

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

...

SWP no.2108/2014

Reserved on: 22.08.2024

Pronounced on: 24.12.2024

Kavi Nain Singh age 58+ year S/o S. Onkar Singh R/o Monghama, Tral

.....Petitioner(s)

Through: Mr Mian Tufail, Advocate

Versus

1. Punjab National Bank through Circle Office Gupta Towers Rail Head Complex (HRD Dept.) J&K Jammu
2. Executive Director, Punjab National Bank, Personnel Administration Division, Head Office 7, Bhikaji Cama Place, New Delhi and others

.....Respondent(s)

Through: Mr N.A.Dendru, Advocate

CORAM:

HON'BLE MR JUSTICE VINOD CHATTERJI KOUL, JUDGE

JUDGMENT

1. Order dated 15th January 2014 passed by Disciplinary Authority as also order dated 13th June 2014 passed by Appellate Authority as well as Order dated 9th September 2012, cancelling petitioner's result for selection from MMGS-II to MMGS-III, are being sought to be quashed. And respondents are sought to be directed to give all service benefits viz. leave salary, pension, gratuity, emoluments etc. to petitioner as if no orders dated 15th January 2014 and 13th June 2014 had been issued against him with a further direction to respondents to promote petitioner

from MMGS-II to MMGS-III from the date he was due for such promotion and give him all consequential benefits.

2. According to petitioner, he joined respondent – Punjab National Bank, when he came to be appointed as Clerk-cum-Typist on 2nd March 1981. Promotions were given to him, first to the post of Officer on 17th September 1986 and thereafter to the post of Manager on 7th September 1998. From 22nd April 2002 to 10th January 2006, he was posted as Manager, PNB, Branch Office Gangyal, Jammu. Against him charge sheet was issued on 12th June 2009, requiring him to submit statement of defence within ten days. Charge sheet was as to alleged recommendations made by him for grant of loan to various parties without assuring proper pre-sanction appraisal and neglecting post sanction safeguards / follow up, jeopardizing bank interests. Petitioner replied charge sheet denying allegations levelled against him. Respondent no.5 vide Order dated 6th January 2010 was appointed as Enquiry Officer. In a slipshod manner, it is claimed by petitioner, enquiry was conducted and report submitted on 10th March 2011; a copy whereof was not provided to petitioner. Order dated 30th July 2011 was issued by respondent no.4, imposing major penalty of reduction of four stages in the time scale of pay and petitioner was placed with cumulative effect up to the date of retirement on superannuation, i.e., 31st May 2014, in terms of Regulation 4(f) of Punjab National Bank Officer Employees D&A Regulations, 1977 (for short “*Regulations of 1977*”). This order was challenged by petitioner in an appeal under Regulation 17 of the Regulations of 1977. The appeal was dismissed vide Order dated 29th February 2012. Against that, petitioner preferred

review. On 25th August 2012, application under Right to Information Act was also moved by him for certain information and documents. Upon receipt thereof, on 5th September 2012, he made supplementary submissions in the matter of his review petition before respondent no.2 on 5th October 2012. Review petition was rejected by respondent no.2 on 8th November 2012. As stated by petitioner, rejection order was communicated to him on 16th November 2012 by Assistant Manager, PNB. Aggrieved, petitioner is before this Court with writ petition on hand.

3. Respondents have filed Reply. Petitioner's services, as is claimed by them, is regulated by Punjab National Bank Officer/Employees (Discipline and Appeal) Regulations 1977 (Regulations of 1977). According to respondents, petitioner seeks evaluation by this Court of evidence/material as was brought before enquiry officer during enquiry proceedings and thereby seeking substitution of the view of this Court in place of the view of the enquiry officer/disciplinary authority as if sitting in appeal in the matter

While having routine internal audit and investigation of affairs of Branch Office Gangyal, Jammu, petitioner was alleged to have indulged in various acts of omission and commission concerning grant of loan facilities to various parties without ensuring proper pre-sanction appraisal and accordingly he was charge-sheeted. Petitioner is stated to have been given sufficient opportunity to defend himself. It is stated by respondents that petitioner during enquiry confirmed genuineness of documents inspected by him and was also given opportunity to

nominate and obtain assistance of defence representative and to cross-examine witnesses produce against him.

Petitioner was given opportunity to produce defence witnesses during enquiry which opportunity was availed by him. On 25th February 2011, after examining three witnesses, Enquiry Officer directed both Presenting Officer and petitioner to submit their respective written brief, but petitioner did not file written brief. As per enquiry report, allegations levelled against petitioner were found proved in full. It is maintained that copies of each day proceedings were furnished to petitioner by Enquiry Officer against proper receipt.

It is also averred by respondents that orders dated 30th July 2011, passed by Disciplinary Authority as also order dated 29th February 2012, passed by Appellate Authority and order dated 18th November 2012 passed in petitioner's review application, were set-aside by this Court in terms of Order dated 22nd November 2013 in SWP no.1249/2012. The said Order was passed on the submission of counsel for respondents taking into consideration that copy of enquiry report had not been furnished to petitioner. However, liberty was given to respondents to proceed from the stage of providing copy of enquiry report to petitioner and conclude enquiry and pass appropriate orders as warranted by law. In pursuance thereof, respondents, besides furnishing copy of enquiry report dated 10th March 2011 to petitioner vide letter dated 9th December 2013, also granted him sufficient opportunity to make representation. The grounds taken by petitioner in his representation to show cause notice have been duly dealt with by respondents in terms of final order dated 15th January 2014, upholding

