



### **Disciplinary action against Pensioners & Role of Defence Counsel**

Bank can initiate disciplinary action against retired officers, who are receiving pension, under UCO Bank Employees' (Pension) Regulations 1995 under various circumstances when the quantum of pension payment is affected as under:

1. **Withdrawal/withholding of Pension:** After pension has been granted, future good conduct is an implied condition of its continued payment in terms of Regulation 42 of Pension Regulations. Under Regulation 43 the bank can withhold or withdraw a pension or any part of it, permanently or for a specified period, if the pensioner is convicted of serious crime or is found guilty of grave misconduct.

However, as a defence counsel, following points are to be carefully noted

- a) While withdrawal/ withholding of pension due to conviction of a pensioner on account of serious crime, may be made by a written order by the Competent Authority in the light of the judgement of the Court of law, such withdrawal /withholding of pension cannot be made by the Competent Authority if the pensioner is prima facie guilty of grave misconduct, unless procedure for initiating disciplinary action under UCO Bank Officer Employees' (Discipline & Appeal) Regulations 1976 is followed and Final Order is passed by the Competent Authority ( Regulation 45 of Pension Regulations)
- b) That reduced pension, after withholding or withdrawal of part pension, should not be less than minimum pension payable per mensem in terms of Regulation 36

2. **Recovery of pecuniary loss from Pension:** In terms of Regulation 48 of Pension Regulations, the Bank has also the right to withdraw/withhold a pension or part thereof on permanent basis or for a specified period and make an order for recovery from Pension of the whole or part of the pecuniary loss caused to the bank, if in a departmental/judicial proceeding, the pensioner is found guilty of grave misconduct /negligence/criminal breach of trust /forgery during the period of his service, as an outcome of such proceedings.

However, as a defence counsel, following points are to be carefully noted

- a) Such disciplinary proceedings cannot be instituted in respect of any event which took place more than 4 years before such institution in terms of sub-regulation 2 of Regulation 48 (Ref: Circular No. CHO/PMG/16/2004 dated 12-05-2004). **[Note:**

**The date of retirement is not relevant but the date of committing such misconduct/irregularity, while in service is relevant].**

- b) Procedure for initiating disciplinary action under UCO Bank Officer Employees' (Discipline & Appeal) Regulations 1976 is followed
- c) A Show cause notice is issued to the pensioner for his representation on proposed penalty, if oral enquiry has not been held.
- d) Board has to be consulted before final order is passed by the Competent Authority
- e) Recovery shall not ordinarily be made at a rate exceeding one third of the pension admissible on the date of retirement of the employee
- f) In case of part withdrawal/withholding of pension, the reduced pension shall not be less than the minimum pension payable under Regulation 36 of Pension Regulations.
- g) The Deputy General Manager, PSD, HO is the Competent Authority for the officers up to MMGS-III as per latest schedule of Competent Authority under Pension Regulations.

**Other relevant aspects to be remembered:**

**A. TA/DA to pensioner for attending Enquiry:** The retired officer is entitled to TA/DA for attending departmental enquiry instituted by the Bank against him/her under Pension Regulation. The rate of TA/DA is determined on the basis of his/her scale at the time of retirement. The retired officer is also entitled to TA/DA if he/she attends Police/CBI/Departmental enquiry as a witness on behalf of Management. If the retired officer attends CBI/Police Court as accused for official act, generally he/she will not be entitled to TA/DA. However, if he/she is acquitted honourably by the court, the TA/DA & special leave will be allowed to him/her. For the cases filed by outsiders/Customers, etc. pertaining to official acts, the retired officer is entitled to TA/DA. (Ref: Circular No. CHO/PMG/19/2011-12 dated 18-07-2011)

**B. Admissibility of Pension on Compulsory Retirement:** An employee, compulsorily retired on account of imposition of Penalty for disciplinary action initiated against him while in service under UCO Bank Officer Employees' (Discipline & Appeal) Regulations 1976, as amended is entitled to pension at a rate not less than two thirds of pension admissible to him on the date of his Compulsory Retirement, if otherwise he was entitled to such pension on superannuation. (Sub-Regulation 1 of Regulation 33 of Pension Regulations). (Ref: Circular No. CHO/PMG/16/2004 dated 12-05-2004).

**C. Admissibility of Provisional Pension:** Disciplinary action initiated against an officer may be continued even after the date of his/her superannuation by invocation of Regulation 20(3)(iii) of OSR1979. In such situation the superannuated Charge sheeted officer, if he/she had opted for pension, is entitled to get provisional pension, up to the quantum of full pension till the conclusion of Disciplinary Proceedings, in terms of Regulation 46. Moreover, recovery from provisional pension already paid cannot be effected on conclusion of the proceedings, in case the pensioner is entitled to less pension on account of imposed penalty or the pension is reduced or withheld.