

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **LPA No. 959/2004**

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Reserved on: 8th February, 2010

Decided on: 3rd March, 2010

B.D. Luthra,
Ex. Chief Manager,
Punjab National Bank,
Minto Road Branch,
New Delhi

R/o 35, Sukh Vihar, First Floor,
New Delhi.

..... Appellant

Through: Mr. Ashok Bhalla with Mr. Rajiv Kumar,
Advocates.

versus

1. The Chairman & Managing Director,
Punjab National Bank,
7, Bhikaji Cama Place, Africa Avenue,
New Delhi- 110 066.

2. The General Manager,
Punjab National Bank,
7, Bhikaji Cama Place, Africa Avenue,
New Delhi- 110 066.

..... Respondents

Through: Mr. Jagat Arora with Mr. Rajat Arora,
Advocates.

Coram:

**HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE MUKTA GUPTA**

1. Whether the Reporters of local papers may be allowed to see the judgment? Yes
2. To be referred to Reporter or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

MUKTA GUPTA, J.

1. The Appellant was serving as Chief Manager with the Respondent bank at Jangpura Extension. He superannuated on 31st March, 1996. A charge sheet dated 25th March, 1996 was received by him through post on 2nd April, 1996 relating to charges for the period 1991-95 when he was working as Manager of Minto Road Branch, stating four articles of charges as under:

“ARTICLE –I

He abused his official position and extended undue favour to the borrowers while sanctioning/enhancing credit facilities in their favour detrimental to Bank’s interest.

ARTICLE-II

He indulged in un-authorized business and jeopardized bank’s funds.

ARTICLE –III

He neglected post-sanction control to safeguard Bank’s interest.

ARTICLE-IV

He did not exercise proper administrative control over the branch resulting in shortage of S.F.F. Items.

Shri Luthra failed to discharge his duties with utmost devotion, diligence and integrity and failed to take all possible steps to ensure protect bank's interest. He has thus committed misconduct in terms of Regulation 3 (1) read with regulation 24 of PNB Officers Employees (Conduct) Regulation, 1977."

2. The statement of imputation in support of charge No. 1 was as under:

“(i) M/s Nitin Wires Industries

Party was stated to be enjoying fund based facilities at branch office Minto Road where the petitioner was previously working. On 17.1.1992 a note was put up to him that the party was absconding and the account was showing a debit balance of Rs. 25,58,439.51 against sanction limit of Rs. 10 lakhs. Note recorded that the party was not in a position to get the documents under LC retired from their own sources. Petitioner, inspite of the aforesaid, establishes fresh LCs for Rs. 15 lacs on 22.10.1992 and continued to purchased cheques from the party which were returned unpaid. Total amount under the said unpaid cheques was about Rs. 18 lakhs. It was alleged that these cheques were issued by a sister concern of the party.

(ii) M/s Vikas Leasing Finance Co.

It was alleged that the party opened a current account on 11.6.1992. Immediately, on 20.6.1992 petitioner purchased two cheques for Rs. 1.5 lacs each without collection of CR on them. The cheques were received back unpaid. Thereby, he allowed the account to be overdrawn and as on 12.2.1996 overdraft of Rs. 3.08 lacs had become a doubtful recovery.

(iii) M/s Bhuwan Furniture Works

It was alleged that petitioner sanctioned and released two limits to the firm on 14.11.1992. It was a condition of the sanction that the party would create equitable mortgage of a property valuing Rs. 4.5 lacs within six months. Mortgage was not got created and the limit was enhanced by the petitioner on 20.5.1994. It was alleged that the overdraft in the sum of Rs. 6,49,486.57 was a doubtful recovery.

(iv) M/s Kankashi Exports Pvt. Ltd.