the findings of fact returned by Enquiry Officer after due consideration of the entire material collected during enquiry proceedings as also the Response made by petitioner both during the course of enquiry and in terms of his Reply to the enquiry report, and punishment of reduction of ten stages in time scale of pay against petitioner with cumulative effect upto the date of his retirement on superannuation, i.e., 31st May 2014, was ordered. The said order was passed by Disciplinary Authority strictly in accordance with rules, which was also upheld by Appellate Authority. Respondents also state that while issuing charge sheet, they have strictly adhered to mandate of rules, in that, petitioner was conveyed allegations levelled against him in terms of definite and distinct charges as also articles of charge/ statement of allegations. He was also provided with the list of witnesses' documents and given sufficient time to inspect the listed documents of Branch Office Gangyal for preparing his defence which opportunity was availed by him without any complaint of whatsoever nature. Respondents claim that it is not true that petitioner was not informed as to how he would inspect the record, more particularly when details of documents relied upon against him had already been conveyed to him in terms of charge-sheet. It is also averred that mandate of Clause (10) of Regulation (8) and Regulation 6(17) and 6(18) have been complied with in letter and spirit. Respondents also state that Shri C. L. Bhat was defence representative of petitioner.

4. Rejoinder, to retort submissions of respondents raised by them in their Reply, has been filed by petitioner. He submits that respondents have neither conducted enquiry in accordance with rules nor have they given

a proper and genuine hearing to petitioner. According to petitioner, respondents have violated Regulation 6(3) of the Regulations of 1977 as they had not enclosed documents with charge sheet. While as Charged Officer (CO) was advised to submit defence statement within ten days without considering the fact as to how written statement could be submitted when the documents were not given; he was advised to visit the Branch for one day for inspection but it was not considered as to how inspection could be made without documents and when custodian of documents was the Presenting Officer (PO) himself, thus, the rights and interests of petitioner were jeopardized. Petitioner also contends that respondents violated Regulation 6 (4) as petitioner had not been able to submit proper and effective written defence statement for want of documents. It is next contention of petitioner that Disciplinary Authority had to forward all listed documents as per Annexure-III to Charge Sheet to the inquiry officer so that inquiry officer may deliver the documents to charged officer without interference of Presenting Officer, who is rival party, but insofar as petitioner's case is concerned, Disciplinary Authority did not forward documents to inquiry officer and during enquiry proceedings, PO adduced these documents including his own documents before enquiry officer which caused serious prejudice to petitioner and by this, respondents violated Regulation 6 (5). According to petitioner, under Regulation 6 (10-a), E.O. would deliver copies of documents to CO but in the present case, this job was assigned to PO, who was a rival party and custodian of records in the Branch. The defence of petitioner was thus jeopardized because PO produced documents more than the list as

per Annexure IV of the charge sheet. Petitioner would also avow that under Regulation 6(17), after conclusion of enquiry proceedings, EO would show adverse circumstances and evidence recorded during course of enquiry to the charged officer, so that charged officer (CO) may avail further opportunity of offence as last opportunity, but in the case in hand, enquiry was contemplated on 25th February 2011 and the enquiry officer neither showed adverse circumstances to petitioner nor did he put any mandatory question to CO and as a result whereof, defence of petitioner was seriously prejudiced. PO adduced documents in piecemeals prejudicing right of petitioner. PO adduced document ME-2 to 20 on 9th April 2010 and ME-21 on 10th February 2011. It is maintained that listed documents as per Annexure-V of charge sheet ought to have been provided at threshold so that CO could examine the same and prepare his defence and find out relevant record to counter documents of management, but petitioner was asked to submit list of defence documents at initial stage viz. on 9th April 2010 and PO was allowed to produce document on 10th February 2011. PO examined/ cross-examined CO on 4th May 2010 exhaustively without presenting his case and without examining his witnesses first, which is contrary to Regulations of 1977. On 30th March 2010, preliminary hearing was held and on 9th April 2010, PO produced his documents vide Exhibit ME-2 to ME-20. No other business was conducted on that date. On the third day of enquiry, proceedings dated 4th May 2010, PO started petitioner's examination and cross-examination as allowed by EO relating to all the charges. PO did not put one or two questions to petitioner, but examined and cross-examined him exhaustively and put all questions relating to

all charges to him. Till 4th May 2010, PO did not examine his own listed witnesses. Those witnesses were examined by him on 26th July 2010, 26th August 2010, 25th October 2010, 15th November 2010 and 10th February 2011. From the text of statement of petitioner's examination/ cross examination at preliminary stage, he was wrongly examined by PO.

5. I have heard counsel for parties and considered the matter. I have gone through Enquiry report and minutes of enquiry proceedings produced by counsel for respondent-Bank.
6. Contention of counsel for petitioner is that Regulation 6(5) of the Regulations of 1977 has not been followed by respondents because disciplinary authority did not forward the said documents to the enquiry officer.
7. Regulations of 1977 applies to all officer employees of Punjab National Bank. Regulation 4 enumerates penalties. Regulation 5 provides the authority to institute disciplinary proceedings and impose penalties. It says that Managing Director or any other authority empowered by him by general or special order may institute or direct disciplinary authority to institute disciplinary proceedings against an officer employee of the bank. The disciplinary authority may itself institute disciplinary proceedings. The disciplinary authority or any other authority higher than it, may impose any of the penalties specified in Regulation 4 on any officer employee. According to him respondents have not followed Regulation 6 of the Regulations of 1977. It is averred that order dated 15th January 2014 passed by Disciplinary Authority is based on concoction and distortion of facts. It is also stated that appellate

authority while passing order dated 13th June 2014⁵ has done nothing except copied the order of disciplinary authority which was passed on concoction and fabrication. Appellate authority has not applied his mind to the facts of the case. During petitioner's tenure, he was posted in the branch, where loans were sanctioned after completing all formalities. He was relieved of his duties in the branch ending December 2005. The post sanction follows up deficiencies, if any, pertain to other officers. The way petitioner was punished shows a clear-cut discrimination as well as bias against him.

