



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 3571 OF 2026

(Arising out of SLP (C) No. 10742/2026)

(Arising out of Diary No. 603/2024)

VIRINDER PAL SINGH

...APPELLANT

VERSUS

**PUNJAB AND SIND
BANK & ORS.**

...RESPONDENT(S)

J U D G M E N T

MANOJ MISRA, J.

1. Leave granted.
2. This appeal impugns judgment and order of the High Court of Punjab and Haryana at Chandigarh¹ dated 23.02.2023 in LPA No. 370 of 2018 which arose out of CWP No. 12865 of 2014.

FACTS

3. In brief, facts relevant for deciding this appeal are as follows:

¹ High Court

- (i) The appellant while in service of Punjab & Sind Bank² i.e., the first respondent was served a charge sheet on 30.09.2011, *inter alia*, on allegation of irregularities in disbursement of loans.
- (ii) On 30.09.2011 itself, the appellant superannuated from service. However, the disciplinary proceedings continued and one of the charges, namely, Charge No. 2, that is the appellant had failed to ensure the end use of the loan, was found partly proved. Consequently, *vide* order dated 15.06.2013, punishment of reduction by three stages in the time scale of pay, on permanent basis, was imposed upon the appellant.
- (iii) Aggrieved therewith, the appellant preferred an appeal before the Appellate Authority which was dismissed by order dated 19.04.2014. Thereafter, the

² Bank

appellant preferred a writ petition i.e., CWP No. 12865/2014 before the High Court, which was heard by a Single Judge Bench of the High Court.

- (iv) Before the learned Single Judge, the appellant, *inter alia*, urged that the penalty imposed upon him was not permissible as he had superannuated. Post retirement, penalties specified in the Punjab and Sind Bank Employees' Pension Regulations, 1995³ alone could be imposed.
- (v) The aforesaid argument was accepted by the learned Single Judge. In consequence, the punishment order was set aside while reserving the right of the Bank to issue a fresh show cause notice for action under the Pension Regulations.

³ Pension Regulations.

- (vi) Aggrieved therewith, the Bank preferred an intra court appeal before the Division Bench of the High Court.
- (vii) The Division Bench by relying upon a three-Judge Bench decision of this Court in ***Chairman-Cum-Managing Director, Mahanadi Coalfields Limited v. Rabindranath Choubey***⁴ and Regulation 20(3)(iii) of the Punjab and Sind Bank Officers' Service Regulations, 1982⁵ held that the extant Service Regulations permitted continuance of disciplinary proceedings post attainment of the age of superannuation, therefore the disciplinary proceedings could continue and brought to its logical conclusion as per those Regulations. As a result, the order of the learned Single Judge was set aside, and the writ petition of the appellant was dismissed.

⁴ (2020) 18 SCC 71

⁵ Service Regulations.

(viii) Aggrieved by the order of the Division
Bench, the appellant is before us.

SUBMISSIONS ON BEHALF OF THE APPELLANT

4. On behalf of the appellant, it was submitted that once the appellant had attained the age of superannuation, the master-servant relationship between the Bank and the appellant ceased to exist, therefore, the punishment of reduction of pay could not have been imposed. Though the Bank could have either reduced the pension, otherwise payable, or recover the loss, if any, caused to the Bank, under the Pension Regulations.
5. Reliance was placed on a decision of this Court in ***Ramesh Chandra Sharma v. Punjab National Bank and another***⁶ to contend that for the purposes of proceeding with disciplinary action post-retirement, punishment of dismissal from service stands on a different footing than reduction of pay, as by dismissal the liability to pay pension also ceases. Reliance was also placed on ***UCO Bank and others vs. Prabhakar Sadashiv Karvade***⁷ to

⁶ (2007) 9 SCC 15

⁷ (2018) 14 SCC 98

contend that Service Regulations apply to serving employees only.

