

All Branches/Offices of
State Bank of India.

STAFF:: AWARD DISCIPLINARY ACTIONS & PROCEDURE THEREOF

Procedure for taking disciplinary action for an act of misconduct laid down in paragraphs 520 and 521 of Sastry Award have been retained by Desai Award vide paragraphs 18.19 and 19.20. These are applicable to award employees with modifications agreed upon with the All India State Bank of India Staff Federation as well as industry level bipartite settlements between the members of the Indian Banks Association and the workmen unions.

2. On 10th April 2002, Indian Banks' Association have entered into an industry level settlement with the workmen unions. Recently, on 7th April 2016 All India State Bank of India Staff Federation has also entered into a Bank level settlement. The provisions as contained in the said industry level Bipartite Settlement dated 10th April 2002 and Bank level settlement with our clarifications/explanatories (in boxes) are as under:

1. A person against whom disciplinary action is proposed or likely to be taken shall in the first instance, be informed of the particulars of the charge against him and he shall have a proper opportunity to give his explanation as to such particulars. Final orders shall be passed after due consideration of all the relevant facts and circumstances. With this object in view, the following shall apply.
2. By the expression "offence" shall be meant any offence involving moral turpitude for which an employee is liable to conviction and sentence under any provision of Law.
- 3.(a) When in the opinion of the management an employee has committed an offence, unless he be otherwise prosecuted, the bank may take steps to prosecute him or get him prosecuted and in such a case he may also be suspended.

An employee may also be suspended pending domestic enquiry for the misconduct alleged to have been committed by him.

EFFECT OF SUSPENSION:

The effect of suspension is that the contract of employment is suspended and during the period of suspension the mutual obligation of an employer and employee remain in abeyance. It should be borne in mind that his suspension is not by way of punishment and should be resorted to only when it is considered against the Bank's interest to allow the employee to continue in active service or is likely to tamper with the documents or influence the witness. While charge sheet should ordinarily precede suspension or should accompany the latter in cases where it is not possible for unavoidable reasons, charge sheet after suspension must be served on the employee without any delay.

In terms of our circular no. PA/CIR/25 dated 28.05.1983, it is stated that while suspending an employee and while reviewing suspension possibility of avoiding suspension/reinstating him and transferring him to a post where he may not repeat the misconduct or influence the investigations should be examined. If the authority finds that the purpose cannot be served by transferring him, then he should record reasons therefor before resorting to suspension/continuing the suspension. As the suspension of an employee is a serious matter and affects his career as also social life, needless to emphasis that these guidelines must be given effect to in letter and spirit.

TIME OF EFFECT OF SUSPENSION ORDER:

The suspension order comes into effect when it is communicated. Passing of the order is not enough. The Courts have held the although communication of an order is essential yet it's actual receipt or actual knowledge is not necessary and when the letter was dispatched the information was deemed transmitted or imparted.

REFUSAL TO ACCEPT SUSPENSION ORDER:

In case the employee refuses to accept the suspension order; his refusal should be recorded in the presence of two witnesses and the following procedure should be followed :

- i) A copy of the suspension order should be displayed on the Notice Board, and

ii) A copy thereof should be sent to the employee by Registered A.D. post on the recorded address. The cover, if returned, should be retained unopened,

iii) A further copy should be sent by ordinary post under certificate of posting.

Where possible, a copy of the suspension order should be served on the concerned employee through a messenger/representative of the Bank and his statement recorded in writing.

It will then be an effective service of the suspension order. In case the concerned employee is on leave, the date and time for which the suspension order will be effective should be specified in the suspension order and the procedure given above should be followed. The suspension order will then be deemed to be effective from the specified date irrespective of the fact whether or not the envelope containing the order is received by the concerned employee. A format of suspension letter is furnished at FORMAT-A.

EFFECT OF DEATH OF SUSPENDED EMPLOYEE:

If an employee has been under suspension and he died during suspension, he has to be treated as having died on duty and the period of suspension till his death should be treated as on duty.

CONTROL OF SUSPENSION ORDERS:

In some cases, suspensions ordered by the Disciplinary Authorities are put up to the next higher authority for administrative control. Such practice is not in order as a Disciplinary Authority has to take an independent view in such cases. (NBG:ADM:SPL:1375 DTD. 5.6.1997)

PAYMENT OF SUBSISTENCE ALLOWANCE:

Subsistence Allowance during the period of suspension should be granted to an employee on the following scales :

(a) For the first three months, one-third of the pay and allowances which the workman would have got but for the suspension; and

(b) Thereafter, (i) where the enquiry is departmental by the Bank, one-half of the pay and allowances for the succeeding months; (ii) where the enquiry is by an outside agency, one-third of the pay and allowances for the next three months and thereafter one-half for the succeeding months until the enquiry is over, and

(c) After one year full pay and allowances if the enquiry is not delayed for reasons attributable to the concerned workman or any of his representatives. Where the investigation is done by an outside agency and the said agency has come to the conclusion not to prosecute the employee, full pay and allowances will be payable after 6 months from the date of report of such agency or one year after suspension whichever is later and in the event the enquiry is not delayed for reasons attributable to the workman or any of his representative.

DEDUCTIONS FROM SUBSISTENCE ALLOWANCE:

The permissible deductions can be classified under two heads, viz. (a) compulsory deductions and (b) optional deductions. The **compulsory deductions** from the subsistence allowance are -

- I. Income Tax
- II. Instalments against loans granted by the Bank
- III. House rent, electricity charges, etc. where the employee has been provided with accommodation by the Bank

The **optional deductions**, as under, can be made at the request of the employee under suspension:

- I. Payment to the Credit Co-operative Society
- II. Life Insurance Premium

There **should not**, however, be any deductions under the following heads:

- I. Provident Fund Contribution
- II. Deduction towards Pension Fund
- III. Recovery of loss to the Bank/ Amount due on Court Attachments

INCREMENTS DURING THE PERIOD OF SUSPENSION:

The Disciplinary Authority should invariably specify while passing orders regarding the punishment, as to whether the increment(s) for the period of suspension are to be released or withheld. If the order is silent in this regard then it should be construed that increment(s) fallen due during the period of suspension are to be released from the date of suspension is lifted.

