the employee is entitled to under the rules at the time of retirement.

34. In view of all that we have found, the impugned order, directing retention of a sum of Rs.19,25,500/- in fixed deposit, pledged in favour of the Bank, subject to the condition that the petitioner ensures recovery of the Bank's non-performing asset, the impairment of the avenues of recovery whereof has been attributed to the petitioner, cannot be sustained. The petitioner has to be paid all his post retiral benefits, without any abridgement or abatement.

35. In the result, this writ petition succeeds and is **allowed**. The impugned order dated 18.11.2024 and the impugned resolution of the Committee of Management dated 08.10.2024, insofar as these relate to the petitioner's claim to his post retiral benefits, are hereby **quashed.** The Secretary & Chief Executive Officer and the Committee of Management of the Bank are commanded by a mandamus to forthwith release and pay to the petitioner the sum of Rs.19,25,500/-, retained with them and invested in an FDR, together with the accrued interest on the instrument.

36. There shall be no order as to costs.

37. Let a copy of this judgment be communicated to the Secretary & Chief Executive Officer, District Cooperative Bank Limited, Ghaziabad and the resolution of the Committee of Management of the said Bank by the Registrar (Compliance).

(2025) 6 ILRA 138
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: ALLAHABAD 09.06.2025

BEFORE

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

Writ - A No. 19042 of 2024

Ranjeet Kumar ...Petitioner
Versus
The Registrar Corporative Societies & Ors. ...Respondents

Counsel for the Petitioner:
Rajendra Prasad Mishra, Ramakant Tiwari

Counsel for the Respondent:
Ashok Kumar Lal, C.S.C.

A. Service Law – UP Co-operative Societies' Employees Service Regulations, 1975 – Reg. 84 – Disciplinary proceeding – Punishment –Withholding of increment with cumulative effect – Principle of natural justice – Applicability – Petitioner took defence against the charges imposed – Non-speaking punishment order was passed – Validity challenged – No discussion about defence was made – Effect – Held, in the absence of a discussion on the particulars of the three charges, the petitioner's defence and reasons to conclude why the charges were held proved, the underlying decision of the Committee of Management, as expressed in the impugned order passed by the Secretary/Chief Executive Officer of the Bank, is certainly violative of natural justice. –The order, despite being verbose on other details, maintains critical silence on what went on in the mind of the decision makers to conclude that the charges against the petitioner are proved by the requisite standard of preponderant probability. (Para 16)

B. Constitution of India,1950 – Article 14 –Classification – Vires of Reg. 84 of Regulation, 1975 not classifying the penalty of withholding of increment as major penalty – How far Court can interfere in the absence of challenge to it – Held, the penalty of withholding increments with cumulative effect, that

would have the effect of postponing future increments, would be certainly a major penalty by all established norms, and Reg. 84, to this extent seems to arbitrarily classify penalties. But, that question cannot be gone into in the absence of a challenge laid by the petitioner to the vires of the said Regulation. (Para 12)

Writ petition allowed. (E-1)

List of Cases cited:

1. Special Leave Petition (C) No.18983 of 2023; Bihar Rajya Dafadar Chaukidar Panchayat (Magadh Division) Vs St. of Bihar & ors., decided on 02.04.2025

2. Basudev Dutta Vs State of W.B. & ors.; 2024 SCC OnLine SC 3616

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

1. This writ petition is directed against the order of the Secretary/Chief Executive Officer, District Cooperative Bank Limited, Bareilly, dated 28.02.2023, inflicting upon the petitioner punishment of withholding two increments with cumulative effect, after holding disciplinary proceedings. The decision carried in the order impugned is one taken by the Committee of Management of the Bank last mentioned, but formally made by the Secretary/ Chief Executive Officer.

