

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

W.P.A. 16800 of 2016

Md. Shams Biswas @ Tapan Biswas

-Vs-

United Bank of India (at present Punjab National Bank) & Ors.

For the Petitioner : Mr. M.R. Sarbadhikari

For the Respondents : Mr. R.N. Majumder
Mr. S.M. Obaidullah

Judgment on : 05.05.2026

Ananya Bandyopadhyay, J.:-

1. The writ petitioner has approached this Court invoking the constitutional prerogative under Article 226 of the Constitution of India, seeking issuance of a writ in the nature of mandamus for setting aside, quashing and/or rescinding a series of memoranda, the principal among them being the memorandum dated March 22, 2016 bearing Ref. No. HRM/PA(OE)/Misc-63A/2001/2016, whereby the petitioner was subjected to premature retirement from the service of the United Bank of India. Consequential memoranda dated April 20, 2016, June 6, 2016, June 8, 2016 and March 29, 2016 have also been assailed, alongside a prayer for reinstatement with restoration of all attendant service benefits and continuity in service.

2. The facts unfurled the petitioner to have joined the services of the respondent bank on April 1, 1981 and had, over a span exceeding three decades, discharged his duties with diligence, sincerity, loyalty and utmost devotion to institutional discipline. The petitioner rose to the position of Senior Manager and asserted his service record remained satisfactory throughout. However, his otherwise stable service tenure, it was contended, was brought to an abrupt and unjustified cessation by the respondent authorities under circumstances that betray arbitrariness and premeditated intent.
3. A deeply disquieting dimension of the petitioner's case pertained to allegations of sustained racial and caste-based discrimination at the workplace. The petitioner, originally belonging to the Dalit community, asserted he was subjected to systemic humiliation and exclusion, which, over a prolonged period, compelled him to renounce Hinduism and embrace Islam on his own volition. It was further alleged that the petitioner became a victim of targeted harassment, exacerbated by his perceived inclination to expose internal irregularities and corruption within the bank, thereby inviting retaliatory measures cloaked as administrative action.
4. The impugned order of premature retirement is stated to have been issued under Regulation 19(1) of the United Bank of India (Officers') Service Regulations, 1979. The petitioner contends that such invocation of the Regulation is fundamentally flawed. According to him, Regulation 19 contemplates only a process of "review" by a duly constituted Special Committee, and does not envisage any "recommendation" capable of being

acted upon by another authority. The procedure adopted by the respondent bank, whereby a Special Committee allegedly recommended premature retirement and such recommendation was thereafter accepted by a competent authority, had been asserted to be an impermissible deviation from the statutory scheme, rendering the entire action *void ab initio*.

5. The chronology of events, as delineated in the pleadings, reflects an element of undue haste and pre-determination. The impugned memorandum dated March 22, 2016 not only imposed premature retirement with immediate effect but was accompanied by issuance of a pay order bearing No. 099879 for an amount of Rs.1,83,904.94/- deducting the amount payable towards TDS representing three months' salary in lieu of notice.
6. The petitioner further asserted the very constitution, composition and deliberations of the so-called Special Committee were shrouded in opacity. Despite a specific request on April 18, 2016 seeking disclosure of the recommendation and the materials forming the basis thereof, the respondent authorities rejected such request by memorandum dated April 20, 2016 on vague and untenable grounds. This denial, it is contended, has deprived the petitioner of any meaningful opportunity to contest the decision, thereby striking at the base of the principles of natural justice.
7. It was further averred during the pendency of the petitioner's representation before the Board of Directors, the respondent authorities proceeded to initiate steps for settlement of provident fund and pensionary benefits. A memorandum dated June 8, 2016 sought completion of formalities for disbursement of provident fund, while an earlier memorandum dated March

29, 2016 had already been issued in relation to pensionary benefits under the United Bank of India (Employees') Pension Rules, 1995. Such actions, taken even before exhaustion of the petitioner's remedial avenues, are asserted to reflect a foregone conclusion and predetermined mindset.

