

inquiry. St.of U.P. Vs Saroj Kumar Sinha, (2010) 2 SCC 772; Roop Singh Negi Vs Punjab National Bank, (2009) 2 SCC 570; St.of Uttaranchal Vs Kharak Singh, (2008) 8 SCC 236; Satyendra Singh Vs St.of U.P., 2024 SCC OnLine SC 3325 (Paras 2, 6, 7).

B. Departmental Inquiry – Ex-Parte Proceedings – Establishment’s Duty: Even if the delinquent absents, the establishment must produce evidence, including witnesses, at the scheduled inquiry to prove charges by preponderant probability. Absence does not lead to default guilt; ex-parte inquiry requires evidence presentation. St.of U.P. Vs T.P. Lal Srivastava, (1996) 10 SCC 702 (Paras 12, 13).

C. Central Civil Services (Classification, Control and Appeal) Rules, 1965 – Article 351-A – Procedural Fairness: Inquiry flawed by requiring delinquent to produce and cross-examine own witnesses, misunderstanding examination-in-chief and cross-examination principles. Establishment’s failure to produce witnesses invalidates findings of guilt. St.of U.P. Vs Kishori Lal, 2018 (9) ADJ 397 (DB); Smt. Karuna Jaiswal Vs St.of U.P., 2018 (9) ADJ 107 (DB); St.of U.P. Vs Aditya Prasad Srivastava, 2017 (2) ADJ 554 (DB) (Paras 2, 10, 11).

D. Judicial Review – Departmental Inquiry – Persistent Procedural Flaws: Despite prior court remand for fresh inquiry, respondents’ failure to follow legal principles on evidence production warrants quashing of punishment order. Courts may consider penal costs or disciplinary action against erring authorities for repeated breaches. (Paras 15, 16).

Writ Petition Allowed.

List of Cases cited:

1. St. of U.P. Vs Saroj Kumar Sinha, (2010) 2 SCC 772 (Para 2).
2. Roop Singh Negi Vs Punjab National Bank, (2009) 2 SCC 570 (Para 2).
3. St. of Uttaranchal Vs Kharak Singh, (2008) 8 SCC 236 (Para 2).

4. St. of U.P. Vs Kishori Lal, 2018 (9) ADJ 397 (DB) (Para 2).

5. Smt. Karuna Jaiswal Vs St. of U.P., 2018 (9) ADJ 107 (DB) (Para 2).

6. St. of U.P. Vs Aditya Prasad Srivastava, 2017 (2) ADJ 554 (DB) (Para 2).

7. Satyendra Singh Vs St.of U.P., 2024 SCC OnLine SC 3325 (Para 2).

8. St. of U.P. Vs T.P. Lal Srivastava, (1996) 10 SCC 702 (Para 12).

(Delivered by Hon’ble J.J. Munir, J.)

1. Heard Mr. Rajendra Rai, learned Counsel for the petitioner, Mr. Avneesh Tripathi, learned Counsel appearing for respondent No. 5 and the learned Standing Counsel appearing on behalf of respondents Nos.1 to 4.

2. It has been repeatedly emphasized by the Supreme Court and this Court, not in one judgment but successive authorities, that the law for a salutary principle is that in departmental inquiries, involving the imposition of a major penalty, it is essential for the establishment to examine witnesses and prove the charge, even if the delinquent does not appear or defend himself. If he does, he has the right to cross-examine witnesses for the establishment. The delinquent may produce evidence in his defence or not, but that does not absolve the establishment of their liability to produce not only documentary evidence, but witnesses to establish by the standard of preponderant probability the charge(s) against the delinquent, facing disciplinary proceedings. This by far is the law enunciated by the Supreme Court in **State of Uttar Pradesh and others v. Saroj Kumar Sinha, (2010) 2 SCC 772, Roop Singh Negi v. Punjab National**

Bank and others, (2009) 2 SCC 570 and State of Uttaranchal and others v. Kharak Singh, (2008) 8 SCC 236 and the Bench decisions of this Court in **State of U.P. and another v. Kishori Lal and another, 2018 (9) ADJ 397 (DB) (LB), Smt. Karuna Jaiswal v. State of U.P., 2018 (9) ADJ 107 (DB) (LB) and State of U.P. v. Aditya Prasad Srivastava and another, 2017 (2) ADJ 554 (DB) (LB)**. This position of the law has been reiterated as recently as in **Satyendra Singh v. State of U.P. and another, 2024 SCC OnLine SC 3325**.