IBA has conveyed its decision to member banks that as from 11th June 1997, annual increments which fall due during the period of suspension should be reckoned for calculation of subsistence allowance in respect of workmen staff, in accordance with the provisions of Awards/Bipartite Settlements.

For the purpose of calculating subsistence allowance, the benefit of salary revision shall be extended to those workmen employees who were placed under suspension before such revision became effective.

MEDICAL AID & EXPENSES

A suspended employee may be allowed reimbursement of medical expenses pertaining to self or his family on the same terms & conditions as applicable to employees in active service.

SBI EMPLOYEES' MUTUAL WELFARE SCHEME:

Suspended employees are permitted to make payment of contribution under the scheme during the period of their suspension.

BONUS

Suspended employees shall be eligible for payment of bonus for the period in the accounting year for which they were not under suspension, provided they have worked for atleast 30 days in that accounting year.

LEAVE

A person under suspension is not granted any leave, nor is he required to attend the office during the period of his suspension. There is no need for him to mark attendance in the attendance-register. He can be instructed to keep away from the office premises for safety reasons. He is, however, expected to stay at the HQ centre and not to leave the centre without obtaining permission from the competent authority.

SCHOLARSHIP

Scholarship may be granted in the prescribed manner to eligible children of all employees, the fact that the employee concerned is under suspension or Disciplinary action has been initiated against him for charges involving vigilance angle or otherwise should be ignored for the purpose of grant of such scholarships.

On conclusion of disciplinary proceedings in cases where the penalty imposed result in cessation/termination of service of an employee, the scholarship would cease to be payable from the date of award of such punishment. If however, the scholarship has already been paid, the same would be stopped after the current academic session is over.

In the event of cessation of service, including retirement of an employee, scholarship would continue till the end of the current academic year of the employee's child.

HOUSING LOAN:

In the absence of any provision in the Housing Loan Scheme prohibiting grant of loans to the employees who have been awarded punishment or against whom disciplinary proceedings are going on, it would not be appropriate to deny this facility indiscriminately to all the employees falling in the aforesaid category. Only if the charges against them are such that there is a possibility of their not remaining in the Bank's service on conclusion of the disciplinary proceedings, it would be in order to keep their Loan applications pending till the conclusion of the disciplinary proceedings.

(B) Ordinarily employees under suspension or against whom major disciplinary proceedings have been initiated, where there is a reasonable chance of dismissal would not be eligible for housing advance. The competent authority, depending upon the gravity of the case, may sanction advance to such employees including those under suspension. Such employees will be required to furnish surety of 2 permanent employees of the Bank. An employee who is not granted the loan on this account and as a result raises it from some other approved and verifiable sources, should be granted the loan on conclusion of the disciplinary proceedings if he continues in service. (Corporate Centre Letter No. PER/IR/32531 dated 07.08.1982, PER:IR:CIR:100 Dated

17.12.1992, PER:IR:CIR:53 Dated 25.09.1995, CDO/IR/SPL/431 Dated 28.12.2002)

(C) House Building advance to employees against whom disciplinary proceedings or charges of minor nature have been initiated but are not placed under suspension, can be sanctioned treating them on par with those against whom no disciplinary proceedings is / are initiated or pending. In other words, no collateral security by way of sureties from 2 permanent employees of the Bank will be insisted.

(D) These instructions would also be applicable in respect of employees against whom disciplinary cases have been concluded but CBI / Court Cases are pending. The disciplinary authority will take a view in such cases, depending upon the gravity of allegations / charges being examined by CBI / Court Cases.

(Corporate Centre Letter No. CDO/IR/SPL/431 Dated 28.12.2002)

(E) For sanctioning housing loan it will suffice if the sanctioning authority is satisfied that there is no vigilance case / disciplinary action pending or contemplated against the employee as on date as per records

available with him / controller. It will not be necessary to call for a general clearance from all the offices where he had served earlier. Specific clearance from any particular office may, however, be called for if there is reason to suspect involvement of the official in any particular case. (Corporate Centre Letter No. CDO/PM/1424/CIR/88 Dated 31.03.2000).

PERSONAL LOAN

Employees placed under suspension or against whom major penalty proceedings have been initiated

Ordinarily employee under suspension or against whom major penalty disciplinary proceedings are initiated, where there is a reasonable chance of dismissal would not be eligible for Personal Loan. However, competent authority, depending upon the gravity of the case, may sanction advance Personal Loan to an officer / employee against whom disciplinary proceedings are pending subject to the conditions that officer / employee furnishes collateral security in the form of sureties from 2 permanent employees of the Bank. An officer / employee who is not granted the loan on this account and as a result raises it from some other approved and verifiable sources, should be granted the loan on conclusion of the disciplinary proceedings, if he continues in service.

Employees against whom disciplinary proceedings on charges of minor nature have been initiated and are not placed under suspension

Personal Loan to such category of employees can be sanctioned treating them on par with those against whom no disciplinary proceedings are initiated or pending. In other words, no collateral security by way of sureties from 2 permanent employees of the Bank will be insisted.

FESTIVAL ADVANCE:

Employees under suspension are not eligible.

- (b) If he be convicted, he may be dismissed with effect from the date of his conviction or be given any lesser form of punishment as mentioned in Clause 6 below.

