



IN THE GAUHATI HIGH COURT

(HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)

WRIT APPEAL No. 247/2019

Mrs. Swapna Kalita

Wife of Prafulla Kumar Baruah,
Resident of VIII. Raja Gaon, Ward No. 1
P.O. Morigaon, District: Morigaon, Assam

.....Appellant

-Versus-

1. Assam Gramin Vikash Bank,

A Joint undertaking of Government of India,
Government of Assam & United Bank of India,
represented by its Chairman, Head Office: G.S Road,
Bhangagarh, Guwahati-05

2. The Chairman, Assam Gramin Vikash Bank,
Head Office: G.S. Road, Bhangagarh, Guwahati-05

3. The Regional Manager, Assam Gramin Vikash
Bank, Head Office: G.S. Road, Bhangagarh,
Guwahati-05

4. The Senior Manager, Assam Gramin Vikash
Bank, Morigaon Branch,

5. Smti. Sunanda Pal Choudhury, The Enquiry Officer, Senior Manager, Assam Gramin Vikash Bank, Regional Office, Silchar, Assam,

6. Shri Prabhat Bhagwati,

The Presenting Officer, Manager, Assam Gramin Vikash Bank, Kamalpur, G.S. Road, Bhangagarh, Guwahati-05

.....Respondents

:: BEFORE::

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SOUMITRA SAIKIA

For the Appellant : Mr. K. Singha, Advocate

For the Respondents : Mr. T. Chakraborty, Advocate

Date of Hearing : **28.03.2023**

Date of Judgment : **09.05.2023**

JUDGMENT & ORDER (CAV)

(SOUMITRA SAIKIA, J)

This writ appeal is directed against the Judgment and Order dated 06.08.2018 passed by the learned Single Judge in W.P.(C) No. 2897/2013.

2. The appellant was initially appointed to the post of Office Assistant (multi-purpose) at Hatisung, Assam Gramin Vikash Bank (hereinafter referred to as "AGV Bank") branch in the District of Nagaon on 01.06.1990. After rendering service in different branches of the AGVB, the appellant

was posted at the Morigaon Branch in the same capacity at the relevant point in time. While, she was serving in the Morigaon Branch of AGVB, she was served with a letter dated 23.03.2011 issued by the respondent No. 4, calling upon her to submit her explanation in respect of an amount of Rs. 1,00,000/- (Rupees One Lakh Only) which it was claimed was misappropriated by the appellant for the period from 21.02.2011 to 17.03.2011. Pursuant to the said letter, the appellant submitted her explanation denying the allegations leveled against her in her reply dated 25.03.2011. On the same date, by another communication dated 25.03.2011, the Chairman and the Disciplinary Authority of the Bank placed the appellant under suspension in contemplation of a disciplinary proceeding against the appellant. The appellant was issued show-cause as to why disciplinary proceedings should not be initiated against her for misappropriating an amount of Rs. 1,00,000/- for the period from 21.02.2011 to 17.03.2011. The appellant denied all the charges leveled against her by furnishing her reply dated 29.07.2011. A further notice was issued by the Chairman and the Disciplinary Authority dated 13.10.2011 whereby Article of Charges were served on the appellant. The appellant submitted her written statements on 31.10.2011 against the allegations levelled against her. Not being satisfied with her explanation furnished by way of the written statements, the Bank decided to initiate a departmental enquiry against the appellant

and appointed an enquiry officer to enquire into the charges levelled against the appellant. A Presenting Officer was also appointed to present the Bank's case in the departmental enquiry. The enquiry, thereafter, proceeded and the appellant also participated in the departmental proceedings which concluded on 16.05.2012. After conclusion of the enquiry, the Enquiry Officer submitted the enquiry report holding that all the charges levelled against the appellant stands proved. The Chairman and Disciplinary Authority furnished a copy of the enquiry report to the appellant and permitting her to submit her statements. The appellant submitted her statements denying all the allegations and further stating that the Management Witnesses (M.W.) were not able to prove the signature of the appellant in the counter foil dated 21.02.2011 and also that the Enquiry Officer denied her request to summon vital witnesses for adducing evidence in her support. By communication dated 30.11.2012, the Chairman and the Disciplinary Authority proposed to impose the punishment of removal from the service which shall not be a disqualification for future employment. The appellant was permitted to appeared personally or to submit her written representation with regard to the proposed punishment. The appellant responded by appearing in-person before the Chairman and the Disciplinary Authority denying the allegations