It was alleged that the firm was enjoying credit facility sanctioned on 18.1.1991. Erstwhile New Bank of India advised the branch that the proprietor of the firm Shri Ravi Manchanda, as a guarantor owed a sum of Rs.8,45,943.50. The firm was placed on caution list by ECGC. Aware of the said facts, petitioner enhanced the bank credit facility as also the FOBP facility twice. While enhancing the limit he ignored the poor turnover in the account and serious irregular nature of accounts in the light of valuation of the stock.

(v) M/s Inter Modes

It was alleged that the account of the firm and the group concern being highly irregular, on 7.5.1992 petitioner enhanced packing credit limit. Limit was sanctioned without getting the proposal prepared and recommended by any officer in the bank.

(vi) M/s Vasu Bhatta Company

It was alleged that without proper pre-sanction appraisal, cash credit limit of Rs. 4 lacs was sanctioned on 26.6.1992. Said company was a part of the group of which M/s Inter Modes was a part. It was alleged that the petitioner ignored that the group companies were running highly irregular accounts and had bank dues of over Rs. 70 lacs. It was alleged that a sum of Rs. 3,24,318.89 had become a doubtful recovery.

(vii) Le-Diffusion

It was alleged that this firm was a part of group family concern of which M/s Inter Modes was also a part. It was alleged that the petitioner's predecessor sanctioned this limit beyond his powers. When petitioner took charge he did not bring this illegality to the notice of the Zonal Office, instead he enhanced packing credit. Further, Rs. 5,61,728.97 was diverted by this firm to its sister concern M/s Inter Modes. It was alleged that recovery of Rs. 24.59 lakhs had become doubtful."

3. Statement of imputation in support of charge no.2 was as under:

- “(i) Petitioner allowed clean overdraft to M/s Inter Modes Mfg. & Exporters Pvt. Ltd., M/s Raj Kamal Sharma, M/s Inter Modes, M/s AVON Standard Bricks and M/s Shubham Agencies. Total amount was about Rs. 3 lacs.
- (ii) Petitioner allowed clean overdraft to M/s Kankashi Exports Pvt. Ltd. and M/s Vikas Leasing Company. Amount involved was about Rs. 4 lacs.
- (iii) Petitioner gave unauthorized accommodation to M/s Capri Impex India. Net worth of party as per balance sheet dated 31.3.1992 was negative. Rs. 17.42 lacs was diverted to the family concerns. ECGC had black-listed the firm. Huge bills were overdue and payments were not forthcoming. Yet, as against sanctioned limit of Rs. 75 lacs, accommodation of purchase of export bills was sanctioned to the extent of Rs. 151.57 lacs.
- (iv) Pertaining to the firms M/s. Silver Tone Gravo Flax and M/s S.B. Packaging Pvt. Ltd. It was alleged that petitioner sanctioned working capital limits beyond his loaning powers. Amount involved was Rs.30 lacs.
- (v) It was alleged that petitioner exceeded his financial powers and incurred expenditure under different heads

beyond the prescribed limits. Amount involved was about Rs.50 thousand.”

4. Statement of imputations pertaining to Charge No.3 were:-

“(i) M/s Nitin Wires

Petitioner did not review/renew the credit facility due for renewal on 16.2.1991. He did not ensure periodical checking of stocks regularly, there being no inspection after 12.9.1992. As on 31.12.1995 dues to the bank aggregating Rs.21 lacs plus had come a doubtful recovery.

(ii) M/s Kirti Cables & Wires Ltd.

It was alleged that on 27.9.1991 SIDBI wrote a letter to the branch seeking details of overdraft in the account of the firm. It was advised that the branch should follow up/monitor the accounts effectively. Petitioner did not supply the information to SIDBI and also did not follow up the accounts. Outstanding amount in the account of the firm had become doubtful recovery.

(iii) M/s Tankers & Carries Pvt. Ltd.

It was alleged that the petitioner did not ensure that the Tankers which were financed by the bank were insured.

(iv) M/s Modi Carpets Ltd.