6. It was next contended that the appellant had taken multiple other grounds (i.e., (a) the concerned charge was not proved; (b) the concerned charge was not relatable to any specified misconduct; and (c) the punishment as well as the appellate order was a non-speaking one), which the High Court failed to address. To buttress the submission that disciplinary /Appellate Authority's order must carry reasons, reliance was placed on decisions of this Court in ***A.L. Kalra v. Project and Equipment Corporation of India Limited***⁸ and ***Allahabad Bank and others v. Krishna Narayan Tewari***⁹.
7. It was also contended that even if the merits of the finding(s) returned by the Inquiry Officer, Disciplinary Authority and Appellate Authority was not specifically questioned before the High Court, it being a pure question of law can be raised at any stage. In this regard, reliance was placed on

⁸ (1984) 3 SCC 316

⁹ (2017) 2 SCC 308

decisions of this Court in ***Securities and Exchange Board of India through its Chairman v. Roofit Industries Limited***¹⁰ and ***Chittoori Subbanna v. Kudappa Subbanna and others***¹¹.

SUBMISSIONS ON BEHALF OF THE BANK

8. *Per contra*, the learned counsel for the Bank submitted that the general principle that there could be no disciplinary action post termination of master-servant relationship, consequent to attaining the age of superannuation, has an exception, which is, that if the extant Service Rules/Regulations permit continuance of disciplinary proceedings post attainment of the age of superannuation, the proceedings can continue and brought to its logical conclusion. Regulation 20(3)(iii) of the Service Regulations permits continuance of disciplinary proceedings against the charged-officer even post-superannuation, if those were initiated prior to incumbent's superannuation,

¹⁰ (2016) 12 SCC 125

¹¹ AIR 1965 SC 1325 : 1964 SCC OnLine SC 322

as is the case here. It was contended that in **Ramesh Chandra Sharma (supra)**, this Court held that in view of the provisions of Regulation 20(3)(iii) it is permissible to continue with the disciplinary proceedings post-retirement. Same view has been taken by a three-Judge Bench of this Court in **Canara Bank v. D.R.P. Sundharam**¹². On the other hand, Pension Regulations become applicable when proceedings are initiated under the Pension Regulations.

9. It was next contended that the decision in **Prabhakar Sadashiv Karvade (supra)** relied by the appellant is distinguishable on facts inasmuch as in that case the charged-officer had retired before service of charge-sheet. In that context, it was held that extant Regulations would apply to only serving employees.
10. On merits of the charge and the orders passed by the Disciplinary/Appellate Authority, it was submitted that the Inquiry Officer in his report

12. (2016) 12 SCC 724

dated 20.12.2012 found Charge No. 2 partly proved because the borrower had made cash withdrawals of several lacs of rupees without supporting bills. In that context, the Inquiry Officer concluded that the charged officer had failed to ensure end-use of the loan amount. The said conclusion is logical and cannot be held perverse. More so, when the loan account had turned Non-Performing Asset (for short, NPA). It was submitted that diversion of loan is best prevented by ensuring that it is used for the purpose intended. Withdrawal by cash, without supporting bills, is a clear indication of misuse of loan amount. Moreover, the appellant had never questioned the finding *qua* cash withdrawals without supporting bills.

- 11.** Besides, the punishment imposed on the appellant had resulted in reduction of pension by a meagre sum of Rs. 302 per month. Thus, the punishment is not shockingly disproportionate to the gravity of the proven misconduct. Further, as to what punishment is to be imposed, the discretion vests

with the disciplinary authority. In this regard decision of this Court in ***Union of India And Others v. Ram Karan***¹³ was relied upon. Based on the aforesaid submissions, it was prayed on behalf of the Bank that the appeal be dismissed.

ANALYSIS

- 12.** We have heard the learned counsel for the parties and have perused the materials on record.
- 13.** On consideration of the rival submissions, in our view, following issues arise for our determination:
 - (i) Whether post-retirement of the appellant, punishment of reduction of three stages in the scale of pay, as imposed by the respondent, was permissible under the extant Service Regulations, or action under the Pension Regulations was the only way forward?
 - (ii) Whether there is any perversity/infirmity in the enquiry report and the order(s) passed by the Disciplinary/Appellate

¹³ (2022) 1 SCC 373

Authority? If yes, whether it could be raised as a ground when it was not pressed before the High Court?