of misappropriation of Rs. 1,00,000/-. Thereafter, the Chairman and the Disciplinary Authority by communication dated 24.12.2012 imposed the punishment on the appellant of removal from service which shall not be a disqualification for future employment. Against the said order of punishment dated 24.12.2012, the appellant preferred an appeal dated 04.02.2013 before the appellate authority. However, the same also came to be dismissed rejected by the appellate authority by communication dated 04.03.2013. Being aggrieved the appellant approached this Court by filing W.P.(C) No. 2897/2013 challenging the impugned order dated 24.12.2012 being the order of removal and a further direction to treat the petitioner/appellant to be on duty with effect from 24.12.2012 till her reinstatement and back wages. After consideration of the entire matter as well as the various Judgments of the Apex Court enunciating the principles of judicial review in respect of departmental proceedings leading to punishment of removal, the learned Single Judge dismissed the writ petition. Aggrieved by the impugned order of the learned Single Judge, the present writ appeal has been filed on the following grounds:

"(a) For that the learned single judge failed to appreciate the law and facts involves in the case from its proper prospective and as such erred in refusing to set aside the order of removal from service issued by the respondent bank against the appellant.

(b) For that the learned single judge failed to appreciate that the Enquiry Officer did not consider the written statement dated 07/08/2012 submitted by the appellant against the finding of the Enquiry Officer by denying the allegations put forward by him.

(c) For that the law is well settled that in a departmental proceeding a person against whom proceeding has been drawn up must be given appropriate opportunity to prove his/her case. In the present case the Enquiry Officer did not consider the prayer of the appellant for summoning the vital witnesses as proposed by her to prove her case. Hence, the enquiry report submitted by the Enquiry Officer against the appellant is vitiated by malice and the order of removal from service passed against the appellant is illegal and bad in law. Therefore, the learned single judge failed to look into this point and wrongly dismissed the writ petition filed by the appellant.

d) For that the learned single judge failed to appreciate that the order of removal from service of the appellant dated 24/12/2012 issued by the Chairman and Disciplinary Authority is vitiated by malice since none of the management witnesses (MWs) was able to prove the signature of the appellant in the Counter foil dated 21/02/2011. Thus, the impugned judgment and order dated 06/08/2018 passed by the learned single judge is bad in law and liable to be set aside and quashed.

(e) For that the learned single judge erred in law as it failed to appreciate that the Disciplinary authority misconstrue the allegation of misconduct on the part of the appellant and could not properly proved the allegation of misconduct on the part of the appellant and illegally passed the impugned order of removal from service dated 24/12/2012. Hence, the order of removal from service dated 24/12/2012 issued by the Chairman and Disciplinary authority, Assam Vikash Bank is not sustainable in the eye of law and liable to be set aside and quashed.

(f) For that the learned Single Judge failed to appreciate that the quantum of punishment imposed by the Disciplinary Authority is not proportionate to the quantum of offence alleged by the Respondent's Bank. Further, the Appellate authority also without considering the petition of the appellant mechanically rejected the appeal of the appellant. Hence, the impugned judgment dated 06/08/21018 passed by the learned single judge as well as the impugned order of removal from service dated 24/12/12 issued by the Chairman and Disciplinary Authority, Assam Gramin Vikash Bank is bad in law and liable to be set aside and quashed.

(g) For that in any view of the matter the impugned judgment and order dated 06/08/2018 passed by the learned single judge is absolutely erroneous and cannot be sustained in law.

