

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
***HON'BLE SRI JUSTICE HARINATH.N**
+WRIT PETITION No.12527 OF 2012
%24.01.2025

#Between:

B.Asheervadam, S/o.Tatayya, aged about 55 years, Occ: Ex-Assistant Manager, (UCO Bank), R/o.MIG II A-47, Gullalapalem, Malkapuram Post, Visakhapatnam-530011.

...Petitioner

AND

1. M/s.UCO Bank, Represented by its Chairman and Managing Director, Head Office, 10, BTM Sarani, Kolkata.
2. The Disciplinary Authority, Zonal Manager, UCO Bank, Zonal Office, 8-2-624, Ground Floor, Road No.10, Banjara Hills, Hyderabad-34.
3. The General Manager (Personal Services) Appellate Authority, UCO Bank Head Office, 10, BTM Sdarani, Kolkata.

...Respondents

Counsel for the Petitioner:

Sri.Bondili Ravikiran Singh

Counsel for the Respondent(S):

Sri. N.V.Subba Raju

The Court made the following:

<Gist:

>Head Note:

? Cases referred:

1. Civil Appeal No.6327 of 2024, decided on 21.01.2025
2. W.P.(C) 6906 of 2016, decided 10.10.2023

This Court made the following:

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***HON'BLE SRI JUSTICE HARINATH.N**
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...Respondents

DATE OF ORDER PRONOUNCED: 24.01.2025

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE HARINATH.N

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
2. Whether the copies of order may be marked to Law Reporters/Journals? Yes/No
3. Whether Your Lordships wish to see the fair copy of the order? Yes/No

JUSTICE HARINATH.N

APHC010192742012



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3457]

FRIDAY, THE TWENTY FOURTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE HARINATH.N

WRIT PETITION NO: 12527/2012

Between:

B. Asheervadam

...PETITIONER

AND

M/s UCO Bank and Others

...RESPONDENT(S)

Counsel for the Petitioner:

1.BONDILI RAVIKIRAN SINGH

Counsel for the Respondent(S):

1.N V SUBBA RAJU

The Court made the following:

THE HON'BLE SRI JUSTICE HARINATH. N**WRIT PETITION No.12527 of 2012****ORDER :**

1. The petitioner is challenging the proceedings dated 27.10.2010 whereby the 2nd respondent revised the order of the 1st respondent dated 22.07.2011. The petitioner is also seeking the relief of reinstatement together with service benefits including back wages.
2. The petitioner joined the respondent/bank as a Clerk on 19.12.1985. The petitioner was promoted to Junior Management Scale on 26.05.2007. Thereafter he was posted as Assistant Manager, Scale-I at Attili Branch.
3. It is submitted by the learned counsel for the petitioner, that the petitioner was targeted by the Senior Manager at Attili Branch. The petitioner, unable to bear the harassment, submitted a request to the General Manager on 19.07.2008 seeking to revert him to the clerical cadre. However, the same was rejected.
4. It is submitted that the petitioner was entrusted the duty at the Advances Department on 27.11.2008; by then, the Senior Manager had processed and sanctioned several housing loans. The loan applications were processed, inspected and loans were

disbursed. All documents relating to the said loan applications were under the safe custody of the Senior Manager.

5. In January 2009, an Officer was deputed to verify the loan documents and other records relating to the loan documents. The petitioner was working at Mandi Branch when he was placed under suspension, alleging irregularities in handling the loan accounts, while the petitioner served as Assistant Manager at Attili Branch. Charges were framed on 18.11.2009 against the petitioner, alleging that the petitioner recommended for sanction of home loans and other loans by violating the respondent/bank norms and guidelines. Enquiry was conducted by the disciplinary authority and the disciplinary authority imposed the punishment of compulsory retirement with service benefits vide proceedings dated 13.10.2010.
6. It is submitted by the learned counsel appearing for the petitioner that the 2nd respondent suomoto revised the order dated 13.10.2010 on 27.10.2010 by removing the service benefits from the original order of punishment.
7. The learned counsel appearing for the petitioner submits that the order of punishment of compulsory retirement with service benefits was suomoto revised by the 2nd respondent. It is also

submitted that the proceedings dated 27.10.2010 were passed without issuing any notice or without even calling for a reply from the petitioner before the 2nd respondent modified the punishment imposed by the disciplinary authority. The 2nd respondent imposed a partial punishment on the petitioner by denying the service benefits due payable to the petitioner.