- 14.** Before proceeding to address Issue No. (i), we would address Issue No. (ii) as it turns on facts. Issue No. (ii) relates to the merits of the Inquiry Report and the order(s) of the Disciplinary/Appellate Authority. It also relates to the consequence of High Court not addressing the same. In this regard, it be noted that the charge which stood proved was in respect of appellant's failure to ensure end use of the loan disbursed by the Bank. The Inquiry Officer held the charge as partly proved because Bills in respect of cash payments of up to Rs. 27.25 lacs were not on record, and it was reported that the account had turned NPA.
- 15.** The enquiry report¹⁴ takes note of the evidence produced and the submissions made by both sides. After analyzing the same, it holds Charge No. 2 partly proved. The enquiry report is in respect of two

¹⁴ Which is contained in Annexure P-6

charges. Charge No. 1 is held not proved whereas Charge No. 2 is held partly proved because there existed no Bills on record to demonstrate as to how the cash was spent. Based on that, the Inquiry Officer concluded that there was failure on part of the appellant to ensure end-use of the loan amount.

- 16.** The appellant was given opportunity to submit his comments on the Inquiry Report. In his comments to the Inquiry Report, the appellant did not claim that he was not given due opportunity of hearing or that a faulty procedure was adopted by the Inquiry Officer. In fact, he did not even challenge the finding of the Inquiry Officer that no Bills were there on record. Rather his stand was that his predecessor-in-office had also not taken Bills, but no objection was taken to his predecessor's conduct. In that backdrop, the disciplinary authority, while accepting the finding of the Inquiry Officer, imposed the punishment in question.
- 17.** Ensuring end-use of loan disbursements serves multiple purposes. First, it ensures that loan is not diverted

for purposes other than the one for which it is sanctioned/ disbursed. Often loans are prioritized for a particular purpose. Ensuring end use safeguards that purpose. Second, it secures recovery. For example, if loan is for purchase of a machine to run a business, if the machine is purchased, possibility of business yielding profits is greater than where the loan is diverted for purposes other than to serve the business. Besides, it is a matter of common knowledge that loan is sanctioned after appraisal of the project or the business in respect of which the loan is sought. Appraisal is often to ascertain the feasibility and viability of the project / business for which the loan is sought. Failure to ensure end use would render the appraisal meaningless. In such circumstances, if end use of the loan is not ensured, the Bank would be exposed to financial risk.

- 18.** In the instant case, as there was no challenge to the indictment that huge amount of cash withdrawals was allowed without taking supporting

bills/receipts, the charge that the appellant had failed to ensure end use of the loan stood proved. It was in this context, probably, the learned counsel for appellant while assailing the disciplinary action pressed only one ground i.e., that the extant Discipline and Appeal Regulations/Service Regulations under which the punishment was imposed, applied to serving employees only. Even before the Division Bench of the High Court, it appears, no argument was raised on the merit of the finding that Charge No. 2 was partly proved.

- 19.** Besides, a bank officer holds a position of trust as he deals with public funds. Sanction of loan beyond one's power, or not ensuring end-use of the loan, amounts to financial irregularity which exposes the Bank to financial risk. Therefore, penal action on proof of such a charge cannot be questioned merely because no loss is suffered by the Bank¹⁵.
- 20.** Moreover, where an employee of a Bank handles money of depositors /customers/investors, it is

¹⁵ Disciplinary Authority-Cum-Regional Manager and others v. Nikunja Bihari Patnaik, (1996) 9 SCC 69

most essential for him to be cautious and not reckless in discharge of his duties because he deals with the money for and on behalf of his employer. Every such employee/officer is, therefore, required to take all possible steps to protect the interests of his employer. He must, therefore, discharge his duties with utmost sense of integrity, honesty, devotion and diligence and must ensure that he does nothing, which is unbecoming of an employee/officer. Although good conduct and discipline is expected from every employee/officer of an institution, but it is required more when the institution deals with money of customers/depositors/investors. Any dereliction in discharge of duties by such an employee or officer, whether by way of negligence/casualness, or with deliberate intention, constitutes misconduct¹⁶.