8. The petitioner was compelled to submit a representation on April 22, 2016 before the Board of Directors (respondent no. 6). However, it is contended that the Service Regulations, 1979 do not contemplate any appellate forum before the Board against an order of premature retirement. Consequently, the consideration and purported rejection of such representation, as communicated through memorandum dated June 6, 2016, is alleged to be wholly without jurisdiction. It was further contended that respondent no. 2 lacked authority to communicate any decision on behalf of the Board, and any such decision, if at all taken, ought to have been conveyed under the seal and signature of the Board itself.
9. The petitioner had also challenged the very foundation of the decision-making process by contending that the Special Committee had no authority to "recommend" premature retirement, as the Regulation contemplated only a "review". The adoption of a procedure whereby such recommendation was placed before another authority for final decision is asserted to be a self-devised mechanism, alien to the statutory framework and therefore legally unsustainable.
10. In addition to the impugned retirement, the petitioner has brought forth grievances relating to denial of legitimate service dues, including stagnation increment due in June 2012 and medical aid allowance for the year 2015,

despite repeated representations. Such denial is alleged to be arbitrary and reflective of continued hostility.

11. A further facet of grievance pertains to the discontinuation of the petitioner's housing loan facility subsequent to his premature retirement. It is contended that such action bears no rational nexus to cessation of service and has caused severe financial hardship, particularly as the residential house remained under construction and incomplete. The discontinuation of such facility, without assigning any reason, is asserted to be an act of malice and administrative arbitrariness.
12. The petitioner has, in essence, contended that the entire process of premature retirement is vitiated by absence of any objective yardstick, thereby enabling a "pick and choose" policy at the whim of the authorities. Such unbridled discretion, it is urged, is antithetical to the principles of fairness and reasonableness which underpin administrative action.
13. The cumulative effect of the impugned actions, as projected, is not merely a violation of the statutory provisions embodied in the Service Regulations, 1979, but also an infringement of the fundamental rights guaranteed under Articles 14, 19(1)(g) and 21 of the Constitution of India. The petitioner asserts that the action of the respondent authorities is arbitrary, discriminatory and devoid of procedural fairness, thereby failing the test of constitutional scrutiny.
14. Thus, viewed in its entirety, the petitioner's case is that the impugned memorandum dated March 22, 2016, along with all consequential steps taken pursuant thereto, stands vitiated by jurisdictional error, procedural

impropriety, violation of natural justice and constitutional infirmity, rendering the same entirely unsustainable in the eye of law.

15. The Learned Advocate for the petitioner challenged the impugned action as one vitiated by jurisdictional transgression, procedural impropriety and manifest arbitrariness, striking at the root of administrative fairness.
16. At the outset, it is contended that the writ petition has been instituted assailing the forcible premature retirement of the petitioner, effected by memorandum dated March 22, 2016, purportedly under Regulation 19(1) of the applicable Service Regulations. The impugned action, it is urged, stands irretrievably vitiated on two foundational grounds—firstly, for non-compliance with the mandatory requirements of Regulation 20 of the Discipline and Appeal Regulations, 1977, and secondly, for gross infraction of the principles of natural justice.
17. The petitioner's service trajectory, it is submitted, reflects an unblemished and diligent career commencing on April 1, 1981, as a Clerk, culminating in successive promotions to Officer Grades I, II and III, the last of which was attained on September 1, 2010. Such progression, founded upon integrity, efficiency and professional rectitude, renders the abrupt invocation of premature retirement wholly incongruous and devoid of rational substratum.
18. The Learned Counsel contended that from August 6, 2015 onwards, the respondent bank embarked upon a premeditated course to dislodge the petitioner from service under the ostensible pretext of mental unfitness. However, the medical material relied upon was asserted to be self-contradictory, inconclusive and bereft of any cogent finding establishing

impairment of cognitive or functional capacity. Significantly, no disciplinary proceeding was ever initiated, nor was any charge of misconduct articulated, notwithstanding the availability of adequate time to do so, as the petitioner had nearly four years of service remaining until his normal date of superannuation on March 31, 2020.

19. The substratum of the impugned action was traced to the recommendation of a so-called Special Committee, which, upon a purported review dated March 17, 2016, recommended premature retirement by report dated March 18, 2016. It was emphatically urged that such recommendation is *de hors* the statutory framework, inasmuch as Regulation 19 contemplated only a process of review and not a determinative recommendation capable of acceptance. The subsequent mechanical endorsement by the General Manager, merely recording “approved as recommended,” was demonstrative of total non-application of mind.
20. The challenge is further fortified by pointing out that the petitioner was prematurely retired on March 22, 2016, in stark departure from the express stipulation that retirement ought to take effect on the last day of the month. The undue haste with which the decision was implemented, without disclosing the authority determining the effective date, renders the process opaque and procedurally suspect.
21. A conspicuous breach of natural justice is urged on account of the respondents’ persistent refusal to furnish the petitioner with a copy of the Special Committee’s recommendation, despite a specific request dated April 18, 2016. Such denial, followed by a cryptic rejection dated April 20, 2016,

effectively foreclosed the petitioner's right to make an informed and meaningful representation.