It was alleged that after 25.11.1991 petitioner did not inspect the stock nor did he obtain the stock statement after 31.12.1991. The factory stopped functioning with effect from 17.4.1992. Petitioner failed to take any effective step to safeguard banks interest. One file of the party was misplaced. Petitioner did not follow up claim of Rs.64.30 lacs with ECGC.

(v) M/s Capri Impex India

It was alleged that the petitioner did not observe post sanction control evidenced by the fact that the stock statement had not been obtained, nor physical inspection was carried out. No balance sheet after 31.3.1993 was obtained.

(vi) M/s Stuber Engineering Pvt. Ltd.

It was alleged that he sanctioned credit facility to the company with a stipulation in the terms of sanction that second charge on Plant & Machinery be created after obtaining consent of UPFC by executing Tripartite Agreement. Petitioner did not ensure compliance of terms and conditions of sanction at the time of release of limit. On 10.1.1993 he renewed the limit, even at that time he did not ensure compliance of the terms of sanction. Rs.12.81 lacs had become a doubtful recovery.

(vii) M/s Aditya Industries

It was alleged that the petitioner failed to follow up with the party to liquidate the outstanding amounts in their various packing credit limit in the sum of Rs.3,13,708.00.

(viii) M/s MKML International

It was alleged that the unit was a sole proprietorship concern and had been enjoining ILC limit for Rs.10 lacs and Document DD limit for Rs.10 lacs. The party had committed fraud on the bank. Petitioner transferred the account to PA category after 10 months. He did not lodge a FIR, nor did he lodge a claim with DICGC. It was alleged that that borrower and proprietor were absconding. Rs.5.29 lacs had become a doubtful recovery.

(ix) M/s Kankashi Exports Pvt. Ltd.

It was alleged that the petitioner neither obtained stock statement nor conducted physical verification of the securities hypothecated to the bank. No stock inspection was conducted after 31.12.1992. Rs. 18 lacs had become a doubtful recovery.

(x) M/s Fancy Industries

It was alleged that the petitioner did not lodge a claim with the Official Liquidator pertaining to the amount outstanding in the account of the firm.

(xi) It was alleged that petitioner did not periodically verify the stock position of M/s Inter Modes, M/s Aditya Inds. and M/s Le-Deffusion.

(xii) Pertaining to 2 firms M/s Royal Sales Corporation and M/s Sachdeva Footwear, it was alleged that petitioner failed to obtain the BC letters in borrowal account to keep the limitation alive as a result of this, limitation in the accounts has expired and bank's funds had been jeopardized.

(xiii) Pertaining to the vehicles financed by the bank to M/s Royal Tours and Travels, General Transport Company, M.M. Bhalla, Rajni Bhalla and Suresh Sethi. It was alleged that the petitioner failed to inspect the vehicles thereby jeopardizing the interest of the bank.”

5. With regard to charge No. 4 it was alleged that the Appellant did not exercise proper administrative control over the branch resulting in shortage of various SFS items, details whereof were provided in the statement of imputation.

6. The Appellant responded to the charges and on an enquiry being conducted the disciplinary authority held as under:

“The Enquiry Officer, in his findings, has held that imputation of charge I (ii), (iii), (vi); II (iv), (v); and III (iii), (ix), (xii), (xiii) as proved. The imputation of charges I (i), (v), (vii); II (iii) and III (ii), (v), (vii), (viii), (xi), have been held as partially proved. However, charges I (vi); II (i), (ii); III (i),

(iv), (vi), (x) and IV have not been held proved by the Enquiry Officer.