(h) For that in the interest of justice, the learned single judge ought to have allowed the writ petition filed by the appellant for the ends of justice.

(i) For that the impugned order of the learned single Judge has caused denial of justice besides causing miscarriage of justice. And as such the impugned order is bad in law and liable to be set aside.”

3. Before us, the arguments urged before the learned Single Judge were reiterated by the learned counsel for the appellant. It is submitted that the Enquiry Officer did not respond to the prayer of the appellant for summoning the vital witnesses as proposed by her to prove her case. The further arguments on behalf of the appellant is that the impugned order of removal dated 24.12.2012 issued by the Chairman and Disciplinary Authority is vitiated by malice as none of the Management Witnesses were able to prove the signature of the appellant in the counterfoil dated 21.02.2011. It is urged that the allegation of misconduct was never proved during the disciplinary proceedings. Therefore, the impugned order of removal dated 24.12.2012 should therefore be interfered with, set aside and quashed. It was also urged that the appellate authority rejected the appeal preferred by the appellant mechanically and without due consideration. These aspects not having been examined by the learned Single Judge, the impugned order dated 06.08.2018 passed by the learned Single Judge should also be interfered with and set aside. The learned counsel for the appellant also relies upon the Judgment of the Apex Court rendered in ***Divisional Forest Officer, Kothagudem and Ors. Vs.***

Madhusudhan Rao, reported in (2008) 3 SCC 469 to contend that the appellate authority must provide detailed reasons and they are required to give reasons while confirming views of the Disciplinary Authority.

4. Per contra, Mr. T. Chakraborty, learned counsel appearing for the Bank disputes the contentions raised by the learned counsel for the appellant. It is submitted that the enquiry proceedings were conducted as per the procedure prescribed and the allegations against the appellant were proved by the Management Witnesses. It is urged that the enquiry proceedings, the enquiry report and the depositions are part of the writ petition and therefore, the learned Single Judge upon due examination of the relevant materials available has correctly rendered the Judgment which is impugned in the present appeal. The learned counsel for the respondents submits that there is no infirmity in the Judgment rendered by the learned Single Judge and therefore, the appeal is devoid of merit and should be dismissed.

5. In support of his contentions, the learned counsel for the respondent relied up the Judgment of this Court rendered in **State of Tripura and Ors. Vs. Remendra Nath Dey**, reported in **(2001) 1 GLR 54**.

6. The pleadings on record as well as the enquiry report and the depositions of the witnesses enclosed to the writ appeal have been carefully perused.

7. The Article of charges and the statement of allegations on which the Articles of charges are based against the appellant, which was served on the appellant by communication dated 13.10.2011 reads as under:

"Articles of charges:

During the tenure of your service as Office assistant at Bank's Morigaon Branch, you failed to take all possible steps to ensure and protect the interest of the Bank and discharge your duty with utmost integrity, honesty, devotion and diligence in as much as: - (1) On 21.02.2011, one of the customers of your branch namely Sri Sudish Kumar Gupta (SB A/C No-11938) came to the branch for opening a RIPC A/C for Rs.1,00,000/-(Rupees one lakh) but inadvertently the said amount was deposited in his SB A/C No-11938, When the mistake came to your notice, you advised Sri Gupta to withdraw the amount from his SB A/C so that he would be able to open the RIPC A/C. Accordingly, Sri Gupta wrote a withdrawal form for Rs.1,00,000/-(Rupees one lakh) and handed over the same to you along with a deposit pay in slip