22. Though the petitioner preferred an appeal before the Board of Directors, the same was dismissed in a perfunctory and non-speaking manner. It is further contended that the Service Regulations do not contemplate any such appellate mechanism, and consequently, the purported affirmation by the Board stands vitiated by lack of jurisdiction. The communication of such decision, not under the seal of the Board but through an intermediary authority, further accentuates the procedural infirmity.
23. The Learned Advocate has drawn attention to the startling arbitrariness underlying the recommendation of the Special Committee, wherein out of 1786 officers reviewed, only the petitioner was singled out as ineligible to continue in service. Such singular targeting, devoid of discernible criteria, is urged to be emblematic of a "pick and choose" policy, repugnant to the mandate of Article 14 of the Constitution of India.
24. The reliance placed upon an alleged medical assessment is further assailed on the ground that neither the detailed findings of the Medical Board were disclosed nor any opportunity was afforded to the petitioner to contest the same. Even the request for video recording of the medical examination was not considered. The medical report itself, it is contended, does not disclose any abnormality in cognition or memory and is thus wholly inadequate to sustain the drastic consequence of premature retirement.
25. An additional circumstance of considerable probative value is pressed into service, namely, that the petitioner was sanctioned a housing loan on

January 14, 2016, contemporaneously with the period during which he was allegedly considered medically unfit. It is urged, with considerable force, that no prudent financial institution would extend such facility to an employee deemed unfit for service. This inherent contradiction, coupled with the petitioner's subsequent engagement as a witness in criminal proceedings between 2017 and 2021, further undermines the credibility of the allegation of unfitness.

26. The petitioner's grievance is compounded by the abrupt discontinuation of the housing loan facility, medical aid allowance and denial of consequential benefits including increment in June 2012, thereby inflicting severe financial hardship and leaving the residential construction incomplete. Such actions, it is submitted, bear no rational nexus with cessation of service and are indicative of *mala fide* intent.

27. The entire decision-making process, it is contended, is characterised by opacity, haste and pre-determination, with successive authorities merely endorsing prior conclusions without independent application of mind. The failure to disclose material documents, absence of reasons, and denial of procedural safeguards collectively render the impugned action legally unsustainable.

28. Reliance is placed upon the celebrated decision in *Central Inland Water Transport Corporation Ltd. vs. Tarun Kanti Sengupta*, to underscore that arbitrary and unconscionable exercise of contractual or statutory power cannot withstand judicial scrutiny.

29. In culmination, the Learned Counsel submits that the impugned memorandum dated March 22, 2016, together with all consequential actions, is vitiated by patent illegality, violation of statutory provisions, breach of natural justice and constitutional infirmity. The same, therefore, warrants interference by this Court, with a direction for quashing of the impugned action and grant of consequential reliefs in favour of the petitioner, including costs.
30. The Learned Advocate appearing for the respondents emphatically resisted the writ petition contending that the impugned action was neither arbitrary nor *de hors* the governing statutory framework, but rather a considered exercise of power strictly in consonance with the applicable Service Regulations.
31. At the threshold, it was submitted that the petitioner, initially inducted into the services of the erstwhile United Bank of India and subsequently elevated to the position of Senior Manager, had, over a considerable period, exhibited a pattern of conduct wholly inconsistent with the discipline and decorum expected of an officer of a nationalised bank. The petitioner, it was urged, was in the habitual practice of addressing a series of communications to diverse authorities, including governmental bodies, commissions and members of the public domain, couched in language described as intemperate, derogatory and accusatory in tenor. Such communications, far from being grounded in substantiated grievance, were characterised as imaginative constructs borne out of misplaced apprehensions relating to his workplace and colleagues.