- 21.** In that backdrop, we find neither any perversity in the finding(s) returned by the Inquiry Officer nor do we deem it appropriate to permit the appellant to

¹⁶ Mihir Kumar Hazara Choudhury v. Life Insurance Corporation and another, (2017) 9 SCC 404; Chairman and Managing Director, United Commercial Bank and others v. P.C. Kakkar, (2003) 4 SCC 364.

question the merit of the finding(s) that Charge No. 2 was partly proved, particularly when no such plea was pressed before the High Court.

22. For the aforesaid reasons, we decline to accept appellant's submissions that the Writ Court and the Division Bench of the High Court failed in their obligation to examine the merits of the disciplinary action. Moreover, upon consideration of the enquiry report and the comments of the appellant to the same, we do not find any good ground to hold that Charge No. 2, as discussed above, was not partly proved, or that the punishment awarded was shockingly disproportionate to the gravity of proven misconduct. Issue No. (ii) is decided in the above terms.

23. Now, we shall address Issue No. (i) i.e., whether, post-retirement, the punishment as imposed upon the appellant is permissible in law.

24. In support of his contention on the issue, the learned counsel for the appellant had placed

reliance on Regulation 2 of the Service Regulations which reads as under:

“2. OFFICERS TO WHOM THE REGULATIONS APPLY

2. (1) These Regulations shall apply to all officers of the Bank and to such other employees of the Bank to whom they may be made applicable by the Competent Authority to the extent and subject to such conditions as such authority may decide.

(2) They shall also apply to officers transferred/posted/deputed outside India except to such extent as may be specifically or generally prescribed by the Competent Authority.

(3) They shall, however, not apply to employees appointed/engaged in any country outside India and permanently serving there.”

25. On the other hand, the learned counsel for the Bank relied on Regulation 20 (3), more particularly Clause (iii) of Sub-regulation (3) of Regulation 20, of the Service Regulations. Sub-regulation (3) of Regulation 20 reads as under:

“20. TERMINATION OF SERVICE

(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.

(ii) Disciplinary proceedings shall be deemed to be pending against any employee for the purpose of this 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.

(iii) The officers 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 payments of retirement benefits till the proceedings are completed and final order is passed thereon except his own contribution to CPF.”

- 26.** The contention on behalf of the appellant is that the Service Regulations, of which Regulation 20 (3) (iii) is a part, would apply to all officers of the Bank. However, once an officer superannuates, he is no longer an officer of the Bank therefore, Regulation 20 (3) (iii) cannot rescue disciplinary proceedings post-retirement. Thus, it is contended, post-retirement, action can be taken only under the Pension Regulations.
- 27.** At this stage, it would be useful to refer to two decisions placed on behalf of the appellant, namely, **“UCO Bank and Others vs. Prabhakar Sadashiv Karvade”** (supra) (for short, **Prabhakar Sadashiv Karvade**) and **“Ramesh Chandra Sharma vs. Punjab National Bank and Another”** (supra) (for short, **Ramesh Chander Sharma**).

28. In ***Prabhakar Sadashiv Karvade***, based on a charge sheet served on 09.09.2000, the incumbent was dismissed from service on 12.10.2004 while he had retired from service on 13.12.1993. In that context, this Court considered various service Rules/ Regulations which were extracted in Paragraph 8 of the judgment. Relevant portion of which is reproduced below:

“8.

Discipline and Appeal Regulations

4. Penalties—The following are the penalties which may be imposed on an officer employee, for acts of misconduct or for any other good and sufficient reasons—

Minor penalties —

- (a) censure;
- (b) withholding of increments of pay with or without cumulative effect;
- (c) withholding of promotion;
- (d) recovery from pay or such other amount as may be due to him of the whole or part of any pecuniary loss caused to the Bank by negligence or breach of orders.
- (e) reduction to a lower stage in the timescale of pay for a period not exceeding 3 years, without cumulative effect and not adversely affecting the officer's pension.

Major penalties —

(f) save as provided for in (e) above, reduction to a lower stage in the timescale of pay for a specified period, with further directions as to whether or not the officer will earn increments of pay during the period of such reduction and whether on the expiry of such period the reduction will or will not have the effect of postponing the future increments of his pay.