8. To the aforesaid contentions of counsel for petitioner, it is stated by learned counsel for respondent-Bank that charge sheet under Regulation 6 of the Regulations of 1977 was issued to petitioner, which comprised of (i) statement of article of charge as Annexure-I; (ii) statement of imputations of lapses as Annexure-II; and (iii) list of documents/witnesses in support of imputation of lapses as Annexure-III to charge sheet and that petitioner responded thereto and submitted his Reply on 30th July 2009. Disciplinary Authority vide order dated 6th January 2010 appointed Enquiry Officer and Presenting Officer to hold a departmental enquiry into the imputations levelled against petitioner. Mr. P.C.Soni, the then Chief Manager B.O. Jain Bazar Jammu of respondent-bank was appointed as Enquiry Officer and Mr. Vipin Sharma, the then Chief Manager B.O. Gangyal was appointed as Presenting Officer, to represent respondent-bank in enquiry proceedings. He also states that Enquiry Officer forwarded the entire documents to petitioner to make him aware of charges levelled against him and to defend his case properly. The enquiry proceedings were

initiated and concluded on 25th February 2021, and enquiry report submitted vide letter dated 11th March 2021, wherein it was mentioned that petitioner did not submit written brief till then. It is also stated that in enquiry proceedings charges levelled against petitioner were read over him, but he did not admit all articles of charge. Petitioner was handed over list of documents as also list of witnesses. He was advised to inspect within five days listed documents at Branch Office Gangyal. He was advised to submit list of witnesses, which he submitted. The Management also adduced its witnesses. The witnesses were examined/ cross examined. Copies of statements of witnesses were handed over to petitioner. On the basis of enquiry report, Disciplinary Authority found charges levelled against petitioner genuine and imposed a major penalty vide order dated 30th July 2011. He also avers that petitioner challenged it in appeal, which was also dismissed and that subsequently petitioner filed review, which stood also dismissed. He then filed writ petition before this Court, which was disposed of with a direction to proceed from the stage of providing copy of enquiry report to petitioner then conclude enquiry and pass appropriate orders. Learned counsel for respondents also states that thereafter enquiry report was given to petitioner, to which he made a representation, which was found not genuine and, thus, rejected.

9. Regulation 6 relates to procedure for imposing penalties. Regulation 6(1) says that no order imposing any of the major penalties specified in Regulation 4 shall be made except after an enquiry is held in accordance with the Regulation of 1977. Regulation 6(2) provides that whenever the disciplinary authority is of the opinion that there are grounds for

inquiring into the truth of any imputation of misconduct or misbehaviour against an officer employee, it may itself enquire into or appoint any other person who is or has been a public servant to inquire into the truth thereof. Explanation attached thereto provides that when disciplinary authority itself holds the inquiry any reference in sub-regulation (8) to sub-regulation (21) to the inquiring authority shall be construed as a reference to disciplinary authority.

10. Petitioner responded to the charge-sheet and submitted his Reply on 30th July 2009. Thereafter, on 6th January 2010, disciplinary authority appointed Enquiry Officer and Presenting Officer to hold departmental enquiry into the imputations against petitioner. Mr. P.C. Soni, the then Chief Manager Branch Office Jain Bazar, Jammu of respondent-Bank was appointed as Enquiry Officer and Mr. Vipin Sharma, the then Chief Manager, Branch Office Gangyal Jammu, as Presenting Officer to represent respondent-Bank in the enquiry proceedings.

11. Perusal of record on the file would reveal that as back as on 12th June 2009, charge sheet, containing Statement of Article of Charge, was served upon petitioner, advising him to submit statement of defence. In statement of Article of Charge against petitioner, Article-I was that petitioner recommended loan to various parties without ensuring proper pre-sanction appraisal and neglected post sanction safeguards/follow up thereby jeopardizing bank's interest and, thus, petitioner did not discharge his duties with utmost devotion and diligence, which constituted misconduct in terms of Regulation 3(1) read with Regulation 24 of the Regulations of 1977. In support of article of charge against petitioner, statement of imputations was also issued.

Under Charge-1, it was alleged that loan was given to M/s Shine Decorators; M/s M.S. Industries; M/s Knit Knot Textiles; M/s Shubham Traders; M/s B.R. & Co.; M/s Aman Electronics; M/s State Trading Corp.; Chain Singh Housing Loan; Chain Singh Car Loan; Cosmo Apparels; M/s Bawa Garments; Rau Khosla; Mohd. Sharief; Arshad Khan; Sakhi Mohd; Sadiq Hussain; Hamid; Abdul Quyoom; Roopali International; M/s Superchem Plast Industries, without following the prescribed procedural prerequisites. In all the above accounts, dues amounting to Rs.251.31 Lacs were proving hard for recovery. In addition to this, 42 accounts with amount of Rs.149.73 Lacs sanctioned on the basis of recommendations as Incharge Loans had slipped to NPA due to improper pre-sanction appraisal and lack of post-sanction follow up and out of them 37 with outstanding of Rs.96.99 Lacs were proving hard for recovery. To these amputations, petitioner submitted his detailed reply by stating that he took all possible steps to save interest of the bank.