32. The Learned Advocate representing the respondents further submitted the tenor, frequency and content of such communications reflected a gradual but perceptible deviation from normal behavioural standards, thereby raising legitimate concerns regarding the petitioner's mental composure and fitness to continue in a position of responsibility. In this backdrop, and having regard to the institutional integrity of the bank, the competent authority deemed it appropriate to subject the petitioner to a comprehensive medical evaluation.
33. Pursuant thereto, the petitioner was referred to a duly constituted Medical Board comprising expert psychiatrists attached to the Medical College and Hospital, Kolkata, under the aegis of the Department of Health and Family Welfare, Government of West Bengal. Upon examination, the Medical Board, it was submitted, opined that the petitioner was suffering from a persistent delusional disorder, rendering him unfit for continuation in service. The said conclusion, embodied in the medical report dated January 28, 2016, constituted a pivotal material forming the basis of subsequent administrative action.
34. It was further urged that, in tandem with the medical assessment, the petitioner's service record was subjected to review by the competent authorities. The Review Committee, upon consideration of the petitioner's overall performance, including adverse remarks regarding unsatisfactory discharge of duties, concurred with the medical findings and formed the opinion that the petitioner was no longer fit to be retained in service. Consequently, in exercise of powers conferred under Regulation 19(1) of the

United Bank of India (Officers') Service Regulations, 1979, the Committee recommended premature retirement in public interest.

35. It was further emphasised the statutory scheme expressly envisaged such a course of action, permitting the bank, upon review by a duly constituted committee, to retire an officer employee after attainment of the prescribed age or length of service, where such retirement was considered necessary in public interest. It was contended that the procedure contemplated under the Regulations was scrupulously adhered to, including the constitution of a Special Committee and the recording of its recommendation in writing.
36. Acting upon such recommendation, the competent authority, by order dated March 22, 2016, directed the petitioner's premature retirement, accompanied by payment of three months' salary in lieu of notice, as mandated under the Regulations. The petitioner thereafter availed of the statutory remedy of representation before the competent authority, which, upon due consideration, was rejected and such rejection was duly communicated to the petitioner.
37. It was further contended the petitioner's challenge to the appellate process is misconceived, inasmuch as the Board of Directors, being the apex administrative authority of the bank, considered the representation and affirmed the decision of the competent authority. The procedure thus adopted, it was urged, satisfied the requirements of fairness and due consideration embedded in the regulatory framework.
38. It was also contended that all admissible retiral benefits were duly disbursed to the petitioner, and no further financial entitlement survived. The assertion

that the petitioner had been wrongfully deprived of dues was, therefore, emphatically denied.

39. In amplification, the respondents submit that the petitioner's conduct, viewed cumulatively with the medical findings and performance assessment, warranted invocation of the power of premature retirement in public interest, a measure preventive rather than punitive in character. The decision, it is urged, cannot be equated with a disciplinary penalty, and therefore does not necessitate adherence to the rigours of a full-fledged disciplinary proceeding.
40. Lastly, it is submitted that the merger of United Bank of India with Punjab National Bank with effect from April 1, 2020, has no bearing on the legality of the impugned action, which must be adjudged with reference to the regulatory regime prevailing at the relevant point of time.
41. In culmination, the Learned Counsel for the respondents submits that the impugned order of premature retirement is a lawful exercise of statutory discretion, founded upon objective material and preceded by due process. The writ petition, being devoid of merit and predicated upon unfounded allegations, deserves to be dismissed.
42. The adjudicatory exercise in the present writ petition necessitates a calibrated balance between the autonomy of administrative discretion and the inviolable discipline of law. The controversy pivots not merely upon the validity of an order of premature retirement, but upon whether the statutory power under Regulation 19(1) of the United Bank of India (Officers') Service Regulations, 1979, as shaped by its underlying intent and subsequent

notifications, has been exercised in a manner consistent with fairness, transparency and constitutional fidelity.

43. The petitioner's challenge proceeds on the assertion that the impugned action is vitiated by arbitrariness, non-application of mind, violation of natural justice and extraneous considerations, including alleged discrimination. It is contended that the recommendation of the Special Committee was mechanically accepted, that the material forming the basis of the decision—particularly the medical report—was withheld, and that no meaningful opportunity of representation was afforded. The petitioner further emphasises his long tenure of service and the absence of any disciplinary proceeding.
44. The respondents, in rebuttal, assert that the action was taken in public interest, based on medical opinion indicating mental unfitness and a pattern of conduct characterised by repeated and allegedly abusive complaints. It is urged that such conduct disrupted institutional discipline and warranted administrative intervention under Regulation 19(1).
45. At the outset, it is apposite to delineate the true import and legislative intent of Regulation 19(1) of the United Bank of India (Officers') Service Regulations, 1979.
46. Regulation 19(1) of the United Bank of India (Officers') Service Regulations, 1979 replicated as follows:-

19. Age of Retirement :

(1) The age of retirement of an officer employee shall be as determined by the Board in accordance with the guidelines issued by the Government of India from time to time.

