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**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE**

**BEFORE  
HON'BLE SHRI JUSTICE VIVEK RUSIA  
&  
HON'BLE SHRI JUSTICE ANIL VERMA  
ON THE 6<sup>th</sup> OF DECEMBER, 2023**

**WRIT APPEAL No. 1690 of 2023**

**BETWEEN:-**

**MADHYA PRADESH GRAMIN BANK GENERAL  
MANAGER SHRI ANOOP SAXENA C21, BUSINESS PARK,  
C21 SQUARE, OPPOSITE HOTEL RADISSON BLU, MR-10,  
INDORE (MADHYA PRADESH)**

**.....APPELLANT**

**(BY SHRI KAMLESH MANDLOI-ADVOCATE)**

**AND**

**KAKASINGH CHHABRA S/O SHRI KRIPALSINGH  
CHHABRA, AGED ABOUT 64 YEARS, OCCUPATION:  
RETIRED 23/611 VISHWASAKA COLONY, KHARGONE  
(MADHYA PRADESH)**

**.....RESPONDENTS**

.....  
*This appeal coming on for orders this day, Justice Vivek Rusia passed  
the following:*

**ORDER**

The appellant/ Madhya Pradesh Gramin Bank has filed present Writ Appeal being aggrieved by the order dated 02.09.2023 passed in Writ Petition No.28102/2022 whereby Writ Petition has been with direction to grant the benefit of leave encashment to Writ Petitioner.

2. The respondent (hereinafter referred as " Writ Petitioner"). The petitioner was working as Bank Manager, he was served with the show cause

notice. He filed reply which was not found satisfactory. The General Manager being disciplinary authority issued charge sheet dated 23.01.2014 and issued direction for conducting the departmental enquiry. The Enquiry Officer submitted a enquiry report on 08.07.2014 in which charges were found proved. The petitioner served with the show cause notice dated 11.05.2015 proposing the punishment of compulsory retirement and forfeiture. The Writ Petitioner preferred an appeal against the said order on 06.04.2016 and after dismissal of the appeal, Writ Petition was filed which is pending for adjudication. The petitioner claimed leave encashment as per Regulation 67 of Narmada Jhabua Gramin Bank (Officers & Employees) Service Regulation, 2010 ( in short " Regulation, 2010") but same was denied to him by relaying the Regulation 67 of Regulation, 2010. The Writ Petitioner challenged the impugned order dated 18.08.2022 by way of Writ Petition No.28102/2023. Vide order dated 02.09.2023, the Writ Court has allowed the Writ Petition that in case of compulsory retirement, the Writ Petitioner would be entitled for leave encashment under Regulation 61 and 67 of Regulation, 2010. Hence, this Writ Appeal before this Court by the Bank.

3. Learned counsel for the appellant submits that all leave shall lapse on the death of an officer or employee ceases to be in the service of the Bank. Therefore, the petitioner who was compulsory retired by way of major penalty which comes under the category of "ceases from service", thus his all leaves gets laps under Regulation 67. It is further submitted that the learned Writ Court has failed to make distinction between compulsory retirement and removal from service by way of a major punishment.

Heard.

4. It is correct that Writ Petitioner has been punished with compulsory

retirement but that would only a punishment on the basis of findings recorded by the Enquiry Officer, hence all leave shall lapse which could avail while in service had not been terminated. The Regulations 67 is reproduced below:-

**Lapse of leave-**

*"All leave shall lapse on the death of an officer or employees or if he cases to be in the service of the Bank:*

*Provided that where an officer dies in service, there shall be payable to his legal representatives, sums which would have been payable to the officer or employee as if he has availed of the privilege leave that he had accumulated at the time of his death subject to sub-regulation (4) of regulation 61.*

*Provided further that where a staff retires from the service of the Bank, he shall be eligible to be paid a sum equivalent to the emoluments for the period of privilege leave he had accumulated subject to sub-regulation (4) of regulation 61:*

*Provided also that in respect of the employees where his services are terminated owing to retrenchment, he shall be paid pay and allowances for the period of privilege leave at his credit."*

5. The appellant is only taking into consideration first part of Regulation 67 of Regulation which says that all leave shall lapse on the death of an officer or employee or if he ceases to be in the service of the Bank, therefore, there is no dispute about the said Regulation that upon death or ceases to be in the service, all the leaves to be availed in future shall lapse. The first proviso says that where an officer or employee dies in service his legal representative shall be entitled to avail the privilege leave that deceased employee had accumulated at

the time of his death under Regulation 61(4). Second proviso says that where a staff retires from the service of the Bank, he shall be eligible to be paid a sum equivalent to the emoluments for the period of privilege leave, which he had accumulated while in service. The third proviso says that in respect of employees where his services are terminated owing to retrenchment, he shall be paid pay and allowances for the period of privilege leave at his credit. Therefore, there is no complete bar for payment of leave encashment in case of death, retirement or termination owing to retrenchment under clause Regulation 61.

6. In the present case, the petitioner was imposed the punishment of compulsory retirement with the forfeiture of gratuity amount only in order to recover the losses. There is no termination of service forfeiting entire retiral benefits. As per Regulation 67, all leave shall lapse for availment in future i.e. after date of death or date of ceases from service but the proviso of Regulation of 67 deals with the privilege leave accumulated upto 180 days and 240 days as the case may be, these leaves earned by the employee by way of working without taking leave. Regulation 67 deals with the future leave not the past leave. In case of termination only, all the monetary benefits be payable after retirement shall be ceased but when there is specific punishment of compulsory retirement forfeiture of gratuity amount. In all the three situation as per proviso leave accumulated in service shall be paid to employee or his legal representatives as the case may be under the provision of Regulation 61 (4), thus , Regulation 67 has to be read with Regulation 61 for grant of leave encashment, then the contention of the respondents is wrong that the petitioner's leave was lapsed by virtue of Regulation 67 read with Regulation 61(4).

In view of above, no case is interference is made out. Writ Appeal is

dismissed hereby.

**(VIVEK RUSIA)**  
**JUDGE**

Praveen

**(ANIL VERMA)**  
**JUDGE**