Shri Luthra vide his representation dated 28.2.98 has made the following submissions on the findings of Enquiry Officer:

- Enquiry Officer being a non-banker could not assess and appreciate evidence due to lack of knowledge of banking law & practice and the systems and procedure of PNB.
- Enquiry Officer has held a few allegations as proved stating that charged Officer failed to disprove the same by producing evidence.
- In respect of allegations, which the Presenting Officer has failed to prove, the Enquiry Officer has commented that benefit of doubt has gone to charged Officer. This comment is absolutely unwarranted and unjust.
- Enquiry Officer ignored evidence adduced through exhibits D-1 to D-4 through which factual position relating to M/s Nitin Wire Industries was informed to Zonal Office while moving the case for transfer of account to BO: Parliament Street, New Delhi.
- Presenting Officer could not prove that CR on M/s Vikas Leasing Finance Company was not collected.
- As regards M/s Vasu Bhatta Company, the Enquiry Officer has held the allegation as proved on the basis of his inference relating to manufacturing season.
- There is no provision under Regulation 6 of PNB Officer Employees' (D & A) Regulations to enable the Enquiry Officer to examine the witnesses but the Enquiry Officer has put questions to one of the witnesses.
- The Enquiry Officer has placed reliance on the deposition of SW-5 that the affairs of the branch as well as the business and securities available with the bank is the ultimate responsibility of the incumbent incharge.

The records reveal that Enquiry Officer did not cross examine the management witness. In terms of Regulation 6 (13) of

PNB Officer Employees (Discipline & Appeal) Regulations, the Inquiring Authority may also put such question to the witnesses as it thinks fit. Being incumbent incharge of the branch, Shri Luthra could not escape the direct responsibility for loaning functions of the branch. As such, there is no merit in the contention of Shri Luthra in this regard. The Enquiry proceedings were conducted in accordance with provisions of PNB Officer Employees (Discipline & Appeal) Regulations. The Enquiry Officer has arrived at his findings after making assessment of evidences adduced by both the sides in the compartmental enquiry other sub missions made by Shri Luthra are devoid on merit.

I, therefore, concur with the findings of the Enquiry Officer and hold Shri Luthra responsible for the proven charges and keeping in view the seriousness and gravity of such proven charges, I decide to impose upon him the major penalty of "Removal from service which shall not be a disqualification for future employment."

7. Pursuant to the order of the disciplinary authority removing him from service, the Appellant herein filed an appeal wherein the decision of the disciplinary authority was upheld. Order dated 12th January, 1999 of the appellate authority dismissing the appeal of the Appellant herein reads as under: -

"Shri Luthra has mainly raised following points in his appeal:

That he was due to retire on 31.3.96 and no communication about invocation of Regulation 20(3) (iii) of Service Regulations or charge sheet was received by him till retirement. The communications were received by him on 2.4.96 after retirement. He was lawfully retired on 31.3.96 and

disciplinary proceedings could not have been initiated against him.

That the Disciplinary Authority has discussed only few points raised by him in his presentation and summarily rejected the entire representation. He ignored the allegation-wise position explained in his representation and did not assign any reason for rejecting the points given below:

- a) The Enquiry officer being a non-banker failed to judiciously assess the evidences on record.
- b) Some allegations have been held as proved by the Enquiry Officer because he failed to disprove the same whereas Presenting Officer failed to prove the same.
- c) The Enquiry Officer made some uncalled for remarks beyond his jurisdiction.
- d) The Enquiry Officer heavily relied upon the deposition of Shri IJ Gaba (SW-5), who stated that ultimate responsibility relating to the affairs of the branch rested with the Incumbent Incharge. He was denied the opportunity of inspection of office order which could have revealed the names of the officials who failed in discharge of their duties.
- e) A number of documentary evidences in his support were ignored by the Enquiry Officer stating that the same were made subsequent to his transfer.

That the order of the Disciplinary Authority is not a speaking order.

That the Disciplinary Authority has been influenced by the findings of enquiry Officer in respect of Articles of charge ignoring the allegations contained in Statement of Imputations of lapses and position explained in his representation. Out of 40 allegations levelled against him, 10 were held as proved while 8 were held as partly proved. None of these allegations can be considered as serious or grave.

