runs contrary to its own service rules. The Presenting Officer also continued to produce additional documents during the course of enquiry to the Enquiry Officer on 15.02.2016 vide Ex D-34 of LCR in addition to the documents produced on 18.12.2015. It is not sure as to whether those records were communicated to the delinquent employee. The list of witnesses produced are all private witnesses and the presenting officer does not specifically mention that they were all management witnesses. **The Hon'ble Apex Court of India (2014 (5) SCC 172) has held "that non supply of documents in departmental enquiry, the**



HC-KAR

enquiry held shall be vitiated". The principles of natural justice are meant to prevent miscarriage of justice are also applicable to domestic enquiries and administrative proceedings. **The Hon'ble Apex Court of India (2010) 2/772 in the case of state of Uttarpradesh and others V/S Saroj Kumar Sinha has held that "when a departmental enquiry is conducted against the government servant it cannot be treated as a casual exercise. The enquiry proceedings also cannot be conducted with a closed mind. The inquiry officer has to be wholly unbiased. The rules of natural justice are required to be observed to ensure not only that justice is done but is manifestly seen to be done. The object of rules of natural justice is to ensure that a government servant is treated fairly in proceedings which may culminate in imposition of punishment including dismissal/removal from service".**

19. In the case of **Surath Chandra Chakrabarty V/S State of West Bengal, The Hon'ble Apex Court has held, "that it is not permissible to hold an enquiry on vague charges, as the same do not give a clear picture to the delinquent to make out an effective defense as he will be unaware of the exact nature of the allegations against him, and what kind of defense he should put up for rebuttal thereof".** In another case of **D.K.Yadav V/S J.M.A. Industries Limited., (1993) 3 Supreme Court cases 259 the Apex Court has held, "that fair play in action requires that the procedure adopted must be just, fair and reasonable. The manner of exercise of the power and its impact on the rights of the person affected would be in conformity with the principles of natural justice. Article 21 clubs life with liberty, dignity of person with means of livelihood without which the glorious content of dignity of person would be reduced to animal existence".** The above citations are aptly applicable to the case in hand.



- 20 The Management of the Bank relied upon the enquiry report and proceeded to dismiss the appellant. The 1ST respondent ought to have considered the fact that the delinquent employee was not furnished with list of documents and witnesses along with charge memo and has erroneously come to the conclusion that the enquiry is done as per service rules. It is not in dispute that the management is vested with powers to punish the erring employees. However, the punishment can be imposed only after due procedure and in accordance with law.
21. Under the above facts and circumstances of the case, we are of the considered opinion that there are sufficient grounds to allow the appeal. Hence, we have no hesitation to answer **Point No.1 in the Affirmative.**

Point No. II: In the light of the above, we proceed to pass the following

ORDER

The Appeal filed by the Appellant under Section 105 of the Karnataka Co-operative Societies Act, 1959 is hereby allowed.

The impugned order passed by the 1ST respondent in dispute No.JRD/UBF/613/2016-17, dated 03.01.2020 is set-aside.

The 3rd respondent Bank is at liberty to conduct enquiry in accordance with law and service rules.

The Registrar of the Tribunal is directed to comply with Regulation 53(a) of Chapter IX Karnataka Appellate Tribunal Regulations, 1979 and send back records to the lower authority immediately."

8. The Tribunal while setting aside the order, directs that the respondent No.3 Bank is at liberty to conduct enquiry in



accordance with law and the service rules. The Service Rules which the Tribunal refers to is the "Vikas Urban Co-operative Bank Niyamit, Yallapur (ವಿಕಾಸ ಅರ್ಬನ್ ಕೋ - ಆಪರೇಟಿವ್ ಬ್ಯಾಂಕ್ ನಿಯಮಿತ, ಯಲ್ಲಾಪುರ (ಉ.ಕ)- 581 359). The Service Rules would indicate nowhere the right of the employer to continue the enquiry or hold a *de novo* enquiry against an employee who has retired on attaining the age of superannuation. Admittedly the petitioner has attained the age of superannuation on 31.05.2020 and the order of the Tribunal is on 24.08.2023, which sets aside the order of penalty but permits a *de novo* enquiry to be conducted. Whether a retired employee can be proceeded against by a Court of Law for conduct of a *de novo* enquiry is no longer *res integra*. As the Apex Court in the case of **Anant R. Kulkarni v. Y.P. Education Society and Others**¹, has held as follows:

Enquiry against a retired employee

"18. This Court in Noida Entrepreneurs Assn. v. Noida [(2011) 6 SCC 508 : (2011) 2 SCC (Cri) 1015 : (2011) 2 SCC (L&S) 717 : AIR 2011 SC 2112] , examined the issue, and held that the competence of an authority to hold an enquiry against an employee who has retired, depends upon