3. Dr. Trihuti Kumar was an Assistant Director (Fisheries) in the employ of the State Government. He was suspended pending inquiry on 11.10.2006 and disciplinary proceedings instituted against him. The order of suspension was revoked on 11.12.2006, but the disciplinary proceedings continued. The petitioner was served with a charge-sheet on 25.10.2007, the charge-sheet being a document dated 18.10.2007. The petitioner submitted his reply on 07.04.2008. The petitioner was hardly given any opportunity to defend himself and an inquiry report dated 21.10.2008 was submitted. On the basis of the inquiry report, on 12.12.2024, the following punishment was awarded to the petitioner by the State Government, to wit, (i) withholding of integrity, (ii) reversion to the basic grade of the post of Assistant Director (Fisheries), and (iii) recovery of a sum of Rs.23,145/-.

4. The petitioner challenged the aforesaid order before this Court by means of Writ-A No.21325 of 2015. The writ petition was allowed by a Division Bench of this Court vide judgment and order dated 23.04.2015, setting aside the order dated 12.12.2014, but leaving the respondents

free to pursue departmental proceedings against the petitioner from the stage of the charge-sheet and the petitioner's reply. One of the flaws that the Division Bench noticed in the earlier departmental inquiry was that no date, time and place for holding the inquiry was scheduled and intimated to the petitioner. The Court also said with reference to authority, particularly, that in **State of Uttaranchal v. Kharak Singh, 2008 (118) FLR 1112**, that it was for the establishment to prove the charges, where the employer should take steps first to lead evidence against the workman and then give opportunity to him to cross-examine witnesses produced for the establishment.

5. Notwithstanding the order of remand and a fresh opportunity given to the respondents by the Division Bench, the respondents do not seem to have realized their folly. Rather, they have persisted with it. They have undertaken a fresh inquiry, where they have redeemed the procedural flaw, but in half measure; not by the requisite standard, so much so that a fundamental flaw vitiating the procedure, by which the inquiry has been held, is still there. That we will presently show.

6. We have carefully gone through the original records of the inquiry, that was resumed after remand by this Court vide order dated 23.04.2015 passed in Writ-A No.21325 of 2015 and find that the respondents have indeed given the petitioner ample opportunity in the sense that they have intimated him of the date, time and place fixed for holding the inquiry, more than once and more than was necessary. We make it bold to say that the petitioner, in consequence, has been on a long rope in the matter of opportunity to participate in the inquiry and defend himself. We have noticed in the record

repeat communications by the inquiry officer, asking the petitioner to appear and defend himself, including availing the facility of cross-examining witnesses. But, the question is whose witnesses? The authorities, that we have referred to in the opening paragraph of this judgment, lay down for a salutary principle and that is the requirement of Rule 7 of the U.P. Government Servant (Discipline and Appeal) Rules, 1999 as well, that in any case, where a major penalty may be imposed, it is the burden of the establishment to prove the charges brought against the delinquent. This means that in the first instance, the establishment not only have to produce documentary evidence in support of the charges, but also oral evidence, which refers to witnesses. It is the testimony of witnesses produced before an impartial inquiry officer through the agency of a presenting officer that imbues life into documents, turning them from idle material into speaking evidence. Much evidence comes from the oral testimony of witnesses. In the absence of witnesses, testifying in support of the charges, the documents are but mute papers and inferences of his own cannot be drawn by the inquiry officer from these documents. The inquiry officer cannot identify himself with the establishment, even if he is their employee. He must act as an impartial arbiter and cannot start with a presumption of guilt against the employee/delinquent, but one of innocence. The story of guilt has to be written by the establishment, producing both documentary and oral evidence, particularly oral, in a major penalty matter.

7. The witnesses, apart from documentary evidence, who would have to be produced on behalf of the establishment, have to be their witnesses. And, then it

does not matter, whether the delinquent appears at the scheduled date, time and venue of inquiry; or he does not. The obligation of the establishment is to produce their evidence, after intimation of the date, time and place of inquiry to the delinquent, but it is not that on the date, time and place of inquiry, the inquiry officer can sit with an approach that the charges are proof of themselves, and it is for the delinquent to call witnesses in defence; and, then in some way by their evidence dispel the charges. It is for the establishment to prove the charges by producing their witnesses, apart from documentary evidence. Even if the delinquent does not participate, the obligation of the establishment to prove the charges by evidence aliunde, which must include oral evidence, that is to say, the testimony of witnesses is a sine qua non for the proof of charges in a major penalty, as a matter of salutary principle.