2. The petitioner is a clerk in the employ of the District Cooperative Bank Limited, Bareilly (for short, 'the Bank'). The period of time, to which the proceedings giving rise to the present writ petition relate, the petitioner was posted in the Meerganj Branch of the Bank at Bareilly as Cashier-cum-Clerk. The petitioner asserts that his service record is otherwise free from blemish. He was placed under suspension pending inquiry *vide* order dated 20.12.2021 under the provisions of the Uttar Pradesh Co-operative Societies' Employees Service Regulations, 1975 (for short, 'the Regulations of 1975') on allegation that on the day specified therein, when the cash was checked, it was found short. There is also an allegation against the petitioner that he had taken a loan from a member of the public and remained absent from duty without information or leave. A charge-sheet was issued to the petitioner on 04.03.2022, after approval by the Secretary/ Chief Executive Officer of the Bank. The petitioner filed his reply dated 15.04.2022, denying all the charges.

3. During the inquiry, the petitioner was called in by the Inquiry Officer, directing him to appear before him on 04.02.2022 at 11.30 a.m. to defend himself. The petitioner submitted his defence further before the Inquiry Officer on the date fixed, that is to say, on 04.02.2022. The Inquiry Officer submitted his inquiry report or the inquiry note, holding the petitioner guilty. The petitioner was then required by the Secretary/ Chief Executive Officer of the Bank, vide a letter dated 28.07.2022, to appear before him for a personal hearing on 05.08.2022 at 4.00 p.m. In compliance with the said letter, the petitioner appeared before the Secretary/ Chief Executive Officer of the Bank. He denied the charges. This proceeding was followed by another notice dated 01.09.2022 from the Secretary/ Chief Executive Officer, directing the petitioner to appear before the Committee of Management on 05.09.2022 at 1.00 p.m. for a personal hearing and make submissions in his defence. A show cause notice was then issued by the Secretary/ Chief Executive Officer, requiring the petitioner to answer the charges against him finally. The petitioner submitted his

reply dated 15.12.2022, again refuting the charges. The petitioner was called in person to appear before the Committee of Management once again on 24.01.2023, vide letter dated 18.01.2023, scheduling the time at 1.00 p.m., but the petitioner could not appear on account of being ill.

4. The petitioner has pleaded in the writ petition that the impugned order is vitiated because during the course of inquiry, no witness was produced on behalf of the establishment in support of the three charges. It is particularly said that two witnesses, around whom two of the charges centre, to wit, Smt. Gunjan Singh and Smt. Haseena, were not produced by the establishment. It is also urged that no date, time and place was fixed for hearing the witnesses for the establishment, where the petitioner could cross-examine them and lead his own evidence, if he thought so. It is pointed out that the inquiry was lingering on and so was his suspension. Therefore, he instituted Writ-A No.21058 of 2022 before this Court, questioning his order of suspension, or rather his continued suspension. The said writ petition was disposed of with a direction to the Disciplinary Authority to conclude the proceedings within a period of three months of the date of production of a certified copy of the order made in the aforesaid writ petition. It was also provided that if the proceedings are not concluded within the said period of time, the petitioner may submit a representation to the Authority, described as respondent No.3 in this Court's order, who shall consider and decide the petitioner's representation expeditiously, preferably within a period of one month. The said detail appears to be now unnecessary because the impugned order passed by the Secretary/ Chief Executive Officer of the Bank has notified the decision of the Committee of Management to punish the petitioner with the withholding of two increments with cumulative effect. In addition, he has been warned to be careful in future with a direction that in case of repetition of the misconduct, the Bank would be compelled to dismiss him from service. The petitioner was reinstated in service, providing that during the period of suspension, whatever subsistence allowance has been received by him, is all that would be there towards his emoluments and nothing more would be payable on account of salary and allowances.

5. The petitioner has instituted the present writ petition, aggrieved by the order dated 28.02.2023, punishing him as above indicated.

6. A notice of motion was issued vide order dated 02.12.2024, and, in course of time, parties have exchanged affidavits. The writ petition was admitted to hearing on 12.12.2024. The hearing proceeded that day to conclusion. Judgment was reserved. 7. Heard Mr. Umesh Chandra Tiwari, Advocate holding brief of Mr. Rajendra Prasad Mishra, learned Counsel for the petitioner, Mr. Ashok Kumar Lal, learned Counsel for respondent Nos.2 and 3 and Mr. S.C. Upadhyay, learned Standing Counsel, appearing on behalf of respondent Nos.1 and 4.