- (c) If he be acquitted, it shall be open to the management to proceed against him under the provisions set out below in Clauses 11 and 12 infra, relating to discharges. However, in the event of the management deciding after enquiry not to continue him in service, he shall be liable only for termination of service with three months' pay and allowances in lieu of notice. And he shall be deemed to have been on duty during the period of suspension, if any, and shall be entitled to the full pay and allowances minus such subsistence allowance as he has drawn and to all other privileges for the period of suspension provided that if he be acquitted by being given the benefit of doubt he may be paid such portion of such pay and allowances as the management may deem proper, and the period of his absence shall not be treated as a period spent on duty unless the management so directs.
 - (d) If he prefers an appeal or revision application against his conviction and is acquitted, in case he had already been dealt with as above and he applies to the management for reconsideration of his case, the management shall review his case and may either reinstate him or proceed against him under the provisions set out below in Clauses 11 and 12 infra relating to discharge, and the provision set out above as to pay, allowances and the period of suspension will apply, the period up-to-date for which full pay and allowances have not been drawn being treated as one of suspension. In the event of the management deciding, after enquiry not to continue him in service, the employee shall be liable only for termination with three months' pay and allowance in lieu of notice, as directed above.
4. If after steps have been taken to prosecute an employee or to get him prosecuted, for an offence, he is not put on trial within a year of the commission of the offence, the management may then deal with him as if he had committed an act of "gross misconduct" or of "minor misconduct", as defined below; provided that if the authority which was to start prosecution proceedings refuses to do so or comes to the conclusion that there is no case for prosecution it shall be open to the management to proceed against the employee under the provisions set out below in Clauses 11 and 12 infra relating to discharge, but he shall be deemed to have been on duty during the period of suspension, if any, and shall be entitled to the full wages and allowances and to all other privileges for such period. In the event of the management deciding, after enquiry, not to continue him in service, he shall be liable only for termination with three months' pay and allowances in lieu of notice as provided in Clause 3

above. If within the pendency of the proceedings thus instituted he is put on trial such proceedings shall be stayed pending the completion of the trial, after which the provisions mentioned in Clause 3 shall apply.

5. By the expression “**gross misconduct**” shall be meant any of the following acts and omissions on the part of an employee:
- (a) engaging in any trade or business outside the scope of his duties except with the written permission of the bank;

With a view to putting a stop on such activities, a careful investigation and close monitoring of all activities/business connections of the employees should be made. Following steps should be taken to unearth the inconsistencies, if any, in the living styles of the employees vis-a-vis their known source of income.

- a) Monitoring of all possible business pursuits of the employees as also their spouses/dependent parents and brothers and sisters and their living styles etc. to identify early warning signals and take preventive action wherever required.
- b) Reviewing and making a meaningful scrutiny of all staff accounts at the branch to satisfy that the scale of transactions in the account is commensurate with the known source of an employee's income. It is also necessary to keep on record the details of Bank accounts including joint accounts maintained by the staff at other branches of the Bank and other banks and the need therefor which have to be clearly established.

All Bank employees should be asked to advise the Bank, in writing, the business connections/pursuits of their spouses and close relatives with complete details and these should be kept in view while reviewing their life styles and accounts.

Defaulting employees, if any, should be asked to explain their position, in writing, as to why they are doing so in flagrant violation of their service rules and such explanations should be submitted to the controlling authority together with a full report for their necessary action. Details of such employees should also be submitted in the format as under:

Name	PF No.	Designation	Length of Service	Details of Known business connection

- (b) Unauthorised disclosure of information regarding the affairs of the bank or any of its customers or any other person connected with the business of the bank which is confidential or the disclosure of which is likely to be prejudicial to the interests of the bank;
- (c) drunkenness or riotous or disorderly or indecent behaviour on the premises of the bank;
- (d) wilful damage or attempt to cause damage to the property of the bank or any of its customers;
- (e) wilful insubordination or disobedience of any lawful and reasonable order of the management or of a superior;
- (f) habitual doing of any act which amounts to "minor misconduct" as defined below, "habitual" meaning a course of action taken or persisted in, notwithstanding that at least on three previous occasions censure or warnings have been administered or an adverse remark has been entered against him;
- (g) wilful slowing down in performance of work;
- (h) gambling or betting on the premises of the bank;
- (i) speculation in stocks, shares, securities or any commodity whether on his account or that of any other persons;
- (j) doing any act prejudicial to the interest of the bank or gross negligence or negligence involving or likely to involve the bank in serious loss;
- (k) giving or taking a bribe or illegal gratification from a customer or an employee of the bank;
- (l) abetment or instigation of any of the acts or omissions above mentioned;
- (m) knowingly making a false statement in any document pertaining to or in connection with his employment in the bank;
- (n) resorting to unfair practice of any nature whatsoever in any examination conducted by the Indian Institute of Bankers or by or on behalf of the bank and where the employee is caught in the act of resorting to such unfair practice and a report to that effect has been received by the bank from the concerned authority;
- (o) resorting to unfair practice of any nature whatsoever in any examination conducted by the Indian Institute of Bankers or by or on behalf of the bank

in cases not covered by the above Sub-Clause(n) and where a report to that effect has been received by the bank from the concerned authority and the employee does not accept the charge;

- (p) remaining unauthorisly absent without intimation continuously for a period exceeding 30 days;
- (q) misbehaviour towards customers arising out of bank's business;
- (r) contesting election for parliament/legislative assembly/legislative council/local bodies/ municipal corporation/panchayat, without explicit written permission of the bank;
- (s) conviction by a criminal Court of Law for an offence involving moral turpitude;
- (t) including in any act of 'sexual harassment' of any woman at her workplace.

Note : Sexual harassment shall include such unwelcome sexually determined behaviour (whether directly or otherwise) as

- (a) physical contact and advances;
- (b) demand or request for sexual favours;
- (c) sexually coloured remarks;
- (d) showing pornography; or
- (e) any other unwelcome physical verbal or non-verbal conduct of a sexual nature.

- (u) **(For State Bank of India)** the giving or taking or abetting the giving or taking of dowry or demanding directly or indirectly from the parents or guardians of a bride or bridegroom, as the case may be, any dowry.