(g) reduction to a lower grade or post,

(h) compulsory retirement;

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

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

“1979 Regulations

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 contributions to CPF.”

“The Pension Regulations

46. Provisional Pension —(1) An employee who has retired on attaining the age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or departmental proceedings are continued, a provisional pension, equal to the maximum pension which would have been admissible to him, would be allowed subject to adjustment against final retirement benefits sanctioned to him, upon conclusion of the proceedings but no recovery shall be made where the pension finally sanctioned is less than the provisional pension or the pension is reduced or withheld, etc. either permanently or for a specified period.

(2) In such cases the gratuity shall not be paid to such an employee until the conclusion of the

proceedings against him. The gratuity shall be paid to him on conclusion of the proceedings subject to the decision of the proceedings. Any recoveries to be made from an employee shall be adjusted against the amount of gratuity payable.

Explanation. — in this Chapter—(a) to (e)

48. Recovery of pecuniary loss caused to the Bank—

(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.

Provided also that no departmental or judicial proceedings, if not initiated while the employee was in service, shall be instituted in respect of a cause of action which arose or in respect of an event which took place more than four years before such institution.

(2) Where the competent authority orders recovery of pecuniary loss from the pension, the recovery shall 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.”

After considering the aforesaid Regulations, this Court held as under:

“9. A reading of the plain language of Regulation 4 of the Discipline and Appeal Regulations and Regulation 20(3)(iii) of the 1979 Regulations makes it clear that any of the penalties, whether major or minor can be imposed only on a serving officer employee of the Bank. This necessarily implies that none of the penalties specified in Regulation 4 of the Discipline and Appeal Regulations can be imposed on an officer employee after his retirement from service, though in terms of Regulation 20(3)(iii) of the 1979 Regulations, the disciplinary proceedings initiated against an officer employee before his retirement can be continued and final order is passed and further that such officer employee is not entitled to retiral benefits till the conclusion of disciplinary proceedings and passing of final order. The only exception to this is that the officer is entitled to receive his own contribution to CPF. However, there is nothing in the language of these Regulations from which it can be inferred that the disciplinary authority has the power to impose a substantive punishment on retired officer employee. This becomes more explicit from a conjoint reading of Regulation 48 of the Pension Regulations which empowers the competent authority to withhold or withdraw a pension or a part thereof and order recovery from pension of the whole or part of any pecuniary loss caused to the bank if in a departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence or criminal breach of trust or forgery or acts done fraudulently during the period of his service. Second proviso to Regulation 48 contains a fiction and lays down that if the departmental proceedings are instituted while the employee was in service, the same shall be deemed to be proceedings under the Regulations and continued and concluded as if the employee had continued in service. The third proviso imposes a bar on the initiation of departmental or judicial proceedings against an employee after his retirement in respect of an event which took place more than 4 years before such institution. The sum and substance of these Regulations is that even though a departmental inquiry instituted against an officer employee before his retirement can continue

even after his retirement, none of the substantive penalties specified in Regulation 4 of 1979 Regulations, which include dismissal from service, can be imposed on an officer employee after his retirement on attaining the age of superannuation. Therefore, we have no hesitation to hold that order dated 12-10-2004 passed by the disciplinary authority dismissing the respondent from service, who had superannuated on 31-12-1993 was ex facie illegal and without jurisdiction and the High Court did not commit any error by setting aside the same.

10. We may also observe that master and servant relationship between the respondent and the employer i.e. Appellant 1 Bank had come to an end for all practical purposes on 31-12-1993 i.e. the date of superannuation. The departmental inquiry initiated against the respondent before his retirement could be continued for a limited purpose for determining whether or not he is entitled for full pensionary benefits and gratuity.”

(Emphasis supplied)

29. In ***Ramesh Chandra Sharma*** (supra), the issue was whether punishment of dismissal could be inflicted on an employee who has already retired on attaining the age of superannuation. In that context, this Court considered Regulation 20(3)(iii) of the Service Regulations (*which is in same terms as Regulation 20(3) (iii) of 1979 Regulations extracted in the preceding paragraph*) and Regulations 22, 43 and 48 of the Pension Regulations, which are reproduced below:

“22. (i) Resignation or dismissal or removal or termination of an employee from the services of the

Bank shall entail forfeiture of his entire past service and consequently shall not qualify for pensionary benefits.