8. Upon hearing learned Counsel for the parties and perusing the record, what we find is that the following three charges were laid against the petitioner:

"आरोप संख्या - 01

प्रधान कार्यालय के उक्त आदेश के अनुपालन में अधोहस्ताक्षरी द्वारा प्रकरण की जाँच की गयी, जॉच में पाया गया,

कि शाखा प्रबन्धक, शाखा - मीरगंज ने अपने पत्र दिनांक 20.12.2021 के माध्यम से अवगत कराया, कि दिनांक 18.12.2021 को आप द्वारा खाता धारक श्रीमती गुंजन सिंह पत्नी श्री गौरव सिंह को उनके अंकन 70,000=00 रु0 के आहरण पर अंकन 69,500=00 रु0 मात्र का भुगतान किया गया और अंकन 500=00 रु0 का कम भुगतान किया गया, जिसकी जॉच करने पर श्रीमती गुंजन सिंह द्वारा अवगत कराया गया, कि उनके द्वारा शाखा मीरगंज में खुले अपने बचत खाता संख्या - 21248 से दिनांक 18.12.2021 को अंकन 70,000=00 रु0 निकालने के लिए आहरण पत्र उक्त धनराशि का दिया गया, किन्तु तत्समय आप द्वारा उन्हें अंकन 69,500=00 रु0 मात्र का भुगतान किया गया, जो अंकन 500=00 रु0 कम था। उनके बार-बार कहने के उपरान्त भी उन्हें अंकन 500=00 रु0 आप द्वारा नहीं दिये गये, जिसकी शिकायत शाखा प्रबन्धक महोदय से की गयी, तदउपरान्त शाखा प्रबन्धक महोदय ने आपसे अंकन 500=00 रु0 वापस दिलवाये। प्रकरण की जानकारी लेने पर शाखा प्रबन्धक द्वारा अवगत कराया गया, कि शाम को कैश बन्द करते समय कैश गिनने पर 20 रु0 के 20 नोट कम निकले अर्थात 400=00 कैश में कम थे, जिसको पूरा कराने के उपरान्त कैश को बन्द कराया गया। साथ ही शाखा प्रबन्धक द्वारा अवगत कराया गया, कि श्रीमती गुंजन सिंह बैक की पुरानी खाता धारक हैं एवं एक प्रतिष्ठित नागरिक हैं, उनके साथ श्री रंजीत कुमार कैशियर द्वारा इस प्रकार का व्यवहार किये जाने के कारण बैंक की विश्वसनीयता एवं छवि खराब हो रही है। अतः आपको शाखा-मीरगंज पर कैशियर पद पर कार्यरत रहते हुए कैश शार्ट करने, तथा कैशियर के रूप में कार्य करते हुए कैश में हेरा-फेरी कर बैंक की विश्वसनीयता को धूमिल करने के आरोप से आरोपित किया जाता है।

आरोप संख्या-02

प्रकरण की जाँच के दौरान अधोहस्ताक्षरी द्वारा शाखा मीरगंज में शिकायतकर्ता से बयान लिये जा रहे थे तभी शाखा प्रबन्धक की उपस्थिति में शाखा मीरगंज के कई ग्राहकों ने अधोहस्ताक्षरी को अवगत कराया, कि आप द्वारा उनको गुमराह करते हुए नकद रूपये उधार ले लिये गये हैं और बहुत माँगने पर भी वापिस नहीं कर रहे हैं। प्रकरण की जाँच के दौरान दिनांक 04.02.2022 को मुख्यालय में श्रीमती हसीना खाता संख्या 5354 शाखा फरीदपुर द्वारा लिखित रूप से कहा गया है कि आप द्वारा अपने पद का दुरूपयोग एवं उनको गुमराह करते हुए अंकन 10,000=00 रु0 उधार लिये हैं। उक्त शिकायत के सन्दर्भ में जब आपसे अपना पक्ष जानने के लिए जानकारी ली गयी तो आप द्वारा लिखित रूप से अपने उक्त कृत्य की स्वीकारोक्ति की गयी। अतः आप द्वारा बैंक के ग्राहकों को गुमराह करते हुए रूपये उधार लिये जाने की पुष्टि होती है, जिसके कारण आपको ग्राहकों व आम जनता से रूपये उधार लेकर बैंक की छवि धूमिल करने के आरोप से आरोपित किया जाता है।