8. The approach in a case, where the delinquent does not appear, as the case here, which seems to be the aggressive stance of the Principal Secretary, placed before us through his personal affidavit, much in ignorance of the law, would not lead to proof of the charges against the petitioner. The conduct of the petitioner, in not participating in the inquiry, is certainly not appreciable. To that extent, the Principal Secretary, in the stand that he has taken in his personal affidavit, is right that despite multiple dates being scheduled and intimated to the petitioner for holding departmental proceedings, he did not appear. But, the Principal Secretary is shockingly wrong in his understanding of the law when he says that the petitioner was at flaw in not appearing at the inquiry and cross-examining witnesses proposed by him (a reference to the petitioner). K.

Ravinder Naik, Principal Secretary (Fisheries), Government of U.P., Lucknow does not seem to have the slightest of idea about what 'examination-in-chief' and 'cross-examination' mean. It would be horrendous to any trained legal mind to think or even one having the slightest acquaintance with the law that one could cross-examine his own witnesses.

9. A party leads the evidence of his own witnesses in the examination-in-chief and cross-examines witnesses produced by the other side. The Principal Secretary, across the length and breadth of the affidavit, has blamed the petitioner for not producing his own witnesses and cross-examining them. This is an unpardonable breach in the understanding of the fundamentals of a departmental inquiry, which the Principal Secretary has exhibited before this Court on quite an aggressive note of complaint against the petitioner's absenteeism during inquiry. We would shortly deal with the question of absenteeism as well, where the Principal Secretary is right about the complaint, but not the course of action adopted. To elucidate and exemplify the flaw in the approach of the respondents, speaking through the Principal Secretary's personal affidavit, which is effectively the counter affidavit filed in this case, we would refer to some of the paragraphs, where the Principal Secretary's understanding of the law in regard to proof of charges against a delinquent at the inquiry by examining witnesses, is indicated:

“16. That during the inquiry conducted by the Inquiry Officer, Dr. Kedar Nath, the then Deputy Director, Fisheries, Headquarters, Dr. T. Kumar was directed to be present for hearing and cross-examination of the witnesses proposed by

him, but he remained absent on most of the occasions on one pretext or the other, which prima facie shows his non-cooperative attitude in the inquiry and his intention to deliberately delay the case.

18. That through the letter dated 16.08.2019 of the Inquiry Officer Dr. Kedar Nath, Deputy Director, Fisheries (Fisheries) informed the petitioner Dr. T. Kumar that out of the witnesses proposed by him for charges number 01, 06 & 07, Shri K. W. Warsi was never posted as Deputy Director Varanasi. A witness named Shri R. B. Verma has never been a Deputy Director in the Fisheries Department. The petitioner's demand to call the above mentioned witnesses for cross-examination in respect of charges number 01, 06 and 07 was not found justified by the Inquiry Officer.

19. That in the context of testimony/cross examination of witnesses, Dr. T. Kumar has been informed that the witness Shri Shankar Lal, Senior Clerk (Retd.) vide his letter dated 02.08.2019 has informed the former Inquiry Officer that it was informed that he is sick and is unable to walk/hear and and he is see, so he has nothing to say in the said case and he is unable to come and go. The witness proposed by the petitioner T. Kumar, Shri Brijesh Kumar Singh, Assistant Statistical Officer, Agra, through his letter dated 03.08.2019, informed the Deputy Director, Fisheries, Agra that from the date of his appointment till now his posting is in the Divisional Office, Agra, he was not posted under Dr. T Kumar in the Districts of Aligarh and Hathras, due to which he has no connection with the matter in question.

20. That the Inquiry Officer has informed Dr. T. Kumar that the name and

address of another witness proposed by him. Mr. Aslam, firm owner Aligarh, was not given correctly. On an inquiry, it was found that the place of Mr. Aslam belongs to Mr. Rashid, Fish Aquarium 25/1 Khirni, Aligarh Gate. The aforementioned firm was enquired by the Deputy Director, Agra, by letter dated 20.09.2019 of the Deputy Director, Agra, the Inquiry Officer, Deputy Director, Fisheries (Headquarters) was informed that the said firm or any shop was not found on the spot. The information about the sudden death of Mr. Lal Singh, retired fisherman, who was included in the list of witnesses in the month of July, 2018, was given to the former Inquiry Officer by letter dated 29.05.2019, Deputy Director, Fisheries Aligarh, Division.