meant for opening a RIPC A/C. On receipt of the withdrawal form and deposit pay-in -slip, you issued the party's portion of the deposit pay-in-slip to Sri Gupta with your initial as token of receipt of money but no stamp was affixed on the counterfoil. Thereafter, Sri Gupta left the branch, as if would take time for preparation of RIPC certificate. In the mean time, you posted the withdrawal form in the account as Operator using ID-SWAPN00459 and Sri Krishna Kanta Das, Asstt. Manager passed the withdrawal for payment as Supervisor using ID-KRISH00081. But Passing Officer and Cashier of the branch did not know the fact that the withdrawal amount would remain with the branch for opening a RIPC A/C in the name of Sri Gupta. You also issued Token No.129 against the withdrawal. It is reported that as per your instruction, Sri Puheswar Sukai, who was in charge of the cash paid the withdrawal amount to Md Fakaruddin (a member of a farmers club) and in turn, Md. Fakaruddin handed over the money to you. Thus, you misappropriated the Bank's money of Rs-1,00,000/-(Rupees one lakh) instead of opening the RIPC A/C on that day.

After a few days i.e. on 17.03.2011, Sri Sudish Kumar Gupta came to the branch and applied for one LAD against his RIPC A/C, which was opened on 21.02.2011. He also submitted the original counterfoil issued by you along with the application as the RIPC receipt was not delivered to him on that day. Then branch people searched the RIPC A/C but no record of opening of the account was found in his name on that day. The matter was discussed among the staff members as to how it happened. After verification of the counterfoil submitted by Sri Gupta, the other staff member of the branch came to know the fact that you were involved in the process and you had grabbed the sum of Rs.100,000/-without opening the account. Considering the utter consequence, you refunded the misappropriated money Rs.1,00,000/-(Rupees one lakh) to the branch on 18.03.2011 in presence of other staff members and opened a RIPC A/C in the name of Sri Sudish Kumar Gupta.

By doing so, an amount of Rs.1,00,000/-(Rupees one lakh) was misappropriated by you for the period from 21.02.2011 to 17.03.2011, which tarnished the goodwill and Image of the Bank in the eye of public.

Statement of allegations on which Articles of Charges are based:

It is alleged that during your tenure as Office Assistant (Multi purpose) at Assam Gramin Vikash Bank, Morigaon Branch, you committed serious and gross irregularities and also misappropriated Bank's money. The details of irregularities committed by you are given here under: -

(1) On 21.02.2011, one of the customers of your branch namely Sri Sudish Kumar Gupta (SB A/C No-11938) came to the branch for opening a RIPC A/C for Rs.1,00,000/(Rupees one lakh) but inadvertently the said amount was deposited in his SB A/C No-11938. When the mistake came to your notice, you advised Sri Gupta to withdraw the amount from his SB A/C so that he would be able to open the RIPC A/C. Accordingly, Sri Gupta wrote an withdrawal form for Rs.1,00,000/-(Rupees one lakh) and handed over the same to you along with a deposit pay in slip meant for opening a RIPC A/C. On receipt of the withdrawal form and deposit pay-in-slip, you issued the party's portion of the deposit pay-in-slip to Sri Gupta with your initial as token of receipt of money but no stamp was affixed on the counterfoil. Thereafter,

Sri Gupta left the branch, as it would take time for preparation of RIPC certificate. In the mean time, you posted the withdrawal form in the account as Operator using ID-SWAPN00459 and Sri Krishna Kanta Das, Asstt. Manager passed the withdrawal for payment as Supervisor using ID-KRISHO0081. But Passing Officer and Cashier of the branch did not know the fact that the withdrawal amount would remain with the branch for opening a RIPC A/C in the name of Sri Gupta. You also issued Token No.129 against the withdrawal. It is reported that as per your instruction, Sri Puheswar Sukai, who was in charge of the cash paid the withdrawal amount to Md Fakaruddin (a member of a farmers club) and in turn, Md. Fakaruddin handed over the money to you. Thus, you misappropriated the Bank's money of Rs.1,00,000/-(Rupees one lakh) instead of opening the RIPC A/C on that day.