आरोप संख्या - 03

प्रकरण की जॉच करते समय अधोहस्ताक्षरी द्वारा बैंक प्रधान कार्यालय पत्रांक 3005 / निरी0 - संग्रह / 2021-22 दिनांक 10.01.2022 के माध्यम से शाखा प्रबन्धक शाखा - फरीदपुर सायं0 से, आपके शाखा से अनुपस्थित रहने के सन्दर्भ में सूचना मांगी गयी, साथ ही अधोहस्ताक्षरी द्वारा भी शाखा पर रक्षित कर्मचारियों के उपस्थिति रजिस्टर / प्रपत्रों की जॉच करने पर पाया गया, कि आप दिनांक 01.05.2017, 02.05.2017, 16.08.2017, 02.09.2017, 31.09.2017, 16.10.2017, 17.10.2017, 19.10.2020 को शाखा से बिना किसी सूचना के अनुपस्थित रहे हैं और पाया गया, कि आप द्वारा निम्न दिनांक को शाखा पर कार्य नहीं किया गया, जिसके सम्बन्ध में शाखा प्रबन्धक से जानकारी ली गयी, तो उनके द्वारा अवगत कराया गया, कि उक्त दिनांक पर –

31.07.2017	18.09.2017	27.07.2018	21.08.2018	27.05.2019	07.08.2019	29.08.2019
01.08.2017	29.09.2017	30.07.2018	27.08.2019	27.05.2019	08.08.2019	19.10.2020
02.08.2017	24.07.2018	31.07.2018	29.08.2018	21.06.2019	26.08.2019	18.12.2020
03.08.2017	25.07.2018	01.08.2018	20.10.2018	05.08.2019	27.08.2019	19.12.2020
17.08.2017	26.07.2018	20.08.2018	07.05.2019	06.08.2019	28.08.2019	

आपको अर्जित अवकाश दिखाया गया है, जबकि मुख्यालय के प्रशासन अनुभाग से प्राप्त सूचना से स्पष्ट होता है, कि आप द्वारा न तो कोई अर्जित अवकाश हेतु कोई आवेदन ही किया गया और न ही इस प्रकार का कोई अवकाश मुख्यालय स्तर से आपको प्रदान किया गया।

अग्रेतर जॉच में पाया गया, कि पूर्व में भी आपके द्वारा इस प्रकार की अनियमितता/ पलायन का कृत्य किया जाता रहा है, जिसका संज्ञान लेते हुए प्रधान कार्यालय पत्रांक 217/प्रशासन/2015-16 दिनांक 12.05.2015 द्वारा आपसे दिनांक 21.042015 से 21.04.2015 तक शाखा में बिना सूचना के अनुपस्थित रहने का स्पष्टीकरण माँगा गया था। पूर्व में भी प्रधान कार्यालय पत्रांक 862/प्रशासन/2016-17 दिनांक 20.07.2016 को भी शाखा फरीदपुर सायं0 के 27.06.2016 को बिना किसी सूचना के अद्यतन शाखा में अनुपस्थित रहने और पत्रांक 3348/प्रशासन/ 2018-19 दिनांक 03.01.2019 के द्वारा दिनांक 19.12.2018 से दिनांक 24.12.2018 तक अर्जित अवकाश पर होने परन्तु 27.12.2018 तक शाखा पर उपस्थित न होने के सम्बन्ध में एवं किसी प्रकार की सूचना शाखा पर न देने विषयक स्पष्टीकरण आपसे माँगा गया और बैंक मुख्यालय द्वारा बिना सूचना के अनुपस्थित मानते हुए उक्त तिथियों के वेतन रहित का भी नोटिस आपको दिया गया। इसी क्रम में प्रधान कार्यालय पत्रांक 2387/प्रशासन/2019-20 दिनांक: 15.01.2020 द्वारा आपसे दिनांक 08.01.2020 को शाखा पर बिना किसी सूचना के अनुपस्थित रहने विषयक स्पष्टीकरण माँगा गया। पत्रांक 1023/प्रशासन/20210-21 दिनांक 19.08.2020 द्वारा भी दिनांक 23.07.2020 से 27.07.2020 एवं 01.08.2020 से निरन्तर अनुपस्थित रहने का भी स्पष्टीकरण मांगा गया साथ ही इस सम्बन्ध में मुख्यालय पत्रांक 740/प्रशासन/2021-22 दिनांक 09.07.2021 के द्वारा आपको दिनांक 23.07.2020 से 27.07.2020 तक तथा दिनांक 01.08.2020 से 27.09.2020 तक बिना किसी सूचना के शाखा से पलायित रहने विषयक चेतावनी पत्र भी निर्गत किया गया।