21. That on 27-6-2019 and 05-9-2019, a witness Shri Hakim Ali, Vehicle Driver, Aligarh, Shri Ram Swaroop, Senior Fisheries Inspector, Orai, Shri Nazir Khan, Fisheries Inspector, Mahoba, retired and again on 20-8-2019 Shri Ram Swaroop, Senior Fisheries Inspector, Orai appeared for cross-examination but despite the information of the petitioner Dr. T. Kumar, he did not appear. The cross-examination of witnesses was conducted by the former investigating officer on 12.06.2019 in front of the petitioner, in which written statements of Shri N.P. Singh, Fisheries Inspector, Shri Akhilesh Sharma, Vehicle Incharge/ Fisheries Development Officer, Aligarh were taken.

22. That in the course of request for cross-examination of witnesses of the petitioner Dr. T. Kumar by letter dated 03.12.2021 of Dr. Saroj Kumar, Special Secretary/ inquiry Officer, the petitioner was apprised of the above-mentioned developments and was informed that serious and important efforts were made by

the former inquiry officer for cross examination of his proposed witnesses and they were also given ample opportunities to present their side and evidence, but they did not provide full cooperation to the investigating officer and did not show seriousness towards cross-examination by remaining absent on most occasions. The list and names of witnesses have been changed from time to time by the petitioner and along with writing the names and addresses of some witnesses unclearly, cross-examination of some witnesses was requested despite not being related to the case. In respect of the witnesses proposed by the petitioner and the request for cross-examination was made to the former inquiry officer, diligent action and efforts have been made. By the aforesaid letter of the Inquiry Officer dated 03.12.2021, Dr. T. Kumar was informed that he was not cooperating with the previous Inquiry Officer as well as the present Inquiry Officer in the inquiry and efforts were being made to keep the inquiry suspended in one way or the other.”

(emphasis by Court)

10. A reading of the paragraphs from the Principal Secretary's affidavit shockingly reveal that the Principal Secretary himself does not understand the essentials of holding a departmental inquiry. The affidavit does not show at all whether any witnesses were produced by the establishment to prove the charges brought against the petitioner. There is not the name of a solitary witness, which the establishment produced to prove the charges. If there were any, the establishment's witnesses would surely have been produced without difficulty. Instead, the paragraphs of the personal affidavit unmistakably reveal that the

establishment required the petitioner to disclose the names of witnesses by whose evidence he wanted to substantiate his defence. The affidavit then indicates that some of these witnesses said that they were irrelevant or their addresses were wrong. One said that he was sick and some did appear, whom the petitioner did not cross-examine. It is indeed placing the cart before the horse in the sense that the petitioner was certainly not obliged to produce witnesses in his defence before the establishment produced evidence, including witnesses, to prove the charges against the petitioner.

11. It is not the petitioner, who has to establish his innocence before the inquiry officer by leading evidence, documentary and oral. It is just the other way round. It is the establishment, who have to prove the petitioner's guilt, may be by the standard of preponderant probability, as already remarked. In doing that the establishment would have to produce their documentary evidence and witnesses one by one, who, if the petitioner attended the inquiry, could be cross-examined. Thereafter, if the petitioner produced evidence in his defence, regarding which time had to be given to him, he could do that. If he did not do that, it would not absolve the establishment of their liability to produce documentary evidence as well as witnesses to prove the charges. Here, surely, the establishment did not produce any witness. All they speak about are the witnesses, referred to by the petitioner in his defence. Even if the said witnesses did not appear or the petitioner did not produce them, it would not establish the charges against the petitioner by default, as if it were.

12. The repeat employment of the expression that the petitioner did not cross-

examine his witnesses is shocking. Indeed, no one cross-examines one's own witnesses. It is something unheard of by any person having basic forensic training. Here, this is precisely what the respondents have done as the personal affidavit of the Principal Secretary would show. He has blamed the petitioner for not appearing at the inquiry, which is true for a fact, but how does that lead to proof of the charges has not at all been explained. It has nowhere been shown, who were the witnesses produced on behalf of the establishment to prove the charges. If a delinquent is not appearing at the inquiry on the scheduled date, time and place, which in this case was indeed fixed and intimated to the petitioner, the course of action for the inquiry officer or the inquiry committee, is enunciated by the Supreme Court in *State of U.P. and another v. T.P. Lal Srivastava*, (1996) 10 SCC 702, where it has been held:

“4. This appeal by special leave arises from the judgment of the Allahabad High Court made on 15-3-1993 in Writ Petition No. 12480 of 1987. The admitted position is that while the respondent was working as a Senior Marketing Inspector, a charge-sheet was served on him on 23-11-1984 calling upon him to explain the charges for committing gross irregularities in the movement of wheat outside the State of U.P. Instead of submitting reply to the charge-sheet, he went on dilly-dallying in submitting the reply. Several letters addressed to the respondent proved ineffective. Resultantly, the appellants took a decision on 26-6-1987 holding that the respondent was found guilty of misappropriation. Consequently, he came to be dismissed from service. The respondent challenged the same in the writ petition. The High Court has set aside the

order in the impugned order holding that the documents have not been supplied to the respondent and, therefore, the action was vitiated by error of law. We do not find any justification in the view taken by the High Court; the substratum of the result is that the appellants have not conducted any enquiry though the respondent had been avoiding to give the reply. Since the respondent had avoided to submit the reply, he has forgone his right to submit his reply. Nonetheless, the appellants are not absolved of the duty to hold an ex parte enquiry to find out whether or not the charge has been proved. In the event of the Enquiry Officer finding that the charge is proved, he would submit his report to the disciplinary authority. The disciplinary authority should communicate the copy of the enquiry report to the respondent and seek an explanation for the proposed action thereon. If the respondent submits any explanation, the same may be taken into consideration and appropriate order may be passed according to law. Until then, the respondent must be deemed to be under suspension.”

(emphasis by Court)

13. It was the establishment's burden to produce the evidence at the appointed date, time and venue and if the petitioner absented, as the Principal Secretary amply shows by his affidavit – a fact also established from the original records, the respondents ought have proceeded ex parte against the petitioner. *Ex parte* inquiry would mean that the respondents would have to produce evidence before the inquiry officer on behalf of the establishment through a presenting officer on the scheduled date, time and venue of inquiry. The absenting petitioner would be deprived of his right of

cross-examining the establishment's witnesses, and, of course, of leading his own evidence in defence. But, it is not that, that the absenting petitioner's conduct could lead to a finding of guilt against him, based on his default without the establishment producing evidence to prove the charges. The establishment's charges carried in the charge-sheet do not come with an inherent proof of themselves. They have to be established before the inquiry officer by the establishment producing evidence. This apparently has not been done in this case.

14. We have perused the original records of the inquiry that were summoned in this case and across the length and breadth of the record, we do not find that the testimony of any establishment's witness was recorded with the petitioner remaining absent on the appointed date, time and venue of inquiry. After all, that was all what was required to be done in a case like the present one, where indeed the petitioner absented on the various dates scheduled for the inquiry by the inquiry officer, despite notice to him.

15. While parting with the matter, we must remark that before criticizing the Principal Secretary's understanding of the law about inquiries, we have given him adequate opportunity by calling his personal affidavit, on the foot of which alone, this writ petition has been heard. He has disclosed his understanding of the law and the fallacies, wherein we have pointed out. The remarks of whatever kind there, are therefore, not without opportunity to him. The remarks are more necessitated because there are not scores, but may be thousands of departmental inquiries in this State, the result whereof, including the ensuing orders of punishment, have to be nullified by the Court for the same

fundamental flaw in the understanding of the officers of the State as to how a departmental inquiry is to be conducted. In most of the inquiries, the Disciplinary Authority and the Inquiry Officer regard the charges proof of themselves because they are officers of the establishment. In their approach, they hardly ever require the establishment to prove the charges. And, for an opportunity, they call the delinquent, asking him during personal hearings to offer proof of his innocence, rather than requiring the establishment to prove the delinquent's guilt. This leads to an utter wastage of public time and money, particularly, of the Government and their various establishments.

16. As this case would show, even a remand by this Court to undertake the inquiry afresh in accordance with law, after referring to relevant authorities, did not affect the single minded and determined breach of salutary procedure, which officers across various establishment of the State commit in the holding of disciplinary proceedings. There have been suggestions in the past that officers of the State should be sent for training how to hold departmental inquiries. We do not think that it would bear fruit. The reason is that the plethora of authority in point, much of which comes from the Supreme Court and this Court, has not been followed by the Government or their other establishments. It is not on account of a mere lack of understanding for the principles there that are not really very complicated to understand and follow. The breach primarily comes because of an idea to resist the principle that the law is what the Court says it is. We do not think that any kind of training for the inquiry officers would serve any purpose. They would have to be made to adhere to the requirements of the law, that

has been laid down by the Supreme Court and this Court in the holding of departmental inquiries. If they do not, apart from imposition of penal costs recoverable from the Inquiry Officer and the Disciplinary Authority, including the Appellate Authority, disciplinary action might have to be recommended to the Government against such Authorities, who constantly observe the law laid down by the Supreme Court and this Court in breach. For the present, we are not minded to do that.