8. The petitioner was imposed the punishment of compulsory retirement and such retirement would entitle the employee for the service benefits for the service rendered by such employee.
9. The learned counsel appearing for the petitioner submits that the enquiry itself was conducted with the predetermined motive of punishing the petitioner and that the petitioner was targeted by the officers. It is also submitted that when the petitioner did not process any of the loan documents, which were neither in the knowledge of the petitioner nor did the petitioner handle such applications during his tenure at Attili Branch. It is submitted that by the time the petitioner was delegated the responsibility of Advances Department, the senior manager had accepted, processed, approved, inspected, verified and disbursed the loans. The loan documentation was also under the safe custody of the senior manager. As such, the alleged misconduct which

did not occur during the petitioner's service as Assistant Manager at Attili Branch.

10. The learned counsel for the petitioner submits that the respondents have committed a grave error in suomoto revising their own order and, as such, prays for a direction to reinstate the petitioner together with service benefits.
11. The learned standing counsel appearing for the respondents submits that the scope of judicial review of this Court is limited. It is also submitted that the enquiry was conducted in a fair manner by granting ample opportunity to the petitioner.
12. It is submitted that the petitioner was charged of committing severe misconduct, and the acts of misconduct committed by the petitioner were not only grave, but also serious in nature with severe financial implications for the respondent/bank. It is submitted that the petitioner cannot construe the orders passed on 13.10.2010 and 27.10.2010 as two different orders. It is further submitted that the order dated 13.10.2010 has merged with the order 27.10.2010. It is also submitted the order dated 27.10.2010 is a corrigendum for the order 13.10.2010.
13. It is submitted that the order of compulsory retirement from service awarded to the petitioner is in accordance with UCO

Bank Officers (Discipline and Appeal) Regulations, 1976. It is submitted that when the charges were proved beyond all reasonable doubt, the respondent is empowered to impose any punishment. It is submitted in the reply in the re-joinder by the respondents that the punishment imposed by the disciplinary authority has to be in accordance UCO Bank Officers (Discipline and Appeal) Regulations, 1976. It is submitted that major penalty would prescribe compulsory retirement as one of the punishment and that there is no punishment of imposing compulsory retirement with service benefits as per the regulations.

14. Heard the learned counsel for the petitioner and the learned standing counsel for the respondents.

Consideration of the Court :

15. On perusing the order dated 27.10.2010, it reads as a continuation to the order dated 13.10.2010 and also states that it is an integral part of the order dated 13.10.2010. In other words, the order of punishment passed on 13.10.2010 has merged with the corrigendum order dated 27.10.2010.
16. The point for consideration before this Court is whether the corrigendum issued by the respondent on 27.10.2010 modifying

the original order of punishment and imposing a harsher punishment is permissible under law.

17. The original order of disciplinary authority dated 13.10.2010 held charges 1, 2, 3, 5, 6 and 7 as proved and punishment for each of the charges was mentioned as – **B.Ashirvadam, Be compulsorily retired from bank service with benefits.** The order dated 27.10.2010 was passed by the same authority imposing a harsher punishment by removing the service benefits extended to the compulsorily retired employee vide orders of punishment dated 13.10.2010.
18. The order dated 13.10.2010 was already communicated to the petitioner, soon after passing of the same and a copy of the said order was also sent by the speed post to the petitioner. The suomoto power of the disciplinary authority in proposing to impose a harsher punishment by withdrawing the service benefits could not have been exercised. The attempt of revising its own order is manifestly illegal act which cannot withstand the scrutiny of law and logic. The banking regulations and guidelines do not permit the disciplinary authority for reviewing its own order.