12. Assistant General Manager, Circle Office, Jammu/Disciplinary Authority decided to imposed upon petitioner major penalty of “reduction of four stages in the time scale of pay he is placed with cumulative effect upto the date of retirement on superannuation i.e. 31.05.2014 in terms of regulation 4(f) of PNB Officer Employees (D&A) Regulations, 1977”. Senior Manager (HRD) PNB Circle Office Highland Towers Rail Head Complex, Jammu, J&K, vide letter no.CO/HRD/DAC/KNS/2011 dated 30th July 2011, forwarded to Incharge BO Anantnag copy of detailed order dated 30th July 2011 passed by disciplinary authority to be served upon petitioner. Order

dated 30th July 2011 issued by Disciplinary Authority would be apt to be reproduced hereunder:

**“PUNJAB NATIONAL BANK
CIRCLE OFFICE,
BAHU PLAZA
RAIL HEAD COMPLEX
JAMMU**

PLACE OF ISSUE: JAMMU (J&K)

DATE OF ISSUE: 30.07.2011

ORDER

Sh. Kavi Nain Singh (PF-41061) Manager, BO: Anantnag, Kashmir, J&K – Charge Sheet dated 12.06.2009 under Regulation 6 of Punjab National Bank Officer Employee's (Discipline & Appeal) Regulations 1977.

Shri Kavi Nain Singh was served with charge sheet dated 12.06.2009 under major penalty proceedings for the lapses/irregularities alleged to have been committed by him in the borrowal accounts at BO: Gangyal, Jammu, J&K. He was charged vide following Article of Charge by the Circle Head (DGM) Disciplinary Authority at that time.

ARTICLE - I

He recommended loans to various parties without ensuring proper pre-sanction appraisal and neglected post sanction safeguards/follow up, thereby jeopardizing Bank's interest.

Thus, Shri Kavi Nain Singh did not discharge his duties with utmost devotion and diligence, which constitutes misconduct in terms of Regulations 3(1) read with Regulation 24 of Punjab National Bank Officer Employees' (Conduct) Regulations, 1977.

He was advised to submit his statement of defence within a period of ten days. Sh. Singh submitted his statement of defence vide his letter dated 30.07.2009, wherein he denied the charge. In order to look into the truth of imputation of lapses, Departmental Enquiry was instituted vide order dated 06.01.2010 by the Circle Head (DGM) being the Disciplinary Authority in the case at that time. Sh. P.C.Soni (26722), Chief Manager BO: Jain Bazar, Jammu was appointed as Enquiry Officer and Sh. Vipin Sharma (36489), Chief Manager BO: Gangyal, Jammu as Presenting Officer in the case.

In the meantime, Disciplinary Authority changed from Circle Head (DGM) to Assistant General Manager, Circle Office, Jammu, vide PAD, HO, New Delhi Circular NO.16 dated 10.01.2011.

The Enquiry Officer submitted his exhaustive report on findings dated 10.03.2011.

I have gone through the case comprising of the charge sheet, enquiry report along with records of enquiry proceedings, submissions made by Sh. Singh over the findings of the Enquiry Officer and other related documents. It is a matter of record that with both documentary as well

as circumstantial evidence adduced has proved the charge levelled against the charged officer. I observed from the records of the enquiry that the Enquiry Officer has given his findings on the imputation of charge mentioned in the charge sheet and after considering the evidence adduced during the enquiry proceedings, he rightly concluded that the charges have been proved.

In view of the foregoing, I concur with the findings of the Enquiry Officer and hold Sh. Kavi Nain Singh of the charge held as proved on the basis of evidence on record. I also note with concern that all the forty two borrowal accounts listed in the charge sheet have been categorized as NPAs and some of the accounts have been categorized as Non Performing Assets within only one year of their sanction. Besides, I find that a number of borrowal accounts are secured with collateral security of no value or of very less value. I observe that gross and glaring lapses have been committed while processing loan cases thus exposing the Bank to a substantial amount of risk and therefore, there is every apprehension of causing a substantial pecuniary loss to the Bank. However, taking an overall view of the case and also keeping in view the past conduct of the charged official, I take a lenient view and propose/decide to impose upon Sh. Singh major penalty of “Reduction of Four stages in the time scale of pay he is placed with cumulative effect upto the date of retirement on superannuation i.e. 31.05.2014 in terms of regulation 4(f) of PNB Officer Employees (D&A) Regulations, 1977.

I order accordingly.

Sd/-

Assistant General Manager
Disciplinary Authority”

13. Petitioner preferred an Appeal under Regulation 17 of the Regulations of 1977 against order of Disciplinary Authority dated 30th July 2011. The appeal by order dated no.PAD/HO/DAC/13915 dated 29th February 2012, issued by Appellate Authority (General Manager) was rejected. Review petition preferred by him against major penalty of “Reduction of four stages in the time scale of pay he is placed with cumulative effect upto the date of retirement on superannuation i.e., 31.05.2024” along with the records of the case was placed before the Executive Director, the Reviewing Authority, who rejected it vide Order dated 8th November 2012.