Provided that the bank may, at its discretion, on review by the Special Committee/ Committees as provided hereinafter in Sub-Regulation (2) retire, if it is considered necessary to do so in the public interest, an officer employee on or at any time after the completion of 55 years of age or on at any time after the completion of 30 years of total service as an officer employee or otherwise whichever is earlier;

Provided further that before retiring an officer employee, at least three months notice in writing or an amount equivalent to three months substantive salary/pay and allowances, shall be given to such officer employees;

Provided further that an officer aggrieved by the order of the Competent Authority, as provided in Sub-Regulation (2) may within one month of the passing of the order, give in writing, a representation to the Board of Directors against the decision of Competent Authority, and on receipt of such representation from the concerned officer, the Board of Directors shall consider his representation and take a decision within a period of three months. Where the Board of Directors decides that the order passed by the Competent Authority is not justified, the concerned officer shall be reinstated as though the Competent Authority has not passed the order.

Provided also that nothing in this Regulation shall be deemed to preclude an officer employee from retiring earlier pursuant to the option exercised by him in accordance with the rules in the Bank.

Explanation. : *An officer employee will retire on the last day of the month in which he completes his age of retirement. Provided that, an officer employee, whose date of birth is on the first day of the month, shall retire from the service on the afternoon of the last day of the preceding month on attaining the age of retirement.*

47. The said provision, read in conjunction with the scheme of the Regulations and the notifications governing its operation, is designed as an instrument of institutional discipline—enabling the employer to weed out inefficiency or incapacity in public interest, while simultaneously insulating the process from arbitrariness by mandating a structured review through a duly constituted committee and an informed decision by the competent authority. The notifications and explanatory clauses appended thereto accentuate such power is not punitive in character. Such power is to be exercised sparingly, upon objective assessment and bona fide satisfaction that the continuance of the employee is not conducive to institutional interest. The discretionary nature of the power does not render it unfettered; rather, it is circumscribed by the principles of reasonableness, transparency and procedural fairness.
48. The requirement that an officer employee ordinarily retires on the last day of the month in which he attains the age of superannuation, as clarified in the explanatory framework, is not a mere procedural embellishment but reflects a normative standard of uniformity and certainty. Any deviation therefrom must, therefore, be justified by compelling reasons, discernible from the record.
49. Firstly, the decision-making process betrays a conspicuous absence of independent application of mind. The recommendation of the Special Committee, which forms the substratum of the exercise under Regulation 19(1), has been adopted in a mechanical manner by the competent authority. The endorsement “Approved as recommended”, devoid of any analytical reasoning, does not satisfy the requirement of a conscious and

reasoned satisfaction as envisaged under the Regulation and its governing notifications. The intent of the regulatory framework is that the competent authority must not act as a mere conduit, but as an active arbiter applying its own judgment to the material placed before it.

50. Secondly, the reliance upon medical opinion, which appears to have been treated as determinative, is vitiated by procedural impropriety. The medical report, forming the bedrock of the decision, was not furnished to the petitioner at the relevant stage. The notifications governing service jurisprudence and the broader principles of administrative law require that any material adverse to an employee must be disclosed to enable an effective representation. The failure to do so has rendered the process fundamentally unfair and violative of the principles of natural justice. The right to be heard is rendered illusory if the affected party is not apprised of the material forming the basis of the adverse action. Such non-disclosure vitiates the process at its core. The petitioner, on repeated occasions, sought for a copy of the Special Committee Recommendation and other communications mentioned therein in the annexures to the writ petition and the same were not supplied to him to his prejudice.

51. Thirdly, the impugned order and its affirmations suffer from a complete absence of reasons. The regulatory intent, as reflected in the scheme of Regulation 19(1) and its operational notifications, mandates that the satisfaction of the authority must be demonstrable and not illusory. Reasons are the only window through which such satisfaction can be judicially assessed. Their absence renders the decision opaque and arbitrary.