19. In the present case, the petitioner had filed an appeal against the order dated 13.10.2010 and 27.10.2010 and the appeal filed by the petitioner was dismissed by the appellate authority on 20.07.2011. Nothing precluded the respondents from filing an appeal before the appellate authority had the respondent been not satisfied with the punishment order dated 13.10.2010.
20. The Hon'ble Supreme Court in the matter of **The General Manager Personal Syndicate Bank and others Vs. B.S.N.Prasad**¹. The Hon'ble Supreme Court held that the exercise of powers by the disciplinary authority is always subject to principles of proportionality and fair play.
21. In the present set of facts and circumstances, the exercise of suomoto powers (which do not exist) by the disciplinary authority in revising its own order dated 13.10.2010 and imposing a harsher punishment of withdrawing the service benefits of an employee who is compulsorily retired has to be found fault with.
22. The order dated 27.10.2010 does not withhold the scrutiny of proportionality and fair play on the part of the disciplinary authority. This Court is conscious of the limited scope in interfering with the punishments imposed by the disciplinary

¹ Civil Appeal No.6327 of 2024, decided on 21.01.2025

authority. It is the exclusive domain of the disciplinary authority to impose the punishment after a full-fledged enquiry subject to the adequacy of evidence for imposing punishment.

23. This Court is not inclined to interfere with the punishment imposed on the petitioner vide proceedings dated 13.10.2010. However, this Court at the same time cannot permit the respondent/bank sustain its revised order dated 27.10.2010. The revised order dated 27.10.2010 deserves to be set aside.
24. An employee who is compulsory retired as a punishment would be entitled for payment of service benefits such as a grant of pension and gratuity. It is a settled proposition of law that an employee who is imposed the punishment of compulsory retirement would be entitled for service benefits for the service rendered by such employee. It does not matter if the regulation is silent on the entitlement of an employee for service benefits when is compulsory retired. It should go without saying that the punishment of compulsory retirement would automatically entitle the petitioner for service benefits.
25. In the present case, the respondents have suomoto modified the order of punishment by removing the service benefits granted vide order dated 13.10.2010. The entitlement of pension for an

employee who is compulsory retired is dealt by the Division Bench of High Court of Delhi in the matter of **Kamalesh Kumar Vs. Union of India and others**². In the said case, the petitioner there was initially invalidated from service, thereafter the punishment was modified as compulsory retirement from service, thereby entitling the petitioner for pension, medical and other consequential benefits. The respondents therein were also directed to pass necessary orders and clear the arrears within four weeks.

26. The petitioner's claim for reinstatement cannot be considered by this Court as this Court is not inclined to interfere with the order of punishment dated 13.10.2010. That apart, the petitioner has also attained the age of superannuation during pendency of the present writ petition.
27. In the considered opinion of this Court, ends of justice would be met if the impugned proceedings dated 27.10.2010 are hereby set aside. The order dated 13.10.2010 compulsorily retiring the petitioner with service benefits is partly implemented as the petitioner has not been in service ever since the passing of the said order. However, the petitioner was not paid service benefits

² W.P.(C) 6906 of 2016, decided 10.10.2023

as per the orders dated 13.10.2010 on account of subsequent order dated 27.10.2010.

28. The respondents shall disburse the service benefits due payable to the petitioner as on the date of his compulsory retirement with effect from 13.10.2010 within a period of six weeks from the date of receipt of this Order.
29. With these observations the writ petition is partly allowed without costs.
30. As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE HARINATH.N

Dated 24.01.2025.
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B/o.KGM

THE HON'BLE SRI JUSTICE HARINATH. N

WRIT PETITION No.12527 of 2012

Dated 24.01.2025

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