14. Petitioner moved a writ petition, SWP no.1249/2013, titled as *Kavi Nain Singh v. Punjab National Bank and others*. His plea was that

penalty was imposed upon him without hearing him and *de hors* the rules and that copy of enquiry report was not supplied to him. Respondent-bank did not object the relief prayed for by petitioner. A Bench of this Court considered the matter and vide judgement/order dated 22nd November 2013 set-aside the orders passed on the basis of enquiry report. However, liberty was given to respondent-bank to proceed from the stage of providing copy of enquiry report to petitioner and then conclude the enquiry and pass appropriate orders as would be warranted with reasonable dispatch. It was also provided that dependent on the result of enquiry or otherwise, if respondents did not choose to proceed with enquiry, then petitioner's claim having been selected for promotion to the post of MMGS-II to MMGS-III would be given effect in accordance with applicable rules along with consequential benefits as would be permissible under rules.

15. Respondent-bank vide letter dated 9th December 2013, in compliance to judgement dated 22nd November 2013 in SWP no.1249/2013, provided copy of report of Enquiry Officer on the findings of charges in respect of Charge Sheet dated 12th June 2009 to petitioner.
16. Petitioner made a representation against the findings of Enquiry Officer in the matter of Charge Sheet dated 12th June 2009. Disciplinary Authority considered petitioner's representation and passed Order dated 15th January 2014, which reads as under:-

“PUNJAB NATIONAL BANK
CIRCLE OFFICE
BAHU PLAZA, JAMMU

Place of Issue: Jammu (J&K)
15.01.2014

Date of Issue:

ORDER

Sh. Kavi Nain Singh (PF-41061) Manager, BO: Jain Bazar, Jammu – Charge Sheet dated 12.06.2009 under Regulation 6 of Punjab National Bank Officer Employee's (Discipline & Appeal) Regulations 1977.

Shri Kavi Nain Singh was served with charge sheet dated 12.06.2009 under major penalty proceedings for the lapses/irregularities alleged to have been committed by him in the borrowal accounts at BO: Gangyal, Jammu, J&K. He was charged vide following Article of Charge by the Circle Head (DGM), Disciplinary Authority at that time.

ARTICLE – I

He recommended loans to various parties without ensuring proper pre-sanction appraisal and neglected post sanction safeguards/follow up, thereby jeopardizing Bank's interest.

In order to look into the truth of imputation of lapses, Departmental Enquiry was instituted vide order dated 06.01.2010 by the Circle Head (DGM) being the Disciplinary Authority in the case at that time. The Disciplinary Authority changed from Circle Head (DGM) to Assistant General Manager, Circle Office, Jammu,, vide PAD, HO, New Delhi Circular No.16 dated 10.01.2011.

The Enquiry Officer submitted his exhaustive report on findings dated 10.03.2011.

He was imposed major penalty of 'Reduction of four stages in the time scale of pay he is placed with cumulative effect upto the date of retirement on superannuation i.e. 31.05.2014' vide disciplinary authority order dated 30.07.2011. Shri Kavi Nain Singh preferred to file an Appeal against the penalty imposed by the Disciplinary Authority vide his letter dated 24.10.2011 before the Appellate Authority who has vide their order dated 29.02.2012 rejected the same.

Subsequently Shri Singh submitted his review petition against major penalty before the Executive Director, the Reviewing Authority who has also rejected the same vide order dated 08/11/2012.

Shri Kavinain Singh then filed writ petition in the Honorable High Court of Jammu & Kashmir at Srinagar under SWP No.1249/2013 CMP No.2005/2013 on 12.07.2013 against the orders of Disciplinary Authority served on 30.07.2011 in the matter of Charge Sheet dated 12.05.2009, under Regulation 6 of Punjab National Bank Officer Employee's (Discipline & Appeal) Regulations 1977 & appellate authority order dated 09.09.2011 seeking operation of the orders to be kept in abeyance.

The honorable court has passed the order dated 22.11.2013 setting aside the orders passed on the enquiry report leaving the bank free to proceed against the petitioner from the stage of providing copy of the enquiry report to the petitioner then conclude the enquiry and pass appropriate orders as shall be warranted with reasonable dispatch

preferably within six weeks as the officer is retiring on superannuation in the month of May, 2014.

Accordingly, on the basis of court order dated 22.11.2013 the copy of the Enquiry Officer's Report dated 10.03.2011, on the findings of the charges in respect of the Charge Sheet dated 12.06.2009 served upon Shri Kavi Nain Singh was given to him for his submission. Vide his representation dated 16.12.2013; he has submitted his reply on the findings of the Enquiry. In his submission on the findings of the enquiry, Shri Kavi Nain Singh has mainly raised following contentions:

1. That the Disciplinary action proceedings were not held in accordance with the provisions made in D & A Regulations, 1977 whereas frequent violation was made of the provided Regulations and thus the enquiry proceedings are vitiated wherein the interest of the defence has been prejudiced.
2. That the Presenting Officer has adduced documents in piecemeal due to which the interest of the defence has been prejudiced.
3. That the Presenting Officer examined / cross examined the Charged Officer exhaustively and on all the charges on 4.5.2010 without presenting his case first and without examining his own witnesses first and the procedure so adopted is not known either to the law or to the D&A Regulations 1977.
4. That the Presenting Officer has examined the witnesses Pankaj Bakshi MW3 and B.L.Kaul MW4 on 15.11.2010 jointly and together which is not approved in terms of quasi-judicial enquiry proceedings and thus the proceedings are vitiated being perverse.
5. That copy of written brief of the Presenting Officer was not provided to me and at the same time my written defence brief were not invited from me whereas it was arranged from Shri C.L.Bhat who was no more my defence representative after conclusion of the enquiry proceedings. Thus proper opportunity of defence was not provided.
6. That the Enquiry Officer has not considered the written brief dated 10.03.2011 submitted by Shri C.L.Bhat on the advice of E.O.
7. That the documents of the Presenting Officer were not taken on the record of inquiry in terms of his alleged list dated 9.4.2010 provided during the course of inquiry proceedings and thus the documents of the presenting officer have not attained any evidently value.
8. The presenting officer had examined non-listed witnesses, due to which the interest of the defense has been prejudicial, and the inquiry proceedings have also been vitiated.
9. That there is no evidentry value of the witnesses examined by the presenting officer, since these witnesses have not explained the truth in the contents of the respective documents.