43. *Withholding or withdrawal of pension.*—The competent authority may, by order in writing, withhold or withdraw a pension or a part thereof, whether permanently or for a specified period, if the pensioner is convicted of a serious crime or criminal breach of trust or forgery of (sic or) acting fraudulently or is found guilty of grave misconduct.

Provided that where a part of pension is withheld or withdrawn, the amount of such pension shall not be reduced below the minimum pension per mensem payable under these Regulations.

48. *Recovery of pecuniary loss caused to the Bank.*—(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.”

Construing the object of Regulation 20(3)(iii)

(supra), this Court observed:

“17.

The said Regulation clearly envisages continuation of a disciplinary proceeding despite the officer ceasing to be in service on the date of superannuation. For the said purpose a legal fiction has been created providing that the delinquent officer would be deemed to be in service until the proceedings are concluded and final order is passed thereon. The said Regulation being statutory in nature should be given full effect.”

Thereafter, upon considering Regulations 22, 43 and 48 of the Pension Regulations, it was held:

“25. Indisputably as a consequence of the order imposing the punishment of dismissal from service the appellant would not have qualified for the pensionary benefits.

.....

26. Where a proceeding is initiated for withholding or withdrawal of pension, Regulation 43 of the Pension Regulations would be attracted. But provisions of the said Regulation if read in its entirety clearly go to show that an officer would not qualify for pensionary benefits, if, *inter alia*, he is dismissed from service.

27. Regulation 48 empowers the Bank to recover pecuniary loss caused to it from the pensionary benefits. Regulation 20(3)(iii) of the (Discipline and Appeal) Regulations must be read in conjunction with

the Pension Regulations. Where the employees are pension optees, Regulation 48(1) shall apply. In any event, if an officer is removed or dismissed from service under Regulation 4 of the (Discipline and Appeal) Regulations, the Bank need not take recourse to Regulation 48 of the Pension Regulations as Regulation 22 thereof would be attracted.”

30. In *Chairman-cum-Managing Director, Mahanadi Coalfields Ltd. vs. Rabindranath Choubey*

(supra) (for short, ***Mahanadi Coalfields Ltd.***), the issue, *inter alia*, under consideration was, ‘whether, in view of Rule 34.2 of the 1978 Rules, the punishment of dismissal can be imposed upon finding one guilty of misconduct, where departmental enquiry is instituted while the employee is in service and continued after he attains the age of superannuation?’

31. Rule 34.2 and 34.3 of CDA Rules, which were considered by this Court in *Mahanadi Coalfields Ltd.*, read as under:

“**34.2.** Disciplinary proceeding, if instituted while the employee was in service whether before his retirement or during his re-employment shall, after the final retirement of the employee, be deemed to be proceeding and shall be continued and concluded by the authority by which it was commenced in the same manner as if the employee had continued in service.

34.3. During the pendency of the disciplinary proceedings, the Disciplinary Authority may withhold payment of gratuity, for ordering the recovery from gratuity of the whole or part of any pecuniary loss caused to the Company if have been guilty of offences /misconduct as mentioned in sub-section (6) of Section 4 of the Payment of Gratuity Act, 1972 or to have caused pecuniary loss to the Company by misconduct or negligence, during his service including service rendered on deputation or on re-employment after retirement. However, the provisions of Sections 7(3) and 7(3-A) of the Payment of Gratuity Act, 1972 should be kept in view in the event of delayed payment, in the case the employee is fully exonerated.”