After a few days i.e. on 17.03.2011, Sri Sudish Kumar Gupta came to the branch and applied for one LAD against his RIPC A/C, which was opened on 21.02.2011. He also submitted the original counterfoil issued by you along with the application as the RIPC receipt was not delivered to him on that day. Then

branch people searched the RIPC A/C but no record of opening of the account was found in his name on that day. The matter was discussed among the staff members as to how it happened. After verification of the counterfoil submitted by Sri Gupta, the other staff member of the branch came to know the fact that you were involved in the process and you had grabbed the sum of Rs.100,000/-without opening the account. Considering the utter consequence, you refunded the misappropriated money Rs.1,00,000/-(Rupees one lakh) to the branch on 18.03.2011 in presence of other staff members and opened a RIPC A/C in the name of Sri Sudish Kumar Gupta.

By doing so, an amount of Rs.1,00,000/-(Rupees one lakh) was misappropriated by you for the period from 21.02.2011 to 17.03.2011, which tarnished the goodwill and image of the Bank in the eye of public.

Thus you have grossly violated the regulation 18 and 20 of Assam Gramin Vikash Bank (Officers and Employees) Service Regulations, 2010; which attracts penalties under regulation 39.2 (b) of the said Service Regulations.”

8. The said communication also enclosed the list of documents on which the Articles of charges are framed against the appellant as well as the list of witnesses to be relied upon by the Bank.

9. In her written statements, she stated that the concerned customer of the Bank namely Shri Sudish Kr. Gupta along with his friend one Md. Fakaruddin came to the bank and deposited an amount of Rs. 1,00,000/- in his SB Account. However, he in fact wanted to deposit the amount for opening an RIPC account. Accordingly, the said amount was withdrawn from his SB account and for opening the RIPC account, the money was handed over to the said Md Fakaruddin who was stated to be a friend of this concerned customer. It was stated in her written statements that on the request of said Md Fakaruddin, who was a representative of the bank customer Shri Gupta, a deposit pay-in-slip was written by the appellant and handed over to the said person for depositing the amount again in the cash counter. However, the amount could not be deposited as the said customer Shri Gupta had left the bank and his signature could not be obtained for opening and depositing the amount in the RIPC Account. The amount was left with the said Md. Fakaruddin who also could not deposit the said amount and left the bank. It is stated by the appellant in her written statement that her entire role on the concerned date namely 21.02.2011

was just to prepare the deposit pay-in-slip at the request of the said Md. Fakaruddin who was a representative of Shri Gupta. In so far as the allegation of postings of the withdrawal form by the appellant is concerned, it was stated that since the money deposited in the SB Account was withdrawn, accordingly, such posting of withdrawal form in the account as an operator by the appellant was perfectly in order and the same is not an act of impropriety. It is further stated that the said customer Shri Gupta later returned to the bank along with his representative Md. Fakaruddin and thereupon having learnt that the amount had not been deposited in the Bank by Md. Fakaruddin to whom he had handed over the deposit pay-in-slip, the concerned customer Shri Gupta went to Mr. Fakaruddin who arranged the money and came to the bank along with Shri Gupta. Shri Gupta in turn requested the appellant to expedite the matter by taking the money from him and depositing the same in the cash counter from inside which the appellant did in his presence in order to help a customer of the bank. The appellant submits that her act of helping a customer of the bank cannot be termed as an act of impropriety.

10. Upon perusal of the depositions enclosed to the writ petition, it is seen that MW-1 and M.W.-3 have identified the signature of the appellant on the said deposit slip. In his deposition, MW-1 further stated that in a

letter received from one Shir Dilip Kr. Bhuyan who is the CC of the AGVB, Morigaon Branch, it was stated that he had received Rs. 1,00,000/- in cash from the appellant in the cash counter in the name of Shri Sudish Kr. Gupta as RIP deposit and in the meeting which was conducted by the Branch Manager on that evening, the appellant had stated that she deposited the amount of RIP in the counter on 18.03.2011 to the said Shri Dilip Kr Bhuyan on that day. M.W.-1 also deposed that the hand writing on the counterfoil dated 21.02.2011 is that of the appellant.