Explanation - For the purpose of sub-clause (u) the word 'dowry' has the same meaning as in the "Dowry Prohibition Act, 1961".

6. An employee found guilty of gross misconduct may :

- (a) be dismissed without notice; or
- (b) be removed from service with superannuation benefits i.e. Pension and/or Provident Fund and Gratuity as would be due otherwise under the Rules or Regulations prevailing at the relevant time and without disqualification from future employment; or
- (c) be compulsorily retired with superannuation benefits i.e. Pension and/or Provident Fund and Gratuity as would be due otherwise under the Rules or Regulations prevailing at the relevant time and without disqualification from future employment; or
- (d) be discharged from service with superannuation benefits i.e. Pension and/or Provident Fund and Gratuity as would be due otherwise under the

Rules or Regulations prevailing at the relevant time and without disqualification from future employment; or

- (e) be brought down to lower stage in the scale of pay up to a maximum of two stages; or

Incidentally, in terms of our circular no. CDO/IR/SPL/284 dated 6th November 2001, in terms of the extant provisions, whenever punishment of reduction in Basic Pay to a lower stage is imposed on an officer who has reached the maximum in the scale of pay, he is allowed to draw his professional qualification allowance (since renamed as Professional Qualification Pay) since it is not in the nature of an increment in the scale of pay. One of the Local Head Offices have sought clarification as

to whether the same holds good for workmen too.

We have examined the matter in consultation with Indian Banks' Association, who have advised us that the treatment of PQP/FPA in the case of a workman undergoing a penalty of reduction in Basic Pay would be same as in the case of an officer similarly placed. This logic will continue to hold good even after the nomenclature of PQA/FPA is changed from 'allowance' to 'pay' in the VII Bipartite Settlement because PQP/FPP is released to an employee at fixed intervals after he reaches the maximum in the scale of pay and as such does not constitute basic pay though for the purpose of Dearness Allowance and superannuation benefits they partake the characteristics of pay.

In this connection, the functionaries concerned should meticulously observe the following:

- i. The Disciplinary Authority should take into account the details of salary (particularly basic pay) drawn by the charge sheeted employee before he takes a decision on the nature of punishment.
- ii. In case the Disciplinary Authority has not taken into consideration the stage at which the employee is placed in the scale of pay and the punishment is imposed is found to be unimplementable the matter should be referred back to the Disciplinary Authority immediately. This should be done before the appeal procedure is gone through.

- (f) have his increment/s stopped with or without cumulative effect; or
(g) have his special pay withdrawn; or

Incidentally, with reference to the similar provision ("have his special allowance withdrawn") in the industry level Bipartite Settlement dated

31.10.1979, in terms of our circular no. PER:IR:CIR:151 dated 9th November 1991, it was clarified in consultation with IBA that in case of punishment of withdrawal of special allowance, the disciplinary authority should specifically mention the period for which the special allowance is to be withdrawn and if no such mention is made in the relative order, a reference may be made to him immediately for clarification, under advice to the employee concerned. In other words, depending upon the merits of the case, the Disciplinary Authority concerned can either pass the order of withdrawal of a special allowance permanently or for a specific period. If the Disciplinary authority concerned has ordered that the withdrawal of special allowance is for a specific period, the employee will get the benefit of allowance after expiry of such period. In other words, after the rigor of punishment is over the special allowance (in the present provision special pay) will be restored to the employee concerned.

- (h) be warned or censured, or have an adverse remark entered against him;
or
- (i) be fined.

7. By the expression "minor misconduct" shall be meant any of the following acts and omissions on the part of an employee:

- (a) absence without leave or overstaying sanctioned leave without sufficient grounds;
- (b) unpunctual or irregular attendance;
- (c) neglect of work, negligence in performing duties;
- (d) breach of any rule of business of the bank or instruction for the running of any department;
- (e) committing nuisance on the premises of the bank;
- (f) entering or leaving the premises of the bank except by an entrance provided for the purpose;
- (g) attempt to collect or collecting moneys within the premises of the bank without the previous permission of the management or except as allowed by any rule or law for the time being in force;
- (h) holding or attempting to hold or attending any meeting on the premises of the bank without the previous permission of the management or except in accordance with the provisions of any rule or law for the time being in force;
- (i) canvassing for union membership or collection of union dues or subscriptions within the premises of the bank without the previous permission of the management or except in accordance with the provisions of any rule or law for the time being in force.

- (j) failing to show proper consideration, courtesy or attention towards officers, customers or other employees of the bank, unseemly or unsatisfactory behaviour while on duty;
- (k) marked disregard of ordinary requirements of decency and cleanliness in person or dress;
- (l) incurring debts to an extent considered by the management as excessive;
- (m) resorting to unfair practice of any nature whatsoever in any examination conducted by the Indian Institute of Bankers or by or on behalf of the bank in cases not covered by sub-clause (n) under 'Gross Misconduct' and where a report to that effect has been received by the bank from the concerned authority and the employee accepts the charge;
- (n) refusal to attend training programmes without assigning sufficient and valid reasons;
- (o) not wearing, while on duty, identity card issued by the bank;
- (p) not wearing, while on duty, the uniforms supplied by the bank, in clean condition.

As per provisions of Sastry & Desai Award, Observance of any restrictive practice (Provisions of industry level 6th Bipartite Settlement regarding restrictive practices are reproduced in Annexure-A) shall constitute misconduct and the delinquent employee shall be liable for disciplinary action for gross and/or minor misconduct depending upon the circumstances of each case.

It may be added that an infringement of the Rules of Conduct prescribed for the employees would also amount to misconduct. An undertaking (Annexure-B) to be bound thereby duly signed by each candidate at the time of joining the Bank is obtained. This should be carefully preserved along with other service papers of each employee.

