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*Editorial*

## ADIEU!

**T**his is the first issue of Common Bond after the laying down of office by Comrade Soumya Datta, General Secretary, AIBOC, and AISBOF and editor of this journal. Nearly four and half years have elapsed since he took over the reins of this journal. What a span of time this four and half year period was! The country had experienced nearly two and half years of pandemic-induced disruption in social life, including almost a quarter-year in complete lockdown. Yes, this journal did not reach its readers for four months, i.e., April to July 2020. Still, it reappeared under its Editor, Comrade Soumya Datta's watchful eyes once a semblance of normalcy was restored.

The pandemic affects our social life and impacts both organized and unorganized labour markets. Thousands of workers had to march miles to reach their homes after losing their livelihoods. Lockout, retrenchment, wage cut, and attack on trade union rights became synonymous with the lockdown-induced social disruption. Frontline workers from the health sector, administration, and banking kept their doors open. The only other door open was the office of this journal in Kolkata, where Comrade Soumya attended daily while bravely fighting the odds outside and inside,

including his home taking care of his wife affected by the pandemic and his octogenarian ailing mother without ever compromising on his assigned responsibilities.

There was also a wanton attack on the banking sector as part of the onslaught on the entire public sector. An ill-advised mega-merger of banks was announced in August 2020, and it was given effect from the 1st of April, 2021, ignoring all right advice, protests, and without evaluating the economic benefit of the decision by taking shelter under The Disaster Management Act, which restricted social gathering and street action so vital for organising trade union movement. Indian Banks' Association was also delaying the conclusion of the wage settlement by offering percentage hike increases at a ridiculously low level and denying the Confederation the power to negotiate the salary revision of officers from Scale I to Scale VII, a well-earned right.

Indeed, the crisis was looming large over the horizon. We had seen the real indomitable spirit of Comrade Soumya Datta during these trying hours. He led the Confederation and the entire officers' movement, represented by four officers' organisations by a common thread, an unachievable

**A JUG FILLS DROP BY DROP**

accomplishment till the other day. AIBOC was in the driver's seat of the movement and dared to call a game-changer one-day strike on 21st December 2018, followed by a mammoth Maha Morcha in the national capital on 4th February 2019.

The historical wage settlement was clinched on 11th November 2020. But it was not the wage settlement but by nailing the issue of revision of family pension by upgrading it from 15 percent of the last drawn basic to 30 percent of the last drawn basic without any cap was the singular contribution of Comrade Datta for the banking community. But achievement in terms of clinching financial issues is insufficient to have a wholesome view of Comrade Datta's achievement.

We all know that the time was a challenging one. The Confederation has several agendas to pursue, the most important being stopping the misplaced reforms and threat of privatisation of public sector banks, paving the backdoor entry of multinationals and corporates in acquiring a toehold in the banking industry.

The epoch-making social media campaign through the Facebook page [www.facebook.com/BankBachaoDeshBachao/](http://www.facebook.com/BankBachaoDeshBachao/) with 315K likes, created the right ripples that had pulled back the introduction of the Bill to privatise public sector banks despite the announcement on the floor of the house by the Union Finance Minister. This could be achieved as Comrade Datta could stitch the social media campaign with a simultaneous street fight by organising and leading

from the front of the epoch-making Bharat Yatra by way of two Jathas, one originating from Kolkata and the other from Mumbai, merging again at the national capital, Delhi on 30th November 2021 defying all odds. Bank officers' movement could thus rewrite the history of resistance despite all the despondency that has engulfed the entire trade union movement in the face of an unprecedented onslaught by the power that be.

The path we have to traverse has never been a bed of roses; au contraire, a bed of thorns. We have to surmount multiple challenges and constraints in scaling new heights. We will miss the smiling presence of our editor formally with the trademark attire of a white shirt with the letters AIBOC embossed and the trademark black backpack slung over his shoulders. Still, we are confident that the movement will be enriched for many more days with his intellectual company and inspiration. Comrade Editor, we will walk miles with you and remember the road we traverse together.

Best wishes on your superannuation. You do not know how the generations would treasure your contribution to the movement in the years to come.