10. That there is no cognizance of the additional documents of the presenting officer.

11. That inquiry officer has misconceived that I have admitted any of the charges.

In his submission on the enquiry findings, Shri Kavi Nain Singh has also pleaded for giving him the opportunity for personal hearing for which there is no provision in the PNB Officer Employee's (D&A) Regulation 1977.

I, being disciplinary authority, have gone through the entire case and have carefully observed from the representation submitted by the charged officer Shri Kavi Nain Singh on the findings of the enquiry that he has found fault only with the procedure of the enquiry proceedings but has put forth no new things which can prove his innocence.

I also observe from the records of the enquiry proceedings that the enquiry has been conducted as per the provisions of PNB Officers Service (D&A) Regulations 1977. The CO did not object to the procedure enquiry during the enquiry proceedings and in his written brief submitted through his Defence Assistant.

The charged officer has been given sufficient opportunity to inspect relevant record and to obtain photocopies of the documents for his defence in the case.

The exhaustive cross examining of the charged officer and examining of two Management witnesses jointly did not have any effect on the facts proving him guilty of the charges.

He was also given opportunity to cross examine the management witnesses.

The copy of the written briefs of PO were given to the charged officer through his authorized defence representative who has in turn submitted his defence brief dated 10.03.2011 to the enquiry officer.

I further observed from the records of the enquiry proceedings that the findings are based upon the documentary evidence. Management / Defence witnesses and the defence have been given ample opportunities to present their side and arguments in defence.

In view of the foregoing, I concur with the findings of the Enquiry Officer and hold Sh. Kavi Nain Singh guilty of the charges held as proved on the basis of evidence on record. After taking an overall view of the case and also keeping in view the likely pecuniary loss to the bank, I decide to impose upon Sh. Singh major penalty of Reduction of Ten stages in the time scale of pay he is placed, with cumulative effect upto the date of retirement on superannuation i.e. 31.05.2014, in terms of regulation 4(f) of PNB Officer Employees (D&A) Regulation 1977.

I order accordingly.

Sd/-
Assistant General Manager
Disciplinary Authority”

17. From the above, it is evident that disciplinary authority while deciding representation of petitioner vide order dated 15th January 2014, has observed and said that findings given by the enquiry officer are based on documentary evidence, Management/Defence witnesses. Disciplinary authority has concurred with the findings of Enquiry Officer and held petitioner guilty of the charges proved on the basis of evidence on record and imposed upon petitioner major penalty of “Reduction of Ten stages in the time scale of pay he is placed with cumulative effect upto the date of retirement on superannuation i.e., 31.05.2024 in terms of Regulation 4(f) of PNB Officer Employees (D&A) Regulations, 1997”.

18. Petitioner’s appeal against the Disciplinary Authority order dated 15th January 2014 has been rejected by Appellate Authority of respondent-bank vide Order dated 13th June 2014, conveyed to him vide letter dated 14th June 2014.

19. I have gone through the record produced by respondent-bank. It is apparent from the record that petitioner has been given opportunities at all stages as was required under and in terms of the Regulations of 1977. He participated in enquiry proceedings. He was given all the material which was relied upon by the authorities for framing statement of article of imputations/charges against him. Witnesses were examined. He even inspected the listed documents of Branch Office, Gangyal to prepare his defence. The respondent-bank has found that serious pre-sanction/post sanction lapses have been proven in the enquiry against

petitioner and the bank is likely to incur heavy loss due to the lapses on his part.

20. Petitioner cannot be heard saying that respondent-bank has not followed the Regulations of 1977 and/or that respondents have violated principles of natural justice. Even the record on the file is self-evident. Petitioner has been given opportunities at all stages to defend himself. The enquiry has been conducted by respondent-bank fairly and properly and findings have been given based on evidence, thus, question of adequacy of evidence or reliable nature of evidence is no ground to interfere with the finding in the enquiry. In such circumstances, this Court cannot re-assess the evidence led in enquiry or to interfere on the ground that another view is possible on the material on record.

21. The scope of examination and interference under Article 226 of the Constitution of India in a case of the present nature, is no longer *res integra*. In State of *Andhra Pradesh v S Sree Rama Rao*, AIR 1963 SC 1723, a three-Judge Bench of the Supreme Court stated:

“7. ... The High Court is not constituted in a proceeding under Article 226 of the Constitution a Court of appeal over the decision of the authorities holding a departmental enquiry against a public servant : it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules

prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution.”