8. An employee found guilty of minor misconduct may :
- (a) be warned or censured; or
 - (b) have an adverse remark entered against him; or
 - (c) have his increment stopped for a period not longer than six months.
 - (d) cash penalty upto Rs. 500/- (this clause is added as per Bank level settlement dated 7th April 2016)
9. A workman found guilty of misconduct, whether gross or minor, shall not be given more than one punishment in respect of any one charge.

10. In all cases in which action under Clauses 4, 6 or 8 may be taken, the proceedings held shall be entered in a book kept specially for the purpose, in which the date on which the proceedings are held, the name of the employee proceeded against, the charge or charges, the evidence on which they are based, the explanation and the evidence, if any, tendered by the said employee, the finding or findings, with the grounds on which they are based and the order passed shall be recorded with sufficient fullness, as clearly as possible and such record of the proceedings shall be signed by the officer who holds them, after which a copy of such record shall be furnished to the employee concerned if so requested by him in writing.
11. When it is decided to take any disciplinary action against an employee such decision shall be communicated to him within three days thereof.
12. The procedure in such cases shall be as follows :-
 - (a) An employee against whom disciplinary action is proposed or is likely to be taken shall be given a charge-sheet (Detailed instructions regarding charge sheet are contained in Annexure-D) clearly setting forth the circumstances appearing against him and a date shall be fixed for enquiry, sufficient time being given to him to enable him to prepare and give his explanation as also to produce any evidence that he may wish to tender in his defence. He shall be permitted to appear before the Officer conducting the enquiry, to cross-examine any witness on whose evidence the charge rests and to examine witnesses and produce other evidence in his defence. He shall also be permitted to be defended –
 - (i) by a representative of a registered trade union of bank employees of which he is a member on the date first notified for the commencement of the enquiry.
bank employees on the aforesaid date, by a representative of a registered trade union of employees of the bank in which he is employed: OR
 - (ii) at the request of the said union by a representative of the state federation or all India Organisation to which such union is affiliated;
OR
 - (iii) with the Bank's permission, by a lawyer.

Incidentally, as per our circular no. NBG:P&HRD:IR:SPL:89 dated 3rd June 2005, a question has come up whether an officer, if he is a member of the

union to which charge sheeted employee belongs can serve as his defence representative within the meaning of the word representative referred to in the Awards/Bipartite Settlements.

The matter was examined by IBA and they have clarified that the law in this country does not concede an absolute right of representation to an employee in domestic enquiries as part of his right to be heard. Such a representation cannot also be claimed as constituting an element of principles of natural justice to assert that a denial thereof would vitiate the enquiry itself. There is no right to representation by somebody else unless the rules or regulations, regulating the conduct of disciplinary proceedings specifically recognize such a right and provide for such representation. In the case of workmen in Banks, representation in a domestic enquiry can only be as laid down in the Bipartite Settlement. Therefore, a reference to a registered trade union of bank employees in clause 19.12 of the First Bipartite settlement would refer to a 'trade union of workmen' only.

He shall also be given a hearing as regards the nature of the proposed punishment in case any charge is established against him.

Incidentally, in terms of our circular no. NBG:P&HRD:IR:SPL:307 dated 9th November 2004, arising from the provision that a workman employee who is proceeded against departmentally for a misconduct is required to be given a hearing regarding the proposed punishment before passing final orders, the designated Disciplinary Authorities convey their tentative decision regarding the proposed punishment in writing and ask the charge-sheeted employee to make submissions there against in writing within a prescribed time schedule. On receipt of the submissions, the Disciplinary Authorities are required to examine the submission and taking these into account, pass final orders, which also in turn are communicated in writing to the employee.

2. Of late, arising from the judgments from various High Courts/Industrial Tribunals in the country, it is observed that Courts are not taking favourable view of the decisions of the Disciplinary Authorities if in the event the Disciplinary Authorities differing with the findings of the Enquiry Officer, the reasons for holding difference of opinion between the Disciplinary Authority and the Enquiry Officer are not conveyed to the charge sheeted employee.

3. The matter has been examined in consultation with law Department at this office and it has been decided as under:

(i) If the Disciplinary Authority, after examining the enquiry proceedings and Enquiry Officer's findings on the charges levelled against an employee, disagree with any of the findings of the Enquiry Officer on one or more charges, he should record in writing his disagreements supported with the reasons therefor. The said recorded reasons for disagreement along with a copy each of the enquiry proceedings and the Findings of the Enquiry Officer should be communicated to the charged employee in writing and he should be asked to make submission thereon within an appointed date. If, within the appointed date, no such submission is received by the Disciplinary Authority it will be assumed that the charged employee does not wish to make any submission and the Disciplinary Authority shall proceed accordingly for further action as deemed fit.

(ii) On receipt of the charged employee's submissions to the above, the same will be examined by the Disciplinary Authority along with enquiry proceedings, findings of the Enquiry Officer and his earlier recorded reasons for disagreements and based thereon, he should record his preliminary order as to whether the charge(s) against the charged employee can still be held established or not. The Disciplinary Authority should also record therein his tentative decisions as regards the proposed punishment to be inflicted on the charged employee and this order should be communicated to the employee in writing and he should be asked to make submissions in regard to the proposed punishment in terms of clause 12(a)(iii) of the Settlement dated 10.04.2002/27.05.2002.

On receipt of the charged employee's submission, the Disciplinary Authority will examine the same along with the enquiry proceedings, findings of the Enquiry Officer and other relevant documents, including those referred to above, and will record his final orders indicating punishment to be inflicted against the employee and communicate such orders to the employee in writing.

Although, it was not required under the earlier clause 521(10)(a) of the Sastry Award as retained by Desai Award and also not required under Clause 12 of the said Settlement of 2002, but by way of abundant caution (in view of Court's decisions) the aforesaid course of actions can be followed in all cases, where there is disagreement.