March on comrades,

**#NationAgainstPrivatisation**

**#StrikeHard**

**#PowerofUnity**

**#BankBachaoDeshBachao**

IN THE SKY THERE IS NO DISTINCTION OF EAST AND WEST

## ADIEU AND WELCOME



### FAREWELL

Comrade Soumya Datta, General Secretary AIBOC and AISBOF, has demitted office on his attaining superannuation from the State Bank of India on 30th November, 2022, after an illustrious journey in the banking trade union. Common Bond places on record his valuable contribution as its Editor.



### WELCOME

Common Bond welcomes Com Rupam Roy, General Secretary, AIBOC, President of AISBOF, and the General Secretary, SBIOA (North East Circle). It trusts that his stellar guidance and contribution as Editor will impact the Editorial Board.



THERE HAS TO BE EVIL SO THAT GOOD CAN PROVE ITS PURITY ABOVE IT

## FEW MINUTES OF REMINISCE WITH COMRADE SOUMYA DATTA



Comrade Soumya Datta superannuated from banking service on 30th November, 2022. The Editorial Board of Common Bond shares a candid interview with him, which they trust would interest its readers.

***Please share your final message with our readership as an Ex-Editor of Common Bond.***

We must convince ourselves that the officers' fraternity is the driving force of the industry. Let us join hands to make AIBOC stronger in the coming days as AIBOC manifests the hope and aspirations of the entire officers' fraternity.

***What is your idea about the Common Bond's role in the coming days?***

The role of Common Bond will be to emerge as an effective medium of communication to keep

the leadership and the membership abreast of the developments around and provide rich inputs that can be propagated across the country in the interest of the Confederation.

***What has drawn you to the officers' movement forsaking a lucrative career in the State Bank of India?***

My alma mater Jadavpur University taught me that there is a world outside the campus. Life is not confined to classrooms or academic exercises only. There are issues confronting the interest of ordinary people which we need to analyse and understand. I understood that I must be associated with a collective body to take up such causes meaningfully. Due to personal reasons, I had to seek employment, and in the process, I got selected as a Probationary Officer at the State Bank of India. However, my mindset never changed. I was

OVERCOME ANGER BY LOVE, EVIL BY GOOD

determined to engage in Association activities without knowing anything about the character or direction of officers' movement. I do not regret my decision.

***May you prioritize your achievement as General Secretary of All India Bank Officers' Confederation?***

To put it in a nutshell:

- i) To make AIBOC emerge from the identity of a significant constituent in UFBU to the most pertinent and dominant force in the bank's trade union movement.
- ii) To drive the point that the banking industry today is officer-driven and dignity and self-esteem of the officer should reign supreme.
- iii) Officers' do not sign bipartite, and the word bipartite should be banished from the vocabulary of an officer while discussing salary revision and understand clearly that it is a 'Joint Note'.
- iv) Revision of family pension @ 30 percent without ceiling and the role played by AIBOC in engaging an actuary, whose calculations paved the way for clinching the issue.
- v) To successfully fight the threat of bank privatisation by organising Bharat Yatra from Kolkata and Mumbai to Delhi and conceptualising a highly successful social media campaign **#BankBachaoDeshBachao**, which compelled the government to backtrack.

vi) To sign the historic Joint Note after clinching the full mandate and ensuring a decent wage revision.

vii) To make the name of AIBOC relevant in print and electronic media.

***How may the Confederation groom the younger generation?***

The Confederation should identify and groom potential leaders across the country and encourage them to espouse the cause of membership. Such leaders should be iconic and inspire the next generation to participate in organisational activities.

***Looking back, what could you have done better to strengthen the Confederation?***

Let me be very candid. I could not do enough to activate the State Units of AIBOC, most of which exist on paper only. Unless our affiliates realise that the State Units need to be revamped with a proper selection of office bearers who can do justice to their assigned roles and adequate support is extended, the State Units will remain in the same static state threatening the very fabric of the Confederation.

Secondly, I could not focus on the cooperative banks where there is tremendous potential to grow. Many of the other associations have made deep inroads to garner substantial membership.