32. In that context, in ***Mahanadi Coalfields Ltd.***, this

Court held:

“**7.** Indisputably, the respondent was governed by the CDA Rules. Therefore, Rules 34.2 and 34.3 of the CDA Rules shall be applicable and the respondent employee shall be governed by the said provisions. Rule 34 permits the management to withhold the gratuity during the pendency of the disciplinary proceedings. Rule 34.2 permits the disciplinary proceedings to be continued and concluded even after the employee has attained the age of superannuation, provided the disciplinary proceedings are instituted while the employee was in service. It also further provides that such disciplinary proceedings shall be deemed to be the proceedings and shall be continued and concluded by the authority by which it was commenced in the same manner as if the employee had continued in service. Therefore, as such, on a fair reading of Rule 34.2 of the CDA Rules, an employee shall be deemed to be continued in service, after he attains the age of superannuation/retired, for the limited purpose of continuing and concluding the disciplinary proceedings which were instituted while the employee was in service. Therefore, at the conclusion of such disciplinary proceedings any of the penalty provided under Rule 27 of the CDA Rules can be imposed by the authority including the order of dismissal. If the submission on behalf of the employee that after the employee has attained the age of superannuation and/or he has retired from

service, despite Rule 34.2, no order of penalty of dismissal can be passed is accepted, in that case, it will be frustrating permitting the authority to continue and conclude the disciplinary proceedings after retirement. If the order of dismissal cannot be passed after the employee has retired and/or has attained the age of superannuation in the disciplinary proceedings which were instituted while the employee was in service, in that case, there shall not be any fruitful purpose to continue and conclude the disciplinary proceedings in the same manner as if the employee had continued in service.

8. It is true that while considering the very provisions of the CDA Rules, namely, Rule 34.2 and Rule 34.3 of the CDA Rules, this Court in *Jaswant Singh Gill* [*Jaswant Singh Gill v. Bharat Coking Coal Ltd.*, (2007) 1 SCC 663 : (2007) 1 SCC (L&S) 584] has observed and held that once the employee is permitted to retire on attaining the age of superannuation, thereafter no order of dismissal can be passed. However, for the reasons stated hereinabove, we are not in agreement with the view taken by this Court in *Jaswant Singh Gill* [*Jaswant Singh Gill v. Bharat Coking Coal Ltd.*, (2007) 1 SCC 663: (2007) 1 SCC (L&S) 584]. As observed hereinabove, if no major penalty is permissible after retirement, even in a case where the disciplinary proceedings were instituted while the employee was in service, in that case, Rule 34.2 would become otiose and shall be meaningless.

9. On the contrary, there is a decision of three-Judge Bench of this Court in *Ram Lal Bhaskar* [*SBI v. Ram Lal Bhaskar*, (2011) 10 SCC 249: (2012) 1 SCC (L&S) 402] taking just a contrary view. In *Ram Lal Bhaskar* [*SBI v. Ram Lal Bhaskar*, (2011) 10 SCC 249: (2012) 1 SCC (L&S) 402], Rule 19(3) of the State Bank of India Officers Service Rules, 1992 came up for consideration which was *pari materia* with Rule 34.2 of the CDA Rules. The said Rule 19(3) of the State Bank of India Officers Service Rules, 1992 also permits the disciplinary proceedings to continue even after the retirement of an employee if those were instituted when the delinquent employee was in service. In that case, charge-sheet was served upon the respondent before his retirement. The proceedings continued after his retirement and were conducted in accordance with the relevant Rules where charges were proved.

Punishment of dismissal was imposed. The High Court allowed [*Ramlal Bhaskar v. SBI*, Writ-A No. 8415 of 2003, order dated 12-4-2006 (All)] the petition and quashed the order of dismissal. This Court reversed the said decision of the High Court. In the said decision, it was specifically observed by this Court while considering the *pari materia* provisions that in case disciplinary proceedings under the relevant Rules of service have been initiated against an officer before he ceased to be in the bank's service by the operation of, or by virtue of, any of the Rules or the provisions of the Rules, the disciplinary proceedings may, at the discretion of the Managing Director, be continued and concluded by the authority by whom the proceedings were initiated in the manner provided for in the Rules as if the officer continues to be in service, so however, that he shall be deemed to be in service only for the purpose of the continuance and conclusion of such proceedings. In the said decision, this Court also took note of another decision of this Court in *Rajinder Lal Capoor [UCO Bank v. Rajinder Lal Capoor, (2007) 6 SCC 694 : (2007) 2 SCC (L&S) 550]* and it is observed even in the said decision that the UCO Bank Officer Employees' Service Regulations, 1979 which were also *pari materia* to the SBI Rules as well as the CDA Rules, could be invoked only when the disciplinary proceedings had been initiated prior to the delinquent officer ceased to be in service.”