- (b) Pending such inquiry or initiation of such inquiry he may be suspended, but if on the conclusion of the enquiry it is decided to take no action against him he shall be deemed to have been on duty and shall be entitled to the full wages and allowances and to all other privileges for the period of suspension; and if some punishment other than dismissal is inflicted the whole or a part of the period of suspension, may, at the discretion of the management, be treated as on duty with the right to a corresponding portion of the wages, allowances, etc.
- (c) In awarding punishment by way disciplinary action the authority concerned shall take into account the gravity of the misconduct, the previous record, if any, of the employee and any other aggravating or extenuating circumstances, that may exist. Where sufficiently extenuating circumstances exist the misconduct may be condoned and in case such misconduct is of the "gross" type he may be merely discharged, with or without notice or on payment of a month's pay and allowances, in lieu of notice. Such discharge may also be given where the evidence is found to be insufficient to sustain the charge and where the bank does not, for some reason or other, think it expedient to retain the employee in question any longer in service. Discharge in such cases shall not be deemed to amount to disciplinary action.
- (d) If the representative defending the employee is an employee of the same bank at an outstation branch within the same State, he shall be relieved on special leave (on full pay and allowances) to represent the employee and be paid one return fare. The class of fare to which he will be entitled would be the same as while travelling on duty. In case of any adjournment at the instance of the bank/enquiry officer, he may be asked to resume duty and if so, will be paid fare for the consequential journey. He shall also be paid full halting allowance for the period he stays at the place of the enquiry for defending the employee as also for the days of the journeys which are undertaken at the bank's cost.

Explanation:

'State' for the purpose, shall mean the area which constitutes a political State, but this explanation will not apply to SBI.

- (e) An enquiry need not be held if :

- (i) the bank has issued a show cause notice to the employee advising him of the misconduct and the punishment for which he may be liable for such misconduct;
- (ii) the employee makes a voluntary admission of his guilt in reply to the aforesaid show cause notice; and
- (iii) the misconduct is such that even if proved the bank does not intend to award the punishment of discharge or dismissal.

However, if the employee concerned requests a hearing regarding the nature of punishment, such a hearing shall be given.

- (f) An enquiry need not also be held if the employee is charged with minor misconduct and the punishment proposed to be given is warning or censure. However,
 - (i) the employee shall be served a show cause notice advising him of the misconduct and the evidence on which the charge is based; and
 - (ii) the employee shall be given an opportunity to submit his written statement of defence, and for this purpose has a right to have access to the documents and material on which the charge is based.
 - (iii) if the employee requests a hearing such a hearing shall be given and in such a hearing he may be permitted to be represented by a representative authorized to defend him in an enquiry had such an enquiry been held.
 - (g) Where the employee is charged with a minor misconduct and an enquiry is not held on two previous occasions, an enquiry shall be held in respect of the third occasion.
13. Where the provisions of this Settlement conflict with the procedure or rules in force in any bank regarding disciplinary action, they shall prevail over the latter. There may, in such procedures or rules, exist certain provisions outside the scope of the provisions contained in this Settlement enabling the bank to dismiss, warn, censure, fine an employee or have his increment stopped or have an adverse remark entered against him. In all such cases also the provisions set out in Clauses 10 and 11 above shall apply.
14. The Chief Executive Officer or the Principal Officer in India of a bank or an Alternate Officer at the Head Office or Principal Office nominated by him for the purpose shall decide which officer (i.e. the disciplinary authority)

shall be empowered to take disciplinary action in the case of each office or establishment. He shall also decide which officer or body higher in status than the officer authorized to take disciplinary action shall act as the appellate authority to deal with or hear and dispose of any appeal against orders passed in disciplinary matters. These authorities shall be nominated by designation, to pass original orders or hear and dispose of appeals from time-to-time and a notice (Format-I) specifying the authorities so nominated shall be published from time-to-time on the bank's notice board.

The Disciplinary authority	Structure	vide e-circular	no.
CDO/P&HRD/IR/93/2011-12	dated	12.01.2012	and
CDO/P&HRD/IR/5/2013-14	dated	27.04.2013	are
reproduced	in Annexure-C.		

It is clarified that the disciplinary authority may conduct the enquiry himself or appoint another officer as the Enquiry Officer for the purpose of conducting an enquiry.

The appellate authority shall, if the employee concerned is so desirous, in a case of dismissal, hear him or his representatives before disposing of the appeal. In cases where hearings are not required, an appeal shall be disposed of within two months from the date of receipt thereof. In cases where hearings are required to be given and requested for, such hearings shall commence within one month from the date of receipt of the appeal and shall be disposed of within one month from the date of conclusion of such hearings. The period within which an appeal can be preferred shall be 45 days from the date on which the original order has been communicated in writing to the employee concerned.

Incidentally, in terms of our circular no. NBG:P&HRD:IR:SPL:93 dated 19th June 2001, a number of Industrial Disputes are raised by employees challenging the punishments imposed on them as a result of disciplinary proceedings initiated against them by the Bank. A common plea made by such employees who deliberately avoid attending enquiry hearings and where ex-parte orders are passed is that they were not given adequate opportunity to defend themselves and hence, they had been denied of the principles of natural justice. In that context, it is advised in terms of the said letter, that Local Head Offices should, wherever the situation demands, furnish data on the number of times the enquiry was adjourned because of the employee's absence and the dates thereof etc., in addition to the other information so as to prove that the defendant was given ample

opportunity to defend himself and the charge based on denial of principles of natural justice is not correct.

In case of award staff, there is no provision for Review.