22. Under Article 226 of the Constitution, High Court is not a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant. The High Court is concerned to determine whether enquiry has been held by an authority competent, and according to the procedure prescribed, and whether rules of natural justice have not been violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a writ petition under Article 226 to review the evidence and to arrive at an independent finding on the evidence. The High Court may indisputably interfere where departmental authorities have held the proceedings against delinquent in a manner inconsistent with rules of natural justice or in violation of statutory rules prescribing the mode of enquiry or where authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face

thereof is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a writ petition under Article 226. The same views were reiterated in *State Bank of India v Ram Lal Bhaskar*, (2011) 10 SCC 249. The Supreme Court in *State of Andhra Pradesh v. Chitra Venkata Rao*, (1975) 2 SCC 557, observed and stated as under: -

“21. The scope of Article 226 in dealing with departmental inquiries has come up before this Court. Two propositions were laid down by this Court in *State of A.P. v. S. Sree Rama Rao* [AIR 1963 SC 1723: (1964) 3 SCR 25: (1964) 2 LLJ 150]. First, there is no warrant for the view that in considering whether a public officer is guilty of misconduct charged against him, the rule followed in criminal trials that an offence is not established unless proved by evidence beyond reasonable doubt to the satisfaction of the Court must be applied. If that rule be not applied by a domestic tribunal of inquiry the High Court in a petition under Article 226 of the Constitution is not competent to declare the order of the authorities holding a departmental enquiry invalid. The High Court is not a court of appeal under Article 226 over the decision of the authorities holding a departmental enquiry against a public servant. The Court is concerned to determine whether the enquiry is held by an authority competent in that behalf and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Second, where there is some evidence which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court to review the evidence and to arrive at an independent finding on the evidence. The High Court may interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion. The departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there is some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226.

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23. The jurisdiction to issue a writ of certiorari under Article 226 is a supervisory jurisdiction. The Court exercises it not as an appellate court. The findings of fact reached by an inferior court or tribunal as a result of the appreciation of evidence are not reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by a tribunal, a writ can be issued if it is shown that in recording the said finding, the tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Again if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. A finding of fact recorded by the Tribunal cannot be challenged on the ground that the relevant and material evidence adduced before the Tribunal is insufficient or inadequate to sustain a finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal. See *Syed Yakoob v. K.S. Radhakrishnan* [AIR 1964 SC 477: (1964) 5 SCR 64].

24. The High Court in the present case assessed the entire evidence and came to its own conclusion. The High Court was not justified to do so. Apart from the aspect that the High Court does not correct a finding of fact on the ground that the evidence is not sufficient or adequate, the evidence in the present case which was considered by the Tribunal cannot be scanned by the High Court to justify the conclusion that there is no evidence which would justify the finding of the Tribunal that the respondent did not make the journey. The Tribunal gave reasons for its conclusions. It is not possible for the High Court to say that no reasonable person could have arrived at these conclusions. The High Court reviewed the evidence, reassessed the evidence and then rejected the evidence as no evidence. That is precisely what the High Court in exercising jurisdiction to issue a writ of certiorari should not do.

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26. For these reasons we are of opinion that the High Court was wrong in setting aside the dismissal order by reviewing and reassessing the evidence. The appeal is accepted. The judgment of the High Court is set aside. Parties will pay and bear their own costs.”

23. In *State Bank of India v S K Sharma*, (1996) 3 SCC 364, the Supreme

Court held:

“28. The decisions cited above make one thing clear, viz., principles of natural justice cannot be reduced to any hard and fast formulae. As said in *Russell v. Duke of Norfolk* [(1949) 1 All ER 109: 65 TLR 225] way back in 1949, these principles cannot be put in a strait-jacket. Their applicability depends upon the context and the facts and circumstances of each case. (See *Mohinder Singh Gill v. Chief Election Commr.* [(1978) 1 SCC 405: (1978) 2 SCR 272]) The objective is to ensure a fair hearing, a fair deal, to the person whose rights are going to be affected. (See *A.K. Roy v. Union of India* [(1982) 1 SCC 271: 1982 SCC (Cri) 152] and *Swadeshi Cotton Mills v. Union of India* [(1981) 1 SCC 664].) As pointed out by this Court in *A.K. Kraipak v. Union of India* [(1969) 2 SCC 262], the dividing line between quasi-judicial function and administrative function (affecting the rights of a party) has become quite thin and almost indistinguishable — a fact also emphasized by House of Lords in *Council of Civil Service Unions v. Minister for the Civil Service* [(1984) 3 All ER 935 : (1984) 3 WLR 1174 : 1985 AC 374, HL] where the principles of natural justice and a fair hearing were treated as synonymous. Whichever the case, it is from the standpoint

of fair hearing — applying the test of prejudice, as it may be called — that any and every complaint of violation of the rule of audi alteram partem should be examined. Indeed, there may be situations where observance of the requirement of prior notice/hearing may defeat the very proceeding — which may result in grave prejudice to public interest. It is for this reason that the rule of post-decisional hearing as a sufficient compliance with natural justice was evolved in some of the cases, e.g., *Liberty Oil Mills v. Union of India* [(1984) 3 SCC 465]. There may also be cases where the public interest or the interests of the security of State or other similar considerations may make it inadvisable to observe the rule of audi alteram partem altogether [as in the case of situations contemplated by clauses (b) and (c) of the proviso to Article 311(2)] or to disclose the material on which a particular action is being taken. There may indeed be any number of varying situations which it is not possible for anyone to foresee. In our respectful opinion, the principles emerging from the decided cases can be stated in the following terms in relation to the disciplinary orders and enquiries: a distinction ought to be made between violation of the principle of natural justice, audi alteram partem, as such and violation of a facet of the said principle. In other words, distinction is between “no notice”/“no hearing” and “no adequate hearing” or to put it in different words, “no opportunity” and “no adequate opportunity”. To illustrate — take a case where the person is dismissed from service without hearing him altogether (as in *Ridge v. Baldwin* [1964 AC 40: (1963) 2 All ER 66: (1963) 2 WLR 935]). It would be a case falling under the first category and the order of dismissal would be invalid — or void, if one chooses to use that expression (*Calvin v. Carr* [1980 AC 574: (1979) 2 All ER 440: (1979) 2 WLR 755, PC]). But where the person is dismissed from service, say, without supplying him a copy of the enquiry officer's report (*Managing Director, ECIL v. B. Karunakar* [(1993) 4 SCC 727: 1993 SCC (L&S) 1184: (1993) 25 ATC 704]) or without affording him a due opportunity of cross-examining a witness (*K.L. Tripathi* [(1984) 1 SCC 43 : 1984 SCC (L&S) 62]) it would be a case falling in the latter category — violation of a facet of the said rule of natural justice — in which case, the validity of the order has to be tested on the touchstone of prejudice, i.e., whether, all in all, the person concerned did or did not have a fair hearing. It would not be correct — in the light of the above decisions to say that for any and every violation of a facet of natural justice or of a rule incorporating such facet, the order passed is altogether void and ought to be set aside without further enquiry. In our opinion, the approach and test adopted in *B. Karunakar* [(1993) 4 SCC 727 : 1993 SCC (L&S) 1184 : (1993) 25 ATC 704] should govern all cases where the complaint is not that there was no hearing (no notice, no opportunity and no hearing) but one of not affording a proper hearing (i.e., adequate or a full hearing) or of violation of a procedural rule or requirement governing the enquiry; the complaint should be examined on the touchstone of prejudice as aforesaid.”