अतः आप शाखा / मुख्यालय को भ्रमित कर बिना सूचना के प्रायः पलायित रहते रहे हैं, जिसके लिए आपको बिना किसी सूचना के शाखा से पलायित रहने और बैंक कार्यों में रूचि न लेने के आरोप से आरोपित किया जाता है।"

9. The petitioner offered his substantial defence to these charges together with a record of his leave on the dates of his absence vide his written statement dated 15.04.2022. It was emphatically argued by the learned Counsel for the petitioner that since disciplinary proceedings were held, a date, time and place of inquiry ought have been intimated to the petitioner, and more than that, in support of the charges, it was the duty of the establishment to lead both documentary and oral evidence through a presenting officer before an inquiry formally convened. The Inquiry Officer did not convene any formal inquiry, nor did he write a formal report. Indeed, a report of the inquiry has not figured on the record; if not placed by the petitioner, by the respondents either. About this issue, the question would be, if the respondents were obliged to hold a formal inquiry. The further issue on the facts of this case that would arise would be if they were obliged to hold an inquiry, where evidence, both documentary and oral, ought have been led, are they so obliged now that they have imposed the punishment of withholding two increments with cumulative effect?

10. We think that going by the settled law that lays down salutary principles governing the holding of disciplinary proceedings, where a major penalty may be imposed, the respondents to begin with, when they held the inquiry, were obliged to formally convene an inquiry before their Inquiry Officer, where they ought have led both documentary and oral evidence. In fact, once they issued a charge-sheet and appointed an Inquiry Officer, it is evident that they had one of the three major penalties envisaged under Regulation 84 (i) (e), (f) and (g) of the Regulations of 1975 in mind. They ought,

therefore, have proceeded with the disciplinary proceedings, adhering to salutary principles, where, apart from fixing a date, time and place for holding the inquiry, they should have convened the inquiry formally with the Inquiry Officer, requiring the establishment to produce evidence, both documentary and oral, in support of the charges. This was apparently not done. This breach would have vitiated the proceedings from the stage of the charge-sheet, meriting an inquiry de novo from that stage, but on facts, the event in the disciplinary proceedings would make the last mentioned principle inapplicable here. The reason is that the penalty that was imposed is one of withholding two increments with cumulative effect and not one of the three penalties under Regulation 84, for which recourse to disciplinary proceedings is mandatory.

11. Generally, under the law and most service rules, the imposition of the penalty of withholding increments – one or more – with cumulative effect is regarded a major penalty. Here, Regulation 84 dictates differently. Regulation 84 of the Regulations of 1975 provides:

"84. Penalties.- (i) Without prejudice to the provisions contained in any other regulation, an employee who commits a breach of duty enjoined upon him or has been convicted for criminal offence or an offence under section 103 of the Act or does anything prohibited by these regulations shall be liable to be punished by any one of the following penalties : -

(a) censure,

(b) withholding of increment,

(c) fine on an employee of Category IV (peon, chaukidar, etc.).