That in respect of the account of Nitin Wire Industries, permission to transfer the account to BO Parliament Street, New Delhi was granted by the Zonal Manager who was fully convinced. The file containing correspondence with the party and the Zonal Office was sent to BO Parliament Street, New Delhi while transferring the account. Not only operations in the account were continuously allowed at BO Parliament Street, New Delhi, but also the limits were enhanced.

That as regards A/c Tankers and Carriers Pvt. Ltd., the Enquiry Officer ignored the statement of Shri IJ Gaba (SW-5) that in spite of repeated requests the tankers were never produced for inspection the borrower informed about the tankers being in Assam with Indian Oil Co. It is abundantly clear that due efforts were made to inspect vehicles but borrowers did not cooperate which was beyond his control.

That his representation dated 28.2.98 be considered as part of his appeal.

Further, Shri Luthra has requested to set aside the order of penalty.

I have examined the various points raised by Shri Luthra in his appeal alongwith the records of the case. The records reveal that Shri Luthra was due to retire on 31.3.96. As such, provisions of Regulation 20(3) (iii) of PNB (Officers) Service Regulations, 1979 were invoked and orders were issued by the Disciplinary Authority on 29.3.96 i.e. before the date of superannuation of the appellant. The disciplinary proceedings are not vitiated due to receipt of orders by the appellant after his date of superannuation. The points raised by Shri Luthra in his representation were duly considered by the Disciplinary Authority before deciding the case. The Disciplinary Authority agreed with the findings of the Enquiry Officer which are based on the assessment of evidences adduced in the departmental enquiry. The charges proved against Shri Luthra are grave in nature.

As regards the A/c of M/s Nitin Wire Industries, the contention of Shri Luthra that the Zonal Manager, Delhi had permitted transfer of account after all facts were brought to his notice

and that BO Parliament Street, New Delhi continued the operations in the A/c do not belie the charge that he did not disclose the irregularities in the A/c while transferring the same to BO Parliament Street, New Delhi. As regards the A/c of Tankers and Carriers Pvt. Ltd. the deposition of Shri IJ Gaba (SW-5) referred to by the appellant also confirms that securities (Tankers) were not inspected. I also observe that there is an apprehended loss of Rs.334.69 lac in 21 accounts incorporated in the charge sheet.

In view of the foregoing, I do not find any merit in the points raised by Shri Luthra in his appeal and reject the same. Major penalty of 'Removal from service which shall not be a disqualification for future employment' imposed upon him by the Disciplinary Authority is confirmed hereby."

8. Challenging the decision of the disciplinary and appellate authorities the Appellant herein filed a writ petition being W.P. (C) No. 3991/1999 wherein twelve points were urged. Some of the issues raised related to the applicability of Punjab National Bank Officer Employees (Service) Regulations, 1979 and Punjab National Bank Employees (Pension) Regulations, 1995 (hereinafter called the Service Regulations and Pension Regulations respectively). The other points related to the merits of the matter. Vide impugned order dated 5th July, 2004 the learned Single Judge of this Court held that there was no merit in the contention raised on the merits by the Appellant and that findings do bring out the charges of misconduct, however, the PNB Employees (Pension) Regulation, 1995 and not the PNB Officer

Employees (Service) Regulation, 1979 were applicable and thus the writ petition was disposed of in the following terms:

“i) Order dated 24.4.1999 passed by the Disciplinary Authority imposing the penalty of removal from service and the order dated 12.1.1999 passed by the Appellate Authority rejecting the appeal are set aside.

ii) It shall be open to the respondent to proceed under the PNB Employees (Pension) Regulation, 1995 against the petitioner in respect of charge-sheet served under cover of memo dated 25.3.1996.

iii) If the respondent initiates further action in terms of the PNB Employees (Pension) Regulation, 1995, proceedings would be completed as expeditiously as possible by the Disciplinary Authority and in any case not later than six months from the date of the present judgment.

iv) Since the issue of Regulation 20(3)(iii) of PNB Employees (Pension) Regulation, 1995, and PNB Officer Employees (Service) Regulations, 1979 came up for judicial interpretation in a court of law for the first time in the present case and connected case decided today, there shall be no order as to costs.”