Thirdly, the involvement of women in the movement is insignificant. Very few affiliates have women representatives in senior organisational positions. This is one area that all our affiliates need to focus on in the backdrop of the significant increase in the percentage of women officers in the industry.

## **BANKS Q2 RESULT FOR 2022-2023**

The dedication, commitment, perseverance of the bankers and particularly of the officers have ensured reduction in NPA and further strengthening the health of the PSBs. The tangible results of growth as reflected in published financials for the half-year ending on 30th September, 2022 completely demolished the myth that the PSBs are inefficient, a drag on nation exchequer and could only be revived through the root of privatization. All the 12 PSBs declare a combine net profit of ₹ 25,685 crore in Q2 FY 2022-23 and total ₹ 40,991 crore in half-year

2022-23 up by 50 percent and 31.6 percent respectively on a Y-o-Y basis. SBI reports a 74 percent jump in profit to ₹ 13,265 crore, Canara Bank reports 89 percent jump at ₹ 2,525 crore, UCO Bank reports 145 percent jump in profit to ₹ 504 crore and Bank of Baroda reports a 58.7 percent jump at ₹ 3,312.42 crore, Indian Overseas Bank posts 33 percent growth at ₹ 501 crore, Punjab & Sind Bank reported profit of ₹ 278 crore representing a 27.5 percent increase, and Bank of Maharashtra profit jumped by 50 percent to ₹ 535 crore.

## **SUBMISSION OF CHARTER OF DEMANDS FOR THE 9th JOINT NOTE:**

The four officers' organisations submitted the charter of demands on 21st October, 2022 to Indian Bank Association. The undersigned acknowledge the inputs received from three fraternal organisations namely, AIBOA, INBOC and NOBO. The committee formed by the august house under the chairmanship of Comrade Dilip K Saha had painstakingly considered all the valuable inputs received from the fraternal organisation and the think tank within the Confederation. The undersigned had the privilege of sharing his experience and understanding with the committee in finalising the charter. The committee deserve our accolade for the untiring efforts they had put in stitching all the knots that had ensured the finalisation and submission of COD. Submission of COD completed one vital step for clinching the 9th Joint Note. But the undersigned is apprehensive that road blocks would be set in the days to come to stall the logical progress for

conclusion of the settlement and derailing the movement. However, the undersigned is confident that the legacy of the Confederation in ensuring the best deal for the membership within the given constraint of external socio-economic development will be carried by the new leadership to whom the baton will pass and we will be triumphant at the end. The broad features of the COD are shared below:

1. Wage revision should take into account risk, responsibility, accountability and transferability of officers. Improved Basic Pay commensurate with Central Government Officers, RBI officers & LIC Officers.
2. The base date for calculation of quantum hike of ensuing settlement to be based on establishment expenditure as on 30.09.2022 as against present practice of 31st March of the year

of wage revision due.

3. Revision of improvement in pay scales by merger of DA up to 01.08.2022.

4. Special Allowance, with DA as on 31.10.2022, to be merged with the existing Basic Pay.

5. Revised DA formula with provision for automatic merger with Basic Pay (as that of Central Government) and improvement in Compensation against price rise.

6. All existing Stagnation Increments up to Scale V should be converted to regular increment after one year from reaching maximum of the respective present scales. This shall also remove present anomaly in fitment on promotion.

7. Date of sanction of annual increments should be on 1st January and 1st July every year.

8. The present embargo in regard to the sanction of stagnation increment, automatic movement, increment in next higher scale and PQP in respect of those officers who have refused / took reversion / opted out of promotion should be removed. The present policy of enforcing such embargo is against the natural justice and tantamount to imposition of major penalty.

9. Upward revision of HRA commensurate with market rent.

10. Self Lease for officers to be introduced.

11. Substantial increase of CCA & Location allowance (non CCA centres) for all.

12. Learning Allowance to be enhanced substantially.

13. Closing allowance to be enhanced and paid every quarter in view of the enhanced workload performed by officers every quarter end as it is an obligatory requirement to declare audited quarterly results.