(d) recovery from pay or security deposit to compensate in whole or in part for any pecuniary loss caused to the co-operative society by the employee's conduct,

(e) reduction in rank or grades held substantively by the employee,

(f) removal from service, or

(g) dismissal from service.

(ii) Copy of order of the punishment shall invariably be given to the employee concerned and entry to this effect shall be made in the service record of the employee.

(iii) No penalty except censure shall be imposed unless a show cause notice has been given to the employee and he has either failed to reply within the specified time or his reply has been found to be unsatisfactory by the punishing authority.

(iv) (a) The charge-sheeted employee shall be awarded punishment by the appropriate authority according to the seriousness of the offence:

Provided that no penalty under sub-clause (e), (f) or (g) of clause (i) shall be imposed without recourse to disciplinary proceedings.

(b) No employee shall be removed or dismissed by an authority other than by which he was appointed unless the appointing authority has made prior

delegation of such authority to such other person or authority in writing.

(v) The appointing authority or person authorised by him while passing orders for stoppage of increments shall state the period for which it is stopped and whether it shall have effect of postponing future increments or promotion."

12. One might think that the penalty of withholding increments with cumulative effect, that would have the effect of postponing future increments, would be certainly a major penalty by all established norms, and Regulation 84, to this extent seems to arbitrarily classify penalties. But, that question cannot be gone into in the absence of a challenge laid by the petitioner to the vires of the said Regulation. The rare course of judging the vires of Regulation 84 would arise if, during hearing, this Court had been confronted with the issue and a rule issued to the respondents on the question of vires of the said Regulation. This was never a point that was raised during hearing as well, let alone a formal challenge being raised. The consequence would be that the procedure applicable to the disciplinary proceedings here, would be one strictly governed by Regulation 84 and its own classification of punishments, vis-a-vis the procedure to be followed in order to validly inflict them. In this connection, reference may be made to the guidance of the Supreme Court in **Special Leave Petition (C) No.18983 of 2023, Bihar Rajya Dafadar Chaukidar Panchayat (Magadh Division) v. State of Bihar and others, decided on 02.04.2025.**

13. A perusal of Regulation 84(i) and the proviso to Regulation 84(iii)(a) would show that except for the penalty envisaged under sub-Clauses (e), (f) and (g) of Clause (i) of Regulation 84, it is not necessary to take recourse to disciplinary proceedings. Regulation 84(iii) also shows that all other penalties envisaged under sub-Clauses (a) to (d), except censure, can be imposed by the issue of a show cause notice and giving opportunity to the employee to reply. Here, though the proceedings were set on course for the award of a penalty envisaged under sub-Clauses (e), (f) and (g) of Clause (i) of Regulation 84, but what was awarded at the end of all proceeding was a penalty covered by sub-Clause (b) of Clause (i) of Regulation 84. This penalty under Regulation 84 could be awarded by giving a show cause notice. A perusal of the proceedings taken against the petitioner shows that he was given opportunity and show cause notices at various stages of the proceeding by the Disciplinary Authority, and, in addition, additional opportunity before the Inquiry Officer under the more elaborate procedure was also followed. The effect would be that going by the class of penalty awarded to the petitioner, there is no breach of procedure envisaged.

14. A perusal of the impugned order also shows that the petitioner was given adequate opportunity to show cause before the Disciplinary Authority. The conclusion would, therefore, be that though the disciplinary proceedings, that were taken, were not held according to the procedure envisaged for one of the penalties the respondents possibly had in mind, that is to say, the penalties governed by sub-Clauses (e), (f) and (g) of Clause (i) of Regulation 84, but for the penalty actually awarded, that is to say, the withholding of increments with cumulative effect governed by sub-Clause (b) of Clause (i) of Regulation 84, there was indeed no breach of procedure.