- 33.** What is important to note is that in ***Mahanadi Coalfields Ltd.***, this Court had the occasion to consider its earlier decision in ***Ramesh Chandra Sharma***, and the same was approved.
- 34.** The ratio of ***Mahanadi Coalfields Ltd.*** is found in paragraphs 47 and 48 of the judgment, which are reproduced below:

“47. Thus considering the provisions of Rules 34.2 and 34.3 of the CDA Rules, the inquiry can be continued given the deeming fiction in the same manner as if the employee had continued in service and appropriate punishment, including that of dismissal can be imposed apart from the forfeiture of the gratuity wholly or partially including the recovery of the pecuniary loss as the case may be.

48. In view of the above and for the reasons stated above and in view of the decision of the three-Judge Bench of this Court in *Ram Lal Bhaskar* [*SBI v. Ram Lal Bhaskar*, (2011) 10 SCC 249 : (2012) 1 SCC (L&S) 402] and our conclusions as above, it is observed and held that (1) the appellant employer has a right to withhold the gratuity during the pendency of the disciplinary proceedings, and (2) the disciplinary authority has powers to impose the penalty of dismissal/major penalty upon the respondent even after his attaining the age of superannuation, as the disciplinary proceedings were initiated while the employee was in service.”

35. In *Mahanadi Coalfields Ltd.*, Ajay Rastogi, J. wrote a separate opinion partly concurring and partly dissenting with the majority view. In respect of the first question, Ajay Rastogi, J. concurred with the majority view whereas in respect of the second question, that is, whether the penalty of dismissal could be imposed after the employee had retired from service, Ajay Rastogi, J. opined thus:

“78.2.Que. 2—Whether the penalty of dismissal could be imposed after the employee stood retired from service?

Ans. In my considered view, after conclusion of the disciplinary inquiry, if held guilty, indeed a penalty

can be inflicted upon an employee/delinquent who stood retired from service and what should be the nature of penalty will always depend on the relevant scheme of the Rules and on the facts and circumstances of each case, but either of the substantive penalties specified under Rule 27 of the 1978 Rules including dismissal from service are not open to be inflicted on conclusion of the disciplinary proceedings and the punishment of forfeiture of gratuity commensurate with the nature of guilt may be inflicted upon a delinquent employee provided under Rule 34.3 of the 1978 Rules read with subsection (6) of Section 4 of the 1972 Act.”

- 36.** On a survey of the decisions cited and discussed above, in our view, what is settled is that if the extant service Rules/Regulations permit continuance of the disciplinary proceedings, initiated against an officer/ employee before he had attained the age of superannuation, those can be continued and brought to its logical conclusion even after he had attained the age of superannuation. And where, pursuant to such proceedings, the ultimate penalty imposed is of dismissal, there may be no technical difficulty in its implementation as it may result in forfeiture of pension and other retiral dues. Therefore, in such an event, the question of entitlement to pensionary benefits may not arise. However, where the punishment imposed is such

which may, instead of forfeiture of pension in its entirety, result in mere reduction or adjustment of pension, or recovery from post retiral dues, the Court may have to consider whether such punishment is implementable or not, post-retirement.

37. In the instant case, the punishment awarded is of reducing the pay scale by three stages on permanent basis. Such reduction in the pay scale would relate back to the date the incumbent superannuated from service. Ordinarily, pension is computed based on salary last drawn/payable. Therefore, in our view, it would not be difficult to implement such a punishment as pension can be computed accordingly.

38. For the foregoing reasons, in our view, the Division Bench of the High Court was justified in allowing the writ appeal by properly construing Regulation 20(3)(iii) of the Service Regulations.

39. The appeal therefore lacks merit and is accordingly dismissed. Pending applications, if any, shall stand disposed of. There shall be no order as to costs.

.....**J.**
(Pamidighantam Sri Narasimha)

.....**J.**
(Manoj Misra)

New Delhi;
March 19, 2026