52. Fourthly, the deviation from the normative stipulation that retirement shall take effect on the last day of the month has not been explained. The petitioner was retired on 22.03.2016, prior to the completion of the month, without any discernible urgency or justification. Such departure from the explanatory framework of the Regulation, without recorded reasons, undermines the very discipline sought to be maintained by the statutory scheme.
53. Fifthly, while the respondents have sought to justify the action as one taken in public interest, the concept of public interest, as embedded in Regulation 19(1), cannot be reduced to a subjective satisfaction untested by reason. It must be founded upon credible material and must reflect a rational nexus between the material and the conclusion. The record, in its present form, does not satisfactorily establish such nexus.
54. Insofar as the allegations relating to caste and religion are concerned, this Court reiterates that the constitutional guarantees under Articles 14, 15 and 25 are not ornamental declarations but enforceable mandates. No administrative action can be sustained if it is tainted by discrimination on the ground of caste or if it impinges upon an individual's freedom of conscience and religion. While the materials on record do not conclusively establish that the impugned decision was founded upon such impermissible considerations, the very allegation reinforces the necessity for scrupulous adherence to transparency and fairness in administrative processes.
55. Equally fundamental is the guarantee under Article 25, which secures to every individual the freedom of conscience and the right to profess, practise

and propagate religion. The petitioner's assertion regarding change of religion, whether arising from personal conviction or otherwise, falls squarely within the protective ambit of this constitutional guarantee. No adverse administrative consequence can be predicated upon an individual's choice of faith. The State and its instrumentalities are constitutionally obligated to maintain neutrality in matters of religion and to ensure that no discrimination, direct or indirect, is occasioned on that ground.

56. While the material on record does not conclusively establish that the impugned decision was directly founded upon considerations of caste or religion, the presence of such allegations imposes a heightened duty upon the administrative authority to act with scrupulous fairness, transparency and objectivity. The failure to adhere to such standards, if any, further undermines the credibility of the decision-making process.

57. The relevant portion of the Office Note No.PA(OE)/TP-21A/Review/164/2016 dated 18.03.2016 replicated as follows:-

“.....

Regulation 19(2) of UBI(O) SR, 1979 inter alia states that no order of retirement under Regulation 19(1) shall be made unless the Special Committee recommendations in writing to the competent authority the retirement of the officer employee.

*Para 28 (C) of Administrative Instructions to UBI(O) SR, 1979 inter alia states that General Manager (Personnel), presently the incumbent is **General Manager (HR & Training)**, is the Competent Authority to allow an officer in MMG SC III to retire as per Regulation 19(1) of UBI(O) SR, 1979.*

In view of the above, the recommendation of Special Committee effecting the retirement of Sri Tapan Biswas (SPF 20824), Senior Manager, D&IR Division is placed before General Manager (HR & Training) for his doing the needful.

It transpires that Sri Tapan Biswas (SPF 20824), Sr. Manager is in the habit of using impetuous, abusive and derogatory language against the Bank in his several communications with various organizations/institutions and casting aspersion against the Bank. His acts and beliefs are not expected from a person of normal prudence. His attitude is evasive. He has gone to the extent of saying that his colleagues are planning to kill/harm him while he was being examined by the Medical Board. He is a constant source of agony, irritation and annoyance in the work place.

We therefore propose that Sri Biswas, may be paid 3 months substantive salary/pay and allowances in lieu of 3 months' notice required as per extant rule to retire an officer under Regulation 19(1) of UBI(O) SR, 1979. The outstanding liability of Sri Biswas may be adjusted from his retirement benefits.

.....”

58. The present writ petition, when examined in its full amplitude, raises an ancillary yet a significant question – whether the perceived frustration of the administrative authority arising out of the petitioner's conduct in addressing repeated and allegedly abusive or intemperate communications, can by itself constitute a lawful ground for invoking the power of premature retirement under Regulation 19(1) of the United Bank of India (Officers') Service Regulations, 1979.

59. Succinctly institutional discipline and decorum are indispensable to the function of any public authority more so in a financial institution entrusted

with public confidence. An ample discipline, one occupying a responsible position, is expected to maintain a conduct befitting the office held. If the petitioner had indeed engaged in a pattern of communications couched in offensive, intemperate or unsubstantiated language, the same cannot be countenanced as an appropriate conduct and would certainly justify corrective administrative attention.

60. However, there is an obvious distinction between **misconduct** warranting disciplinary action and **unsuitability** justifying premature retirement in public interest. Regulation 19(1) as illuminated by its intent and accompanying framework is not designed to serve as a substitute for disciplinary proceedings. It is not an instrument disguised as an expeditious recourse to expel the employee without adhering to the procedural safeguards attendant to punitive action nor can it be invoked to penalize an employee for conduct which, if objectionable, ought to be addressed within the disciplinary regime.