15. The other point that was argued is that the impugned order is vitiated because it is non-speaking and does not carry reasons, which too derogates from the fairness of procedure and even the rules of natural justice. Reference in this connection may be made to **Basudev Dutta v. State of W.B. and others, 2024 SCC OnLine SC 3616**, where the Supreme Court enunciated the principle governing the point, involved here, thus:

"12.2. It is settled law that every administrative or quasi-judicial order must contain the reasons. Such reasons go a long way in not only ensuring that the authority has applied his mind to the facts and the law, but also provide the grounds for the aggrieved party to assail the order in the manner known to law. In the absence of any reasons, it also possesses a difficulty for the judicial authorities to test the correctness of the order or in other words, exercise its power of judicial review. In this context, it will be useful to refer to the judgment of this Court in Kranti Associates (P) Ltd. v. Masood Ahmed Khan,(2010) 9 SCC 496: (2010) 3 SCC (Civ) 852, wherein after a detailed analysis of various judgments, it was held as follows:

"27. In Rama Varma Bharathan Thampuram v. State of Kerala [(1979) 4 SCC 782 : AIR 1979 SC 1918] V.R. Krishna Iyer, J. speaking for a three-Judge Bench held that the functioning of the Board was quasi-judicial in character. One of the attributes of quasi-judicial functioning is the recording of reasons in support of decisions taken and the other requirement is following the principles of natural justice. The learned Judge held that natural justice requires reasons to be written for the conclusions made (see SCC p. 788, para 14 : AIR p. 1922, para 14).

28. In Gurdial Singh Fijji v. State of Punjab [(1979) 2 SCC 368 : 1979 SCC (L&S) 197] this Court, dealing with a service matter, relying on the ratio in Capoor [(1973) 2 SCC 836 : 1974 SCC (L&S) 5 : AIR 1974 SC 87], held that "rubber-stamp reason" is not enough and virtually quoted the observation in Capoor (supra), SCC p. 854, para 28, to the extent that:

"28. ... Reasons are the links between the materials on which certain conclusions are based and the actual conclusions." (See AIR p. 377, para 18.)

29. In a Constitution Bench decision of this Court in H.H. Shri Swamiji of Shri Amar Mutt v. Commr., Hindu Religious and Charitable Endowments Deptt. [(1979) 4 SCC 642 : 1980 SCC (Tax) 16 : AIR 1980 SC 1] while giving the majority judgment Y.V. Chandrachud, C.J. referred to (SCC p. 658, para 29) Broom's Legal Maxims (1939 Edn., p. 97) where the principle in Latin runs as follows:

"Cessante ratione legis cessat ipsa lex."

30. The English version of the said principle given by the Chief Justice is that: (H.H. Shri Swamiji case [(1979) 4 SCC 642 : 1980 SCC (Tax) 16 : AIR 1980 SC 1], SCC p. 658, para 29)

"29. ... 'reason is the soul of the law, and when the reason of any particular law ceases, so does the law itself'." (See AIR p. 11, para 29.)

.....

33. In Star Enterprises v. City and Industrial Development Corpn. of

Maharashtra Ltd. [(1990) 3 SCC 280] a three-Judge Bench of this Court held that in the present day set-up judicial review of administrative action has become expansive and is becoming wider day by day and the State has to justify its action in various fields of public law. All these necessitate recording of reason for executive actions including the rejection of the highest offer. This Court held that disclosure of reasons in matters of such rejection provides an opportunity for an objective review both by superior administrative heads and for judicial process and opined that such reasons should be communicated unless there are specific justifications for not doing so (see SCC pp. 284-85, para 10).

…….

46. The position in the United States has been indicated by this Court in S.N. Mukherjee [(1990) 4 SCC 594 : 1990 SCC (Cri) 669 : 1991 SCC (L&S) 242 : (1991) 16 ATC 445 : AIR 1990 SC 1984] in SCC p. 602, para 11 : AIR para 11 at p. 1988 of the judgment. This Court held that in the United States the courts have always insisted on the recording of reasons by administrative authorities in exercise of their powers. It was further held that such recording of reasons is required as "the courts cannot exercise their duty of review unless they are advised of the considerations underlying the action under review". In S.N. Mukherjee [(1990) 4 SCC 594 : 1990 SCC (Cri) 669 : 1991 SCC (L&S) 242 : (1991) 16 ATC 445 : AIR 1990 SC 1984] this Court relied on the decisions of the US Court in Securities and Exchange Commission v. Chenery Corpn. [87 L.Ed. 626 : 318 US 80 (1943)] and Dunlop v. Bachowski [44 L.Ed.2d 377 : 421 US 560 (1975)] in support of its opinion discussed above.