11. From a minute perusal of the depositions of the M.W-1, 2 & 3 which are enclosed to the writ petition, it is seen that there is a doubt with regard to the signature of the appellant on the RIPC deposit slip. But there is no dispute from the depositions as it is revealed that the appellant had received the amount from the said customer and/or his representative Md Fakaruddin for deposit into the RIPC account of the Customer Shri Sudish Kr Gupta. It is also seen from the depositions that subsequently when the customer applied for a loan and the bank authorities could not locate his RIPC account in the bank records and it was revealed that no RIPC account was opened in the name of Shri Sudish Kr. Gupta. However, on the same date the account was opened and the amount was deposited by the appellant, although it is stated by the appellant that the amount was not

withheld by her but the same was deposited at the request of the customer Shri Gupta and his representative Md Fakaruddin.

12. What has, however, not been pleaded by the appellant before this Court as well as before the learned Single Judge is the nature of duties allotted to her by the bank. It is not the pleaded case of the appellant that she was required to deposit cash amounts on any such requests made by the customer of the bank. It is not denied that the deposit slip was prepared by the appellant and that the same was a part of her routine duty as an employee of the bank.

13. On the contrary, the appellant states that she had prepared the deposit slip and/or put her signature only at the request of the customer. It is not denied that the appellant did not put her signature in the said deposit slip. It is not averred that such deposits can be made by employees of the bank like the appellant as and when such requests are made by the customers of the bank as it is a normal practice adopted by the bank.

14. In respect of an employee of the bank, the conduct of the employee during his/her service tenure in the bank must repose confidence in the banking authorities. Where the employee during his/her tenure in the bank conducts in a manner which shakes the very confidence of the bank on the

said employee, the banking authorities would be within their rights to proceed for departmental enquiries against such an employee subject of course to the prescribed procedures.

15. In the present proceedings, where there is a specific statement by the appellant that she had filled up the deposit slip and had deposited the amount of Rs. 1,00,000/- in cash at the request of the concerned customer, it was also incumbent on the appellant to refer to the procedures and the practice followed in the bank that such was an accepted practice followed by the concerned bank viz-a-viz their customers. No such averments or references have been made by the appellant.

16. In view of such statements made by the appellant herself that she had filled up or entered particulars on the deposit slip and had also made a cash deposit of Rs. 1,00,000/- at the request of the customer concerned, the initiation or proceedings by the bank authorities on the ground of temporary misappropriation cannot be said to be contrary to any provision of the rules as no such averments have been made by the appellant herself.

17. In *State Bank of India and Ors. Vs. Ramesh Dinkar Punde*, reported in **(2006) 7 SCC 212** , the apex court had held that bank officials are required to maintain the highest discipline and repose confidence of the banking authorities as well as that of the customers.

18. In *Boloram Bordoloi Vs. Lakhimi Gaolia Bank and Ors* reported in **(2021) 3 SCC 806** , the Apex Court held that any deviation from the procedural guidelines of the Bank would lead to erosion of public trust of the Banks

19. In *State of Meghalaya and Ors. Vs. Mecken Singh N. Marak*, reported in **(2008) 7 SCC 580**, the Apex Court held that the punishment pursuant to the Departmental Enquiry unless shockingly disproportionate, is not subject to judicial interference and therefore, in such cases judicial review is extremely limited.

20. The Judgment in *Regional Manager UP SRTC, Etawah and Ors. Vs. Hoti Lal and Anr*, reported in **(2003) 3 SCC 605** which was also relied upon by the appellant in support of her contentions rather holds that the scope of judicial review in respect of penalty and punishment is extremely limited and restricted to exceptional cases. Where the Court

holds the punishment to be not commensurate with the charges, reasons must be given for coming to such a finding.