17. In the result, this writ petition succeeds and is **allowed**. The impugned orders dated 16.05.2024 passed by the Principal Secretary (Fisheries), Government of U.P., Lucknow is hereby quashed. It will be open to the respondents, if they so elect, to proceed afresh against the petitioner in accordance with Article 351-A of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, holding an inquiry bearing in mind the guidance in this judgment; and if they find the petitioner guilty, inflict a penalty permissible by law, that is condign. However, the Government shall not impose a penalty, if they take fresh proceedings, which is higher than that carried in the order impugned. The arrears of withheld part of the pension shall be payable to the petitioner, subject to event in the disciplinary proceedings, if undertaken. If no fresh disciplinary proceedings are elected to be undertaken, the petitioner would be entitled to the arrears of his reduced part of pension together with 6% simple interest from the date the reduced part of the pension is payable.

18. There shall be no order as to costs.

19. Let the records be returned to the learned Standing Counsel forthwith for

their onward and safe transmission to the respondents.

20. Let a copy of this order be communicated to the Principal Secretary (Fisheries), Government of U.P., Lucknow, the Director (Fisheries), Directorate of Fisheries, U.P., Lucknow, the Finance and Accounts Officer, Directorate of Fisheries, U.P., Lucknow and the Deputy Director (Fisheries), Kanpur Division, Kanpur by the Registrar (Compliance).

(2025) 6 ILRA 124

**ORIGINAL JURISDICTION
CIVIL SIDE**

DATED: ALLAHABAD 06.06.2025

BEFORE

THE HON'BLE J.J. MUNIR, J.

Writ - A No. 18453 of 2024

Rakesh Kumar Tyagi **...Petitioner**
Versus
State of U.P. & Ors. **...Respondents**

Counsel for the Petitioners:

Sujeet Kumar Rai

Counsel for the Respondents:

C.S.C., Satyam Singh

A. Service Law - Constitution of India,1950 - Article 226 & 300A - Payment of Gratuity Act,1972-Section 4(6)-U.P. Cooperative Societies Employees Service Regulations,1975-Regulations 84 and 96- withholding of gratuity and dues-The petitioner , a retired Senior Branch Manager of the District Cooperative Bank Limited Ghaziabad challenged the withholding of Rs. 19.25000 from his post retirement benefits by the Bank-The amount was retained due to loans he had sanctioned, which later became non-performing assests(NPAs)-The court held that such

recovery was illegal in the absence of any disciplinary proceedings or criminal conviction-Gratuity and post-retiral benefits are protected u/s 4(6) of the Act,1972 and Article 300A of the Constitution -Recovery from such benefits is impermissible unless services were terminated for proven misconduct-Administrative decisions or internal resolutions cannot override these legal protections-Thus, Impugned orders and resolution quashed-Bank directed to release withheld amount with interest. (Para 22 to 35)

List of Cases cited:

1. U.P. Coop. Union & ors. Vs Prabhu Dayal Srivastava & ors.(1988) SCC Online All 302
2. St. of Jhar. & ors. Vs Jitendra Kr. Srivastava & anr.(2013) 12 SCC 210

(Delivered by Hon'ble J.J. Munir, J.)

1. The petitioner questions an order of the Chief Executive Officer, District Cooperative Bank Limited, Ghaziabad dated 18.11.2024 and the resolution of the Committee of Management of the said Bank dated 08.10.2024, in effect, withholding a sum of Rs.19,25,500/- out of his post retiral benefits on account of loan disbursed by the petitioner, that have turned into non-performing assets, allegedly due to callous disbursement of those loans to customers.

2. The petitioner retired from service of the District Cooperative Bank Limited, Ghaziabad (for short, 'the Bank') as a Senior Branch Manager on 31.12.2022. He entered service of the Bank as a Clerk-cum-Cashier on 12.07.1988, steadily earning his promotions to the post of a Senior Branch Manager that he held at the time of retirement. It is the petitioner's case that he had an unblemished service record. Upon