¹ (2013) 6 SCC 515



HC-KAR

the statutory rules which govern the terms and conditions of his service, and while deciding the said case, reliance was placed on various earlier judgments of this Court including B.J. Shelat v. State of Gujarat [(1978) 2 SCC 202 : 1978 SCC (L&S) 208 : AIR 1978 SC 1109] , Ramesh Chandra Sharma v. Punjab National Bank [(2007) 9 SCC 15 : (2008) 1 SCC (L&S) 337] and UCO Bank v. Rajinder Lal Capoor

19. In State of Assam v. Padma Ram Borah [AIR 1965 SC 473] , a Constitution Bench of this Court held that it is not possible for the employer to continue with the enquiry after the delinquent employee stands retired. The Court observed : (AIR p. 475, para 7)

"7. ... According to the earlier order of the State Government itself, the service of the respondent had come to an end on 31-3-1961. The State Government could not by unilateral action create a fresh contract of service to take effect from 1-4-1961. If the State Government wished to continue the service of the respondent for a further period, the State Government should have issued a notification before 31-3-1961."

(emphasis supplied)

While deciding the said issue, the Court placed reliance on the judgment in R.T. Rangachari v. Secy. of State for India in Council.

20. In State of Punjab v. Khemi Ram [(1969) 3 SCC 28 : AIR 1970 SC 214] , this Court observed : (SCC p. 32, para 12)

"12. There can be no doubt that if disciplinary action is sought to be taken against a government servant it must be done before he retires as provided by the said rule. If a disciplinary enquiry cannot be concluded before the



date of such retirement, the course open to the Government is to pass an order of suspension and refuse to permit the public servant concerned to retire and retain him in service till such enquiry is completed and a final order is passed therein."

21. In *Kirti Bhusan Singh v. State of Bihar* [(1986) 3 SCC 675 : 1986 SCC (L&S) 703 : AIR 1986 SC 2116] , this Court held as under : (SCC pp. 678-79, para 6)

"6. ... We are of the view that in the absence of such a provision which entitled the State Government to revoke an order of retirement ... which had become effective and final, the order ... passed by the State Government revoking the order of retirement should be held as having been passed without the authority of law and is liable to be set aside. It, therefore, follows that the order of dismissal passed thereafter was also a nullity."

22. In *Bhagirathi Jena v. Board of Directors, O.S.F.C.* [(1999) 3 SCC 666 : 1999 SCC (L&S) 804 : AIR 1999 SC 1841] this Court observed : (SCC pp. 668-69, para 7)

"7. ... There is also no provision for conducting a disciplinary enquiry after retirement of the appellant and nor any provision stating that in case misconduct is established, a deduction could be made from retiral benefits. Once the appellant had retired from service on 30-6-1995, there was no authority vested in the Corporation for continuing the departmental enquiry even for the purpose of imposing any reduction in the retiral benefits payable to the appellant. In the absence of such



an authority, it must be held that the enquiry had lapsed and the appellant was entitled to full retiral benefits on retirement.”

23. In U.P. State Sugar Corpn. Ltd. v. Kamal Swaroop Tondon [(2008) 2 SCC 41 : (2008) 1 SCC (L&S) 352] , this Court dealt with a case wherein statutory corporation had initiated proceedings for recovery of the financial loss from an employee after his retirement from service. This Court approved such a course observing that in the case of retirement, master and servant relationship continue for grant of retiral benefits. The proceedings for recovery of financial loss from an employee is permissible even after his retirement and the same can also be recovered from the retrial benefits of the said employee.
24. **Thus, it is evident from the above, that the relevant rules governing the service conditions of an employee are the determining factors as to whether and in what manner the domestic enquiry can be held against an employee who stood retired after reaching the age of superannuation. Generally, if the enquiry has been initiated while the delinquent employee was in service, it would continue even after his retirement, but nature of punishment would change. The punishment of dismissal/removal from service would not be imposed.**

(Emphasis supplied)

9. The Apex Court holds that a *de novo* enquiry against a retired employee is impermissible in law unless the Service Rules so permit. The Service Rules as noted hereinabove, on its perusal, does not indicate any liberty reserved to the employer to hold a *de novo* enquiry or any kind of enquiry against a retired



employee. If no enquiry can be held against a retired employee, the Tribunal ought not to have reserved liberty to the respondent No.3 to hold a *de novo* enquiry. That portion of the order admittedly is contrary to law. Therefore the petition deserves to succeed.

10. For the aforesaid reasons, the following:

ORDER

- i. The petition is allowed.
- ii. Un-numbered clause 3 of the operative portion of the order of the Tribunal which reads, "The 3rd respondent Bank is at liberty to conduct enquiry in accordance with law and service rules", is set aside.
- iii. The petitioner shall be entitled to all consequential benefits that would flow from the quashment of the order.

Ordered accordingly.

**Sd/-
(M.NAGAPRASANNA)
JUDGE**

KGK
CT:ANB
List No.: 1 Sl No.: 12