9. The Appellant filed the present appeal being LPA 959/2004 challenging the decision of the learned Single Judge dated 5th July, 2004 on the merits, whereas the Respondent Punjab National Bank filed its appeal being LPA No. 827/2004 in view of the finding of the learned Single Judge that the Pension Regulations and not the Service Regulations were applicable. In LPA No. 827/2004, the Division Bench of this Court vide order dated 30th January, 2006 held that the Service Regulations were applicable and thus

the Respondent bank was within its right to proceed against the Petitioner under the Punjab National Bank Officer Employees (Discipline and Appeal) Regulations, 1977. In view of the order dated 30th January, 2006 passed in LPA No. 827/2004 the present appeal filed by the Appellant was also dismissed. The Appellant herein preferred Special Leave Petitions against both the orders in LPA Nos. 827/2004 and 959/2004. The Hon'ble Supreme Court vide its order dated 25th August, 2008 in Civil Appeal No. 5263/2008, wherein the challenge was to the dismissal of LPA No. 959/2004 held as under:

“Leave granted

2. This appeal has been preferred against the final judgment of the Delhi High Court of 6th February, 2006. It was contended that the matter was not considered on merits by the Division Bench and in our opinion, it requires consideration on merits. The matter is remitted to the High Court to be considered on merits afresh.

3. The appeal is disposed of accordingly. No costs.”

10. In so far as the second Special Leave Petition preferred by the Appellant against the order in LPA No. 827/2004 is concerned the same was disposed of as infructuous in view of the decision of the Hon'ble Supreme Court in the case of ***Ramesh Chandra Sharma v. Punjab National Bank & Anr., 2007 (9) SCC 15***. Thus the entitlement of the bank to proceed under the ***LPA No. 959/2004***

Service Regulations, was upheld. In view of the decision of the Hon'ble Supreme Court dated 25th August, 2008 the present appeal is on the board of this Court for decision on merits.

11. Before us the learned counsel for the Appellant has raised five contentions. Firstly that there is non-compliance of the provisions of Regulation 6 (5) (iii) of the PNB Officers Employees (Discipline and Appeal) Regulations (hereinafter called the Discipline and Appeal Regulations) as the list of witnesses and the list of documents have not been supplied with the charge sheet. Reliance in this regard is placed on the decision of this Court in the case of *Y.K. Singla v. Punjab National Bank*, [79 (1999) DLT 585 para 33]. Secondly, the order of the Appellate Authority is a non-speaking order. Thirdly, in view of the Circular dated 28th July, 1984 disciplinary proceedings could not have been initiated against the Appellant beyond the period of six months, of the Petitioner being transferred from the concerned branch. Fourthly, the documents sought by the Appellant have not been provided and hence he has been denied a fair opportunity of defence. Reference in this regard is placed on the following decisions: *Trilok Nath vs Union of India and Ors*, 1967 SLR 759 (SC); *State of UP vs. Shatrughan Lal & Anr.*, (1998) 6 SCC 651 and *Union of India vs. Suresh & Anr*, 93 (2001) DLT 594 (DB). Lastly, it is submitted that out of forty allegations against

the Appellant, only eight were proved, and the same also do not make out a case of misconduct. Thus, the Appellant is entitled to be honourably restored to his position.

12. Regarding non-compliance of Regulation 6(5) (iii) of the Discipline and Appeal Regulations, 1977, reliance is placed by the learned counsel for the Respondent on the decision rendered by the Hon'ble Supreme Court in the case of *Debotosh Pal Chaudhary vs. Punjab National Bank & Ors*, AIR 2002 SC 3276, wherein it is held as under:

“4. Regulation 6(5) of the Regulations which requires the disciplinary authority shall, where it is not the inquiring authority, forward to the Inquiry Authority the following documents:-

- (1) A copy of the articles of charge and statement of imputations of misconduct or misbehavior;
- (2) A copy of the written statement of defence, if any, submitted by the officer employee;
- (3) A list of documents by which and list of witnesses by whom the articles of charge are proposed to be substantiated;
- (4) A copy of the statement of the witnesses, if any;
- (5) Evidence proving the delivery of the articles of charge under sub-regulation (3); and
- (6) A copy of the order appointing the ‘Presenting officer’ in terms of sub-regulation (6).