15. Every employee who is dismissed or discharged shall be given a service certificate, without avoidable delay.
16. Any notice, order, charge-sheet, communication or intimation which is meant for an individual employee, shall be in a language understood by the employee concerned. In the case of an absent employee notice shall be sent to him by registered post with acknowledgement due. If an employee refuses to accept any notice, order, charge-sheet, written communication or written intimation in connection with disciplinary proceedings when it is sought to be served upon him, such refusal shall be deemed to be good service upon him, provided such refusal takes place in the presence of at least two persons including the person who goes to effect service upon him. Where any notice, order, charge-sheet, intimation or any other official communication which is meant for an individual employee is sent to him by registered post acknowledgement due at the last recorded address communicated in writing by the employee and acknowledged by the bank, the same is to be deemed as good service.

Vide our letter no. NBG:P&HRD:R:CIR:73 dated 9.11.2002, copy of the judgment dated 16.08.2002 delivered by the Hon'ble Supreme Court, in

ANNEXURE-A

(As per the provisions of the 6th Bipartite Settlement) **RESTRICTIVE PRACTICES**

Preamble-The IBA, AIBEA and NCBE are in full agreement that no efforts should be spared by them to ensure efficient, courteous and speedy customer service in the banking industry. With this common objective in view, some 'restrictive practices' were gone into jointly. The unions do not accept that there are any such practices. It is admitted by both sides that the details of situations or circumstances in which certain incidents might have taken place are not available and hence they cannot be gone into in detail. The unions, however, make it clear that it has never been the intention of the unions to indulge in any restrictive practices. The IBA concedes that in view of the size of the industry, there are difficulties in attaining perfection in the matter of control of the large work force and also of regulation and distribution of work at all the offices in the country. Both IBA and the unions agree that much depends on the climate that develops and the relations that are built at the various offices by mutual understanding and respect for each other's difficulties. Accordingly, the IBA, AIBEA and NCBE jointly express themselves on the issues as under

- a) It is for the management to distribute the work equitably amongst the employees with a view to ensuring that every one has a full day's work. Adjustments would, however, become necessary in the day-to-day working of the offices and in the interest of smooth working, the workmen should carry out all reasonable orders of the local management. The workmen would, however, be free to take up with the management any genuine difficulty in this behalf. The question of fixing any arbitrary ceiling on quantum of work by the employees themselves does not, however, arise.
- b) While the services of senior employees would generally be utilised on desks requiring experience and knowledge, no one should refuse to work on any desk in exigencies that may arise.
- c) The allotment of ledger(s) to ledger keepers would depend on the number of transactions and the volume of work and not on the number of ledgers. Accordingly, it may be justifiable and necessary to allot more than one ledger whether in Current Account, Cash Credit, Demand Loan, etc.
- d) Employees with double designation such as clerk-typist, cashier-cum-clerk, etc., may be asked to perform both the duties on the same day. It would, however, be ensured that they are not subjected to frequent changes of work on the same

day. Where an employee who is handling cash is asked to work outside cash section he should be given time to tally and hand over his cash.

- e) Where volume of cash work is not heavy, a cashier may be required to work both as a Paying and Receiving Cashier.
- f) Godown-keepers attached to branches may be required to perform clerical duties whenever they are free from godown work.
- g) The system of checking payment made by an employee by another employee and of entrusting the job of issuing tokens exclusively to an employee, are prevailing only in certain banks at certain centres. The managements may decide on their own about the necessity of continuance or otherwise of these systems.
- h) On special occasions it might be necessary to attend to cash transactions outside business hours. However, due care and caution should be exercised by managements in entertaining such late transactions; such late transactions should be duly authorised by a competent official.
- i) Normally cash should be accepted/paid at the cash counter. But employees should accept/make payment of cash other than at cash counters under instructions from a competent official in special circumstances and in such cases the concerned employees would be granted immunity from attendant risks.
- j) Further, any observance of any restrictive practice mentioned above shall constitute misconduct and delinquent employee shall be liable for disciplinary action for gross or minor misconduct depending upon the circumstances of each case. With a view to make all the employees aware of their duties and responsibilities vis-a-vis restrictive practises.
- k) The work of clerks posted in administrative offices includes drafting of letters, dealing with correspondence, etc. Similar work of a routine nature should also be performed by clerks posted in branches/departments and offices other than administrative offices.
- l) The balancing of ledgers/registers and calculations of monthly products, interest, etc., should not be claimed as work to be necessarily and essentially performed only outside normal working hours.

- m) An employee who is assigned special allowance duties must, subject to availability of time, also perform routine duties of his cadre. (Bipartite Settlement)
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ANNEXURE-B RULES OF CONDUCT

(Besides signature wherever provided, the applicant's signature should invariably be obtained on each page) An employee of the Bank may not:

- (i) borrow money from or permit any member of his family to borrow money from or in any way place himself or a member of his family under a Pecuniary obligation to a broker or money-lender or a subordinate employee of the Bank or any person, association of persons, firm, company or institution;
- (ii) buy or sell stock/share/securities, of any description without funds to meet the full cost in the case of a purchase or scrip for delivery in the case of a sale;
- (iii) book debts at a race meeting;
- (iv) lend money in his private capacity to a constituent of the Bank or have personal dealings with a constituent in the purchase or sale of bills of exchange, government paper or any other securities;
- (v) guarantee in his private capacity to a constituent of the Bank or have personal dealings with a constituents in the purchase or sale of bills of exchange, government paper or any other securities;
- (v) guarantee in his private capacity the pecuniary obligations of other person or agree to indemnify in such capacity another person from loss except with the previous permissions of the Appropriate Authority;
- (vi) act as agent for insurance company otherwise than as agent for or on behalf of the Bank;
- (vii) take part in registration, promotion or management of any bank or other company which is required to be registered under the Companies Act, 1956 or any other law for the time being in force or any co-operative society for commercial purposes without the

previous sanction of the Appropriate Authority, except in the discharge of his official duties;

(vii) be connected with the formation or management of a joint stock company or trust or society.

(viii) engage in any other commercial business or pursuit either on his own account or as agent for another or others;

(ix) engage directly or indirectly in any trade or business or undertake any other employment except with the previous sanction of the Appropriate Authority.