14. Improvement of lumpsum amount as compensation on transfer and two months' salary to compensate incidental expenses on transfer.

15. Improvement of lumpsum amount on mid-academic transfer equivalent to three month's gross salary to meet the education expenses of children on account of transfer.

16. Review and rationalization of halting/boarding/travelling expenses/Hill area allowance etc.

17. Introduction of incentive for rural and other sensitive/difficult areas.

18. Improvement in special area allowance and special compensatory allowance for N.E, Jammu, Kashmir, Himachal, Leh, Ladkhakh, Uttarakhand and red corridor / disturbed areas.

19. Improvement in Leave Fare Concession and monetization of LFC – The entitlement of mode of travel should be made as air travel to all the officers and restoration of LFC abroad within domestic entitlement.

20. Special Provision for Women Employees with regards to placement and postings, provision of crèche facility as per Govt. guidelines / flexi timings

YOU WILL NOT BE PUNISHED FOR YOUR ANGER, YOU WILL BE PUNISHED BY YOUR ANGER

/work from home, child care leave with salary as applicable in Central Government etc.

21. Introduction of 5 day work week.

22. Working hours for officers should be defined and regulated, in terms of ILO Norms.

23. The income criteria for dependents to be substantially increased.

24. The Provident Fund should be at the rate of 12% of the total salary and allowances.

25. The Gratuity should be paid at the rate of one month salary and allowance without any ceiling. Gratuity as per regulation should be improved.

26. Roll back to the existing pension scheme to all those who are in NPS.

27. Pension to be extended to Pension optees on resignation also.

28. Updation of Pension in line of Central Govt. and the Principle of One Rank One Pension.

29. Encashment of entire leave at credit should be permitted on resignation.

30. Improvement in all leaves facilities/ introduction of the concept of leave Bank etc.

31. Roll back of IBA Medical Insurance for serving officers and retirees and implementing the provision of the policy at individual Bank level.

32. Uniformity of loans and advances to officers

by adoption of best of policies. The Road Tax on vehicles should be paid by the Banks on inter-state transfers.

33. Review of Disciplinary Rules Procedure. Allowing personal hearing of charge sheeted officer in case of major penalty proceedings accompanied by Defence representative.

34. Classification of lapses into major and minor penalty.

35. Keeping in view the principle of Ex Post Facto in our legal framework, Clarification be issued to Banks that any alleged lapse committed by an employee while working in the capacity as workmen, but alleged lapse detected when employee is an officer, he should be tried under bipartite rules and not under officers D & A regulations.

36. Full legal expenses to be borne by banks on legal cases against any officer both serving and retired for all cases related to banking work except charges of fraud perpetuated by the officer.

37. Present ceiling of 3% of net profit for welfare to be increased to 5% of operating profit without any ceiling for staff welfare activities.

38. Categorization of Branches to be done uniformly for all Banks by IBA & RBI.

39. Massive recruitment of officers, clerical, subordinate staff and security guards required.

40. Appointment of compassionate grounds to be completed within six months period.



## CIRCULARS

**33 dated 31st October, 2022** : Dearness Allowance is payable to Officers with effect from 01.11.2022

**34 dated 05th November, 2022:** Text of UFBU Circular No.2022/12 dated 4.11.2022 on the decisions taken in UFBU Meeting held at Mumbai on 4.11.2022

**35 dated 05th November, 2022:** Countrywide demonstration against management of Standard Chartered Bank

## JUDICIAL VERDICT

**2022 LLR 34**  
**MADHYA PRADESH HIGH COURT**  
**Hon'ble Mr. Sujoy Paul, J.**  
**Hon'ble Mr. Anil Verma, J.**  
**W.A. No. 478/2021, Dt/- 12.07.2021**  
**Sanjay Jain**  
**vs.**  
**State of M.P. and Others**