47. Summarising the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial

decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor [(1987) 100 Harvard Law Review 731-37]).

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553] EHRR, at 562 para 29 and Anya v. University of Oxford [2001 EWCA Civ 405 (CA)], wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "due process"."

16. A perusal of the impugned order in this case shows that though the order does speak a lot of the various steps of procedure about how and at what point of time which notice was given to the petitioner and by what authority, there is no mention by as much as a whisper of how the Secretary/ Chief Executive Officer of the Bank, or for that matter, the real decision maker, the Committee of Management of the Bank, considered the charges, the petitioner's defence against these and by what reasoning did they conclude all the charges proved against the petitioner. In the absence of a discussion on the particulars of the three charges, the petitioner's defence and reasons to conclude why the charges were held proved, the underlying decision of the Committee of Management, as expressed in the impugned order passed by the Secretary/ Chief Executive Officer of the Bank, is certainly violative of natural justice. The order, despite being verbose on other details, maintains critical silence on what went on in the mind of the decision makers to

conclude that the charges against the petitioner are proved by the requisite standard of preponderant probability.

17. It is on this short ground alone that we think that the impugned order ought be quashed and the matter sent back to the respondents to pass a fresh order after considering the petitioner's reply, of course, granting him further opportunity to file a supplementary reply with such papers as he desires and hearing him personally afresh, as done earlier. We think that personal hearing is necessary before the Disciplinary Authority because the earlier decision was taken after hearing the petitioner, and the incumbents in office might have changed or else their memories faded with the lapse of time.

18. No other point was raised.

19. In the result, this writ petition succeeds and is **allowed**. The impugned order dated 28.02.2023 passed by the Secretary/ Chief Executive Officer of the Bank is hereby **quashed.** It will be open to the respondents to pass an order afresh after affording necessary opportunity of hearing to the petitioner, but deciding the disciplinary matter now by a reasoned and speaking order on the merits of the charges, bearing in mind the guidance in this judgment. It is further ordered that in passing the order afresh, should the Disciplinary Authority reach conclusions against the petitioner, a punishment higher than that awarded by the impugned order shall not be imposed.

20. There shall be no order as to costs

21. Let a copy of this judgment be communicated to the Registrar, Cooperative Societies, U.P., Lucknow, the Chairman, Committee of Management, District Cooperative Bank Limited, Bareilly and the Secretary/ Chief Executive Officer, District Cooperative Bank Limited, Bareilly by the Registrar (Compliance).

(2025) 6 ILRA 148
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: ALLAHABAD 13.06.2025

BEFORE

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

Writ - A No. 19578 of 2024

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

Counsel for the Petitioner:
Archana Singh, Shreeprakash Singh

Counsel for the Respondents:
C.S.C.,Ravindra Singh

A. Civil Law - Constitution of India, 1950 - Article 226-Uttar Pradesh Cane Co-operative Service Regulations,1975-Regulations 68 and 69-The petitioner challenged disciplinary order dated 11.03.2022 passed by the cane commissioner, U.P. imposing the penalties of withholding two increments with cumulative effect, proportionate recovery of loss and censure and appellate order dated 24.09.2024 affirming the disciplinary action-The charges against the petitioner, a Cashier at a Cane Cooperative Society related to alleged negligence leading to a financial loss of Rs. 75 lakhs-A department inquiry was conducted, wherein the Inquiry Officer found the petitioner guilty –The court found that the inquiry violated mandatory procedural safeguards under Regulations 68 and 69 of the Regulations 1975-No witnesses were examined, and no oral or