Fulfillment of some of the requirements of this Regulation is purely procedural in character. Unless in a given situation, the

aggrieved party can make out a case of prejudice or injustice, mere infraction of this Regulation will not vitiate the entire enquiry.”

No prejudice has been shown by the Appellant on this count. Moreover, the documents were supplied to him, though not along with the charge sheet but by the Enquiry Officer before the enquiry commenced and witnesses were examined. Thus, following the decision of the Hon’ble Supreme Court in the case of *Debotosh Pal Chaudhary (Supra)*, we find no merit in this contention.

13. The second contention of the Petitioner that the order of the Appellate Authority is a non-speaking order is also devoid of any merit. The perusal of the order of the Disciplinary Authority as reproduced in paragraph 6 above, clearly shows that there has been application of mind on the facts and having concurred with the findings of the Inquiry Officer, he was not required to pass a detailed order akin to a judgment. Regulation 7 of the Disciplinary and Appeal Regulation states:

“7. Action on the Inquiry Report:

- (1) The Disciplinary Authority, if it is not itself the Inquiring Authority, may, for reasons to be recorded by it in writing, remit the case to the Inquiring Authority for fresh or further inquiry and report and the Inquiring Authority shall thereupon proceed to hold the further

inquiry according to the provisions of Regulation 6 as far as may be.

- (2) The Disciplinary Authority shall, if it disagrees with the findings of the Inquiring Authority on any article of charge, record its reasons for such disagreement and record its own findings on such charge, if the evidence on record is sufficient for the purpose.
- (3) If the Disciplinary Authority, having regard to its findings on all or any of the articles of charge, is of the opinion that any of the penalties specified in regulation 4 should be imposed on the officer employee it shall, notwithstanding anything contained in regulation 8, make an order imposing such penalty.
- (4) If the Disciplinary Authority having regard to its findings on all or any of the articles of charge, is of the opinion that no penalty is called for, it may pass an order exonerating the officer employee concerned.”

Similar regulations came up for consideration before the Hon’ble Supreme Court in *National Fertilizers Ltd. Vs. P.K. Khanna*, 2005 SCC (L&S) 1006 and *State Bank of Bikaner & Jaipur vs. Prabhu Dayal Grover*, 1995 SCC (L&S) 1376 and it was held that where the disciplinary authority agrees with the findings of the Inquiry Officer it need not pass a detailed reasoned order. The principles laid down by the Supreme Court would equally apply to the Appellate Authority.

14. The contention of the learned counsel for the appellant that the enquiry is vitiated on account of non-compliance of the circular dated July 28, 1984, wherein it prescribes a time period not exceeding six months for conducting

an inquiry, after transfer of the charged officer from the concerned branch is also untenable. The Circular dated July 28, 1994 itself clarifies that no time limit is fixed in case of any fraudulent act committed by the incumbents, coming to light later on and which the successor incumbent in charge would not be able to detect either at the time of taking charge or even within the period of six months. A subsequent Circular dated 31.7.1999 also clarifies this position. Moreover, the Circulars issued by the administration are only administrative guidelines and have no statutory force. Unlike circulars/administrative guidelines, Rules and Regulations are framed in exercise of specific power conferred by the statute to make rules and regulation and thus have statutory backing. Reference *Sukhdev Singh and others v. Bhagat Ram Sardar Singh Raghuvanshi and Another* [1975 (1) SCC 421]. We find no infirmity in this regard in the impugned order and also agree with the decision rendered by the learned Single Judge in the case of *Gupta S.D. vs. Punjab National Bank*, *Labour Law Journal* 2005 Page 89 in WP(C) No. 4417/1999, wherein it was reiterated that the circulars were mere guidelines and cannot be enforced as statutory right.