**A. DISMISSAL – Form service – When not justified – Salary of Petitioner, a sub-Engineer was stopped saying that his name was not reflected in departmental portal and he has tendered resignation – He approached authorities concerned and ultimately filed writ petition contending that he never tendered his resignation nor he remained willfully absent – Department is not permitting him to work nor paying him salary – Writ petition was dismissed holding that as per clause 22 of the employment contract, services are deemed to be terminated because he remained absent for one month – Appellant has challenged order of the writ court in writ appeal – Held, since appellant made herculean efforts to join duty but respondents deprived him to perform duties arbitrarily which cannot sustain judicially sustain.**

**B. ENQUIRY – Effect of – Held, enquiry report shows that it was clearly report shows that it was clearly established that factum of tendering resignation is not at all established – Enquiry report is cryptic having contradictory finding about absence – Enquiry finding is improper being in violation of principles of natural justice.**

**C. PRINCIPLES OF NATURAL JUSTICE – Scope of – Held, no man should be condemned unheard – Before imposing any punishment upon a delinquent he should be given fair opportunity to defend**

EVERY HUMAN BEING IS THE AUTHOR OF HIS OWN HEALTH OR DISEASE

*himself against the charge before an adverse decision is taken – Since no such opportunity was given to appellant to defend himself, any adverse action against him is in violation of principles of natural justice, liable to be quashed.*

**D. UNAUTHORIZED ABSENCE – Consequences of – Enquiry report is cryptic since finding are contradictory about absence – When absence from duty is not clearly proved as unauthorized one, any punishment on the basis of such a cryptic finding is not sustainable.**

**E. EMPLOYMENT CONTRACT – Validity of – Termination of services of petitioner invoking clause 22 of the employment contract is bad in law being in violation of principles of natural justice, i.e., no decision must be taken which will effect civil right of the any person without giving him proper opportunity of putting forward his case.**

**F. ADMINISTRATIVE ORDER – Authenticity – Held, must be made consistently with the rules of natural justice – Public orders cannot be supplemented by fresh reasons in the shape of affidavit or otherwise.**

**G. STANDING ORDERS – Scope of – Held, management having power to terminate services of a delinquent employee while doing so, must have to comply with the norms of principles of natural justice otherwise order would become arbitrary, unjust, unfair, liable to be set aside.**

**H. CONSTITUTION OF INDIA – Article 14 – Held, any order, passed by the public authority which entails civil consequences, should be passed only following the principles of natural justice, otherwise the same would be unsustainable.**

## IMPORTANT POINTS

★ When workman has made herculean efforts to join duty but respondent – employer deprived him to perform duties arbitrarily, dismissal or workman from service cannot sustain in judicial scrutiny and liable to be quashed.

★ Enquiry report is cryptic when it is having contradictory finding about the charges against the workman.

★ Enquiry finding is improper in case the same is in violation of principles of natural justice.

★ The term principles of natural justice means no man should be condemned unheard, i.e. before imposing any punishment upon a delinquent employee, he should be given fair opportunity to defend himself against the charge, before any adverse decision is taken against him.

★ If no opportunity was given to delinquent employee to defend himself, any adverse action against him, would be in violation of principles of natural justice and liable of natural justice and liable to be quashed.

★ An enquiry report is cryptic if its finding are contradictory about the charges, not sustainable.

★ When absence from duty is not clearly proved as unauthorized one, any punishment on the basis of such a cryptic finding is not sustainable.

★ Termination of services of the delinquent employee by invoking terms and conditions of the employment contract is bad in law if is is in violation of principles of natural justice.

★ Any administrative order by a judicial authority must be made consistently following rules of natural justice, otherwise that order would not be sustainable.

\* Management having power to terminate services of a delinquent employee, invoking certified standing orders, while doing so, must have to comply with the norms of principles of natural justice, otherwise order would become arbitrary, unjust, unfair, liable to be set aside.

\* Any order, passed by the public authority which entails civil consequences, should be passed only following the principles of natural justice, otherwise the same would be unsustainable.

1. In *Central Bank of India vs. Vijay Krishna Neema*, (2009) 5 SCC 567), the Apex Court opined that:

“57. The matter may, however, be different in a case where despite having been given an opportunity of hearing, explanation regarding his unauthorised absence is not forthcoming or despite giving him an opportunity to join his duty, he fails to do so, as was the case in *Punjab & Sind Bank v. Sakattar Singh* [(2001) 1 SCC 214 : 2001 SCC (L&S) 209] .