61. Administrative frustration howsoever genuine cannot be elevated to a legal precinct for exercise of statutory power unless it is translated into subjective and objective material demonstrating that the continuance of service of the employee is detrimental to the institutional as well as public interest. The power under Regulation 19(1) as aforesaid must be exercised on the basis of discernible criteria as enumerated therein mandatorily such as inefficient, doubtful integrity or demonstrable incapacity and not on specific and/or categorical irritation or institutional inconvenience.

62. The Learned Advocate representing the respondents time and again embarked upon the alleged misconduct of the petitioner, to the absolute annoyance of his superiors and other staff in the bank unreasoned and unwarranted communications abusively insinuating addressed to various agencies to defame the individual and/or the institution for reasons and interest within his exclusive cognitive domain which in a way propelled the bank authorities to refer the petitioner to a Board of Doctors for medical examination to determine his mental condition since the respondent bank authorities failed to perceive and/or fathom such audacious, weird and pugnacious act of the petitioner.
63. In the present case, the respondents have sought to justify the impugned action, inter alia, on the ground that the petitioner was in the habit of lodging repeated complaints which were allegedly abusive and unfounded thereby creating an atmosphere of disruption within the institution. While such conduct, if established, may legitimately invite disciplinary scrutiny, it cannot, in isolation, form the substratum of a decision to prematurely retire an employee unless it is apparent on record that the same has a direct and rationale nexus with his inability to discharge official duties or his unsuitability to continue in service.
64. The materials on record do not disclose the respondent authorities to invoke disciplinary mechanism against the petitioner in accordance with the service rules of the bank to address such alleged misconduct. The absence of any charge-sheet, enquiry or finding of misconduct assumes significance. The recourse to Regulation 19(1) as aforesaid in such circumstances gives rise to

a legitimate apprehension that the statutory power has been employed as a convenient alternative to avoid the rigours of the disciplinary proceeding.

65. It is also to be borne in mind that an employee's right to ventilate grievances, even if expressed with dissatisfaction, cannot be altogether stifled, though the manner of such expression must conform to norms of propriety. The line between decent and misconduct is delicate and any administrative response must be calibrated with caution lest it transgresses into suppression of legitimate expression contrary to constitutional provision of freedom of speech.

66. Thus, why this Court does not condone the use of abusive or intemperate language in official communications, if any, does not equally consider to hold that administrative displeasure or frustration, unaccompanied by objective assessment within the framework of law, cannot be a valid ground to invoke the power of premature retirement.

67. It is well settled that the writ Court does not act as an appellate authority over administrative decisions. The scope of judicial review is confined to examine the legality of the process. However, where the process is vitiated by arbitrariness, non-application of mind, violation of natural justice or deviation from statutory provisions, judicial intervention becomes not only permissible but necessary to uphold the rule of law.

68. In the conspectus of the aforesaid, this Court is constrained to hold that the impugned action does not withstand the scrutiny of law. The exercise of power under Regulation 19(1) is vitiated by procedural impropriety, absence

of reasoned satisfaction, non-disclosure of material, and reliance on considerations extraneous to the statutory intent.

69. Accordingly, the order of premature retirement dated 22.03.2016, along with all consequential and appellate orders, stands vitiated and is set aside.

70. The matter is remitted to the competent authority for fresh consideration in accordance with law. The respondents shall furnish to the petitioner all materials proposed to be relied upon, including medical reports and committee recommendations, and shall afford him a reasonable opportunity of representation. A reasoned and speaking order shall thereafter be passed.

71. It is made explicit that while reconsidering the matter, the authority shall remain alive to the distinction between disciplinary misconduct and administrative assessment under Regulation 19(1), and shall ensure that no consideration violative of Articles 14, 15 or 25 of the Constitution influences the decision.

72. This case stands as a reaffirmation of the principle that administrative discretion, however wide, must operate within the disciplined confines of legality, fairness and constitutional morality. The merger of the respondent bank with Punjab National Bank does not abdicate its responsibilities in dealing with the service records of the petitioner in its proper statutory perspective.

73. In view of the above discussions, the instant writ petition being WPA 16800 of 2016 is disposed of.

74. There is no order as to costs.

75. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)