Provided that an employee may, without such sanction, undertake honorary work of a social or charitable nature or occasional work of a literary, artistic, scientific, professional, cultural, educational, religious or social character, subject to the condition that his official duties do not thereby suffer or the undertaking of such work is not detrimental to the interests of the Bank, but he shall not undertake or shall discontinue such work if so directed by the Appropriate Authority.

Explanation:

- i. Canvassing by an employee in support of the business of insurance agency, commission agency etc. owned or managed by a member of his family shall be deemed to be a breach of this sub-rule.
- ii. Prior sanction under this rule is not necessary for holding an office ex-officio outside the bank, under any law or rules, regulations or bye-laws made there under, for the time being in force, or under direction from any authority to whom the employee is sub-ordinate.

Provided that nothing in this rules laid down in this paragraph shall be deemed to prohibit an employee from making any bonafide investment of his own funds in such securities as he may wish to.

(b) An employee guilty of infringing any of the provisions of the preceding paragraph will render himself liable to dismissal from the service.

- (c) An employee of the Bank may not take active part in politics or in any political demonstration nor may an employee accept office on a municipal council or other public body without the prior sanction of the Bank.
- (d) All employees must maintain the strictest secrecy regarding the Bank's affairs and the affairs of its constituents.
- (e) An employee accepting from a constituent of the Bank a gift other than of fruit or flowers will unless the permission of the Bank has been previously obtained be liable to dismissal from service.

No employee shall accept or permit any member of his family or any person acting on his behalf to accept any gift except customary gifts from relatives and personal friends on occasions such as marriages, anniversaries, funerals or religious functions when the makings of gifts is in conformity with the prevailing religious or social practice.

NOTE:

- i. As a normal practice, an employee shall not accept any gift from a person obligated to the Bank through official dealings.
 - ii. A casual meal, lift or other social hospitality shall not deemed as a gift.
- (f) An employee may not overdraw his account with the Bank, whether against security or otherwise without the authority of the controlling office or the Branch manager to the extent of powers delegated to him.
 - (g) Employees are forbidden to make personal representations to the Directors of the Bank or to the members of the Local Board. Breach of this order will be severely dealt with. Employees at branches who desire to appeal on any matter to an authority higher than their Branch Manager must do so by addressing their Local Head Office through the Branch Manager of their Branch. Only when the Branch Manager refuses or neglects to forward an appeal may it be preferred to the Local Head Office direct.
 - (h) An employee desirous of applying for an appointment elsewhere or for a post in a higher capacity in the Bank itself (if permissible) should forward his application through the Branch Manager of the Branch.

- (i) In terms of the Criminal Law Amendment Act, 1958 the definition of the term 'public servants' as given in Section 21 of the Indian Penal Code has been extended to cover the employees of statutory corporations. Accordingly, all employees of the bank come within the purview of the Prevention of Corruption Act, and any other criminal law relating to public servants.
- j) No employee shall bring or attempt to bring any political or other outside influence including that of individual directors of the bank or the members of the Local Board to bear upon any superior authority to further his own interest in the Bank.
- (k) No employee shall open or maintain an account with any bank or banker of any description other than the State Bank of India without the previous permission in writing from the Bank.
- (l) Employees are forbidden from either accepting cash award or receiving complimentary and/or valedictory address in a public meeting without the previous sanction of the controlling authority.
- (m) Employees shall abide by the social networking policy of the Bank.
- (n) Monies which may, from time to time, be deposited in the account(s) opened/maintained by employees in single name or joint names with eligible family members under staff CIF/staff product codes, are/will be his bonafide savings and belong to him.
- (o) These rules of conduct are in addition to the provisions of the Sastry & Desai Award or any other award as amended from time to time and that may come into force and any instructions that may be laid down by the Bank from time to time.

FORMATS

FORMAT-A FORMAT OF SUSPENSION LETTER MEMORANDUM

Shri.....
C/o State Bank of India,
.....

You are hereby suspended from the Bank's service, pending further action, with immediate effect/with effect from in connection with

In this regard, you are hereby further instructed as under :-

- a) It is not necessary for you to report at the office for making attendance;
- b) During the period of suspension, you will refrain from entering the Bank's premises unless you are specifically instructed/permitted to do so by the Bank in connection with enquiry/other specific purpose, failing which it will be treated as an act of insubordination and the Bank, besides initiating fresh disciplinary action for your said acts of insubordination as well as for any further action of misconduct, will also be at liberty to initiate suitable legal action for unauthorised trespassing of the bank's premises.
- c) If you are found indulging in acts of rude and indecent behaviour with the members of the staff or interfering with office administration, you will be liable for further action of misbehaviour.
- d) You will be granted subsistence allowance during suspension period as admissible under the Desai Award, bipartite settlements.

Disciplinary Authority

Shri.....
C/o. State Bank of India,
.....

CHARGE-SHEET

It has been decided to initiate disciplinary action against you on the following charges :

- i)
- ii)
- 2. The above charges, if established, would amount to gross misconduct in terms of the provisions of the Award.
- 3. You are, therefore, hereby instructed to submit your explanation in defence in writing, to the undersigned regarding the above charges within a week from today failing which it will be presumed that you have no reply to submit in this regard and we shall proceed accordingly.

Disciplinary Authority



FORMAT-C NOTICE OF ENQUIRY

Shri
C/o. State Bank of India
.....

Dear Sir,

This is to advise you that an enquiry into the charges set out in the charge-sheet served on you by the Disciplinary Authority on thewill be held by me on the at in the Branch Manager's chamber at Branch. You should, therefore, appear before the undersigned when you will be permitted to cross-examine the witnesses produced on behalf of the Bank and to produce witnesses and such evidence in your defence as you may deem necessary. If you so desire, you will be permitted to be defended by a representative of a Registered Union of Bank employees.

Yours faithfully

(Enquiry Officer)