Yet again in *U.P. State Bridge Corpn. Ltd. vs. U.P. Rajya Setu Nigam S. Karamchari Sangh* [(2004) 4 SCC 268 : 2004 SCC (L&S) 637] , it was held as under: (SCC p. 280, paras 23-24).

“23. *D.K. Yadav* [(1993) 3 SCC 259 : 1993 SCC (L&S) 723] is an authority for the proposition that the principles of natural justice would have to be read in the standing orders. That was a case where there was a standing order similar to CSO L-2.12 except that 8 days' margin was granted within which the workman was required to return and satisfactorily explain the reasons for his absence or inability to return after the expiry of leave. This view was reiterated in the later decision of this Court in *Lakshmi Precision Screws Ltd. vs. Ram Bahagat* [(2002) 6 SCC 552 : 2002 SCC (L&S) 926]

where it was held that the element of natural justice was an inbuilt requirement of the standing orders.” (Emphasis Supplied)

2. Reference may be made to (2013) 4 SCC 301 (*Nirmala J. Jhala vs. State of Gujarat*), the Apex Court held as under:-

“Natural justice is an inbuilt and inseparable ingredient of fairness and reasonableness. Strict adherence to the principle is required, whenever civil consequences follow up, as a result of the order passed. Natural justice is a universal justice. In certain factual circumstances even non-observance of the rule will itself result in prejudice. Thus, this principle is of supreme importance. (Vide *S.L. Kapoor v. Jagmohan* [(1980) 4 SCC 379 : AIR 1981 SC 136] , *D.K. Yadav vs. J.M.A. Industries Ltd.* [(1993) 3 SCC 259 : 1993 SCC (L&S) 723] and *Mohd. Yunus Khan v. State of U.P.* [(2010) 10 SCC 539 : (2011) 1 SCC (L&S) 180])” (Emphasis Supplied)

3. The common string in these judgments is that principles of natural justice are inbuilt and needs be read into such provision like Clause 22 in the instant case.

4. The importance of principles of natural justice need not be emphasized. The Apex Court in (*Neelima Misra Vs. Harinder Kaur Paintala*) (1990) 2 SCC 746 held that any order which entails civil consequences should be passed only after following the principles of natural justice. The following quotes will establish the importance of following the principles of natural justice:-

*“Principles of natural justice are to some minds burdensome but this price-a small price indeed-has to be paid if we desire a society governed by the rule of law.”*

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*".....even God himself did not pass [a] sentence upon Adam before he was called upon to make his defence. Adam (says God), where art thou? Hast thou not eaten of the tree whereof I commanded thee that thou shouldest not eat?...."*

The Apex Court in Radhy Shyam vs. State of U.P., reported in (2011) 5 SCC 553 followed the principle laid down in D.K. Yadav (supra).

5. The aforesaid analysis shows that learned Single Judge has committed an error of law in dismissing the petition based on a reason which was not assigned in the impugned order (Annexure P/1). Even if the ground founded upon Clause 22 above is taken into account, deemed termination without following the principles of natural justice cannot be countenanced. Moreso, in a case of this nature where consistence stand of petitioner was that he made herculean efforts to join, but respondents deprived him to perform the duties.

Thus, the impugned order of discontinuance/deemed termination cannot sustain judicial scrutiny. Resultantly, such termination order is set aside. The respondents shall reinstate the appellant within 30 days from the date of receipt of this order. This order will not come in the way of the respondents to take action against the appellant after following the principles of natural justice. If they intend to take any such action against the appellant, they may initiate the same within 60 days from today, failing which the right to proceed against the appellant shall stand abated. The question of back wages etc. will depend on the outcome of such action (if taken). In the event, no such action is taken within the time limit aforesaid, the respondents shall pay full back wages and other consequential benefits to the appellant as if his services were never terminated. The order of writ Court dated 10.02.2021 is set aside.

6. The writ appeal is allowed.

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