15. The fourth contention of the learned counsel for the Appellant that the documents sought by the Appellant having not been provided to him the

inquiry is vitiated has also no merit. The documents sought by the Appellant are as under:

- “(a) Attendance Register from January 1992 to August 1994.
- (b) Office Order Register containing Office Orders issued from January 1991 to August 1994.
- (c) T.P.O. Received Register for out station branches for the year 1992.
- (d) Files containing correspondence relating to claim lodged with ECGC in the account of M/s Modi Carpets Ltd.

These documents are not relied upon by the Inquiry Officer. The Appellant had received list of documents along with photocopies of the documents as per the list relied upon by the Inquiry Officer. On 18th March, 1997 the Appellant moved an application for inspection which was duly permitted on 18th, 19th and 20th March, 1997. The Appellant confirmed the same except the documents mentioned above. Thereafter, the Appellant sought for supply of 114 documents as defence documents and out of the same 113 documents were duly supplied to him. No prejudice has been shown by the Appellant by non-supply of the abovementioned documents. Reference *Syndicate Bank and others v. Venkatesh Guru Rao Kurati* [2006 (3) SCC 150 para 18] wherein the Hon’ble Supreme Court held that the

charged officer must establish prejudice due to non-supply of the document not relied by the Inquiry Officer. Hence, we find no merit in this contention.

16. Lastly, it is contended that out of 40 allegations, only eight have been proved and the same also do not make out a case of misconduct. It is stated that the quantum of punishment is disproportionate. In this regard reliance is placed by learned counsel for the Appellant on the decisions rendered in the cases: *Kailash Nath Gupta vs. Enquiry Officer, Allahabad Bank, (2003) 9 SCC 480*; *R.B. Singh vs. Punjab National Bank, CWP No. 2895/1997*; *D.S. Bindra vs. Punjab & Sind Bank, CWP No. 1734/1996*; *G.S. Anand vs. Punjab & Sind Bank, CWP No. 5481/1993* and *PSB vs. G.S. Anand, LPA No. 16/2000*.

We cannot sit in appeal over the decision of the disciplinary authority. On a perusal of the charges proved against the Appellant, it is evident that the same amount to misconduct. The Hon'ble Supreme Court has reiterated time and again that higher standards of disciplines, integrity and diligence are required from bank employees as compared to other employees as a bank operates on public confidence and is the trustee of public money. In this regard the following observations of the Hon'ble Supreme Court in the case of *Damoh Panna Sagar Rural Regional Bank vs. Munna Lal Jain, AIR 2005 SC 584* are relevant:

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“17. A Bank officer is required to exercise higher standards of honesty and integrity. He deals with money of the depositors and the customers. Every officer/employee of the Bank is required to take all possible steps to protect the interests of the Bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and to do nothing which is becoming of a Bank officer. Good conduct and discipline are inseparable from the functioning of every officer/employee of the Bank. As was observed by this Court in Disciplinary Authority-cum-Regional Manager v. Nikunja Bihari Patnaik (1996(9) SCC 69), it is no defence available to say that there was no loss or profit resulted in case, when the officer/employee acted without authority. The very discipline of an organization more particularly a Bank is dependent upon each of its officers and officers acting and operating within their allotted sphere. Acting beyond one’s authority is by itself a breach of discipline and is a misconduct. The charges against the employee were not casual in nature and were serious. These aspects do not appear to have been kept in view by the High Court.”

17. We find no merit in the appeal. The same is dismissed. No order as to costs.

(MUKTA GUPTA)
JUDGE

(MADAN B. LOKUR)
ACTING CHIEF JUSTICE

MARCH 03, 2010
vn/raj