21. In *State of Karnataka and Anr. Vs. Umesh*, reported in **(2022) 6 SCC 563**, the apex court held that in exercise of judicial review the court does not act as an appellate forum over the findings of the disciplinary authority nor does it re-appreciate evidence on the basis of which findings of misconduct have been arrived at in the course of disciplinary enquiry. A writ court in exercise of judicial review must restrict its review to determine whether (i) Rules of natural have been complied with, (II) Findings of misconduct is based on some evidence, (iii) Statutory rules governing the conduct of disciplinary enquiry were followed (iv) findings of disciplinary authority suffers from perversity and (v) penalties disproportionate to be proved misconduct.

22. In the present proceedings as discussed above, the appellant has not urged that the act of signing on the deposit slip and making the cash deposit of Rs. 1,00,000/- at the request of the concerned customer is not in conflict with the prescribed procedures and rules followed by the bank. No reference has been made to the rules or procedures followed by the Bank to show that the Act of the appellant was not contrary to such Rules and Procedure prescribed as followed by the bank in their day to day

transactions viz-a-viz the customers of the bank. The appellant has also not been able to urge specifically the nature of her duties in the bank more particularly with regard to the act of preparing the deposit slip and making a cash deposit of Rs. 1,00,000/- at the request of the customer Shri Gupta and/or his representative Md. Fakaruddin. The depositions of the witnesses on the basis of which the enquiry report has been submitted, read with the written statements of the appellant reveals that the appellant had admitted to filling up or preparing the deposit slip as well as making the cash deposit of Rs. 1,00,000/- albeit at the request of the concerned customer namely Shri Gupta and his representative Shri Fakaruddin. Nowhere has it been explained by the appellant regarding the term used by her- "preparing the deposit slip". In the absence of any such explanations, the depositions of MW-1, MW-2 and MW-3 cannot be disregarded. Such conduct is viewed by the bank as unbecoming of an employee of the bank as the customer was given to understand that his RIPC account was opened and since he had to proceed to his native place for urgent works, the receipt of the RIPC would be handed over to him upon his returned from his native place. However, the fact remains that on the day when the customer had visited the bank and requested the appellant to deposit the amount in his RIPC account, the same was not

done and the amount was subsequently deposited by the appellant, which is also admitted by the appellant. Although the appellant in her defence submits that the amount having not been able to be deposited in the RIPC account, the same was returned back to the representative of Shri Gupta i.e., Shri Fakaruddin, there was no explanation as to why on a subsequent date the appellant had personally deposited the amount of Rs. 1,00,000/- in cash for opening the RIPC account of Shri Gupta. In the absence of better explanation before the enquiry officer as well as in her written statements, the conclusion of the enquiry officer that the amount was withheld by the appellant between 21.02.2011 to 17.03.2011 cannot be held to be devoid of any evidence.

23. The perusal of the depositions as well as the enquiry report does not reveal that there was any violation of natural justice in respect of the appellant. There is no averment either in the writ petition or in the appeal before us that statutory Rules governing the procedure of disciplinary proceedings have not been followed or has been violated. Although, it is pleaded that the punishment imposed is disproportionate. There are also no averments that the punishment imposed on the appellant is not prescribed under the Rules. Under such circumstances, it cannot be said that the enquiry conducted and the punishment imposed are perverse.

24. In view of our findings as such, we see no reason to interfere with the conclusions arrived at by the learned Single Judge. As have been held in ***Remendra Nath Dey (Supra)***, the Co-ordinate Bench of this Court has held that unless there is a patent error on the face of the record and which is against the established and settled principles of law, the findings of the learned Single Judge in an intra-Court appeal ought not to be interfered with.

25. We find that the learned Single Judge has taken a possible view and therefore, we decline to interfere with the views and conclusions arrived at by the learned Single Judge. The Judgment of the learned Single Judge is therefore upheld and sustained.

26. In view of our discussions above, we find no merit in the appeal to interfere with the views and conclusions arrived at by the learned Single Judge vide the impugned Judgment and Order dated 06.08.2018. Accordingly, the appeal is devoid of merit and the same is dismissed. No order as to cost.

JUDGE

CHIEF JUSTICE

Comparing Assistant