24. In *Union of India v K G Soni*, (2006) 6 SCC 794, it was opined by the

Supreme Court:

“14. The common thread running through in all these decisions is that the court should not interfere with the administrator’s decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in *Wednesbury* case [*Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn.*, (1948) 1 KB 223: (1947) 2 All ER 680 (CA)] the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its

decision to that of the administrator. The scope of judicial review is limited to the deficiency in the decision-making process and not the decision.

15. To put it differently, unless the punishment imposed by the disciplinary authority or the Appellate Authority shocks the conscience of the court/tribunal, there is no scope for interference. Further, to shorten litigations it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof. In the normal course if the punishment imposed is shockingly disproportionate, it would be appropriate to direct the disciplinary authority or the Appellate Authority to reconsider the penalty imposed.”

25. The legal position was restated by the Supreme Court in *State of Uttar*

Pradesh v Man Mohan Nath Sinha, (2009) 8 SCC 310:

“15. The legal position is well settled that the power of judicial review is not directed against the decision but is confined to the decision-making process. The court does not sit in judgment on merits of the decision. It is not open to the High Court to reappraise and reappraise the evidence led before the inquiry officer and examine the findings recorded by the inquiry officer as a court of appeal and reach its own conclusions. In the instant case, the High Court fell into grave error in scanning the evidence as if it was a court of appeal. The approach of the High Court in consideration of the matter suffers from manifest error and, in our thoughtful consideration, the matter requires fresh consideration by the High Court in accordance with law. On this short ground, we send the matter back to the High Court.”

26. In the present case, after passing of the order by this Court in SWP no.1249/2013, respondent-bank followed all the procedures envisaged under the Regulations of 1977. Petitioner was given all the material. He partook in the proceedings. He made representation. He even appealed against the decision of Disciplinary Authority, which was also considered by respondent-bank. In this view of matter, there is no violation of principles of natural justice.

27. It is well-settled that if Disciplinary Authority accepts findings recorded by Enquiry Officer and proceeds to impose punishment basis the same, no elaborate reasons are required. It has been so explained by the Supreme Court in *Boloram Bordoloi v. Lakhimi Gaolia Bank (2021) 3 SCC 806:*

“11. ... Further, it is well settled that if the disciplinary authority accepts the findings recorded by the enquiry officer and passes an order, no detailed reasons are required to be recorded in the order imposing punishment. The punishment is imposed based on the findings recorded in the enquiry report, as such, no further elaborate reasons are required to be given by the disciplinary authority. ...”

28. The decision of disciplinary authority on proof of charge is not to be interfered in exercise of judicial review by the constitutional courts. The judicial review of the disciplinary proceedings is not an appellate jurisdiction so as to enable the Court to substitute its opinion. The parameters of judicial review are well settled. The interference with disciplinary proceedings by the High Court under Article 226 of the Constitution cannot be on the basis of reappraisal of evidence. The Court cannot go on sufficiency and reliability of evidence. The Court shall not interfere if there are some legal findings.

29. The scope of judicial review in reference to departmental inquiry conducted against the public servant has been time and again discussed and considered by the Supreme Court and High Courts. In *State of Andhra Pradesh v. Chitra Venkata Rao*, (1975) 2 SCC 557, the Supreme Court had laid down the parameters of judicial review. In paragraph 21 following has been laid down:

“21. The scope of Article 226 in dealing with departmental inquiries has come up before this Court. Two propositions were laid down by this Court in *State of A.P. v. S. Sree Rama Rao*. First, there is no warrant for the view that in considering whether a public officer is guilty of misconduct charged against him, the rule followed in criminal trials that an offence is not established unless proved by evidence beyond reasonable doubt to the satisfaction of the Court must be applied. If that rule be not applied by a domestic tribunal of inquiry the High Court in a petition under Article 226 of the Constitution is not competent to declare the order of the authorities holding a departmental enquiry invalid. The High Court is not a court of appeal under Article 226 over the decision of the authorities holding a departmental enquiry against a public servant. The Court is concerned to determine whether the enquiry is held by an authority competent in that behalf and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Second, where there is some evidence which the authority entrusted

with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court to review the evidence and to arrive at an independent finding on the evidence. The High Court may interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion. The departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there is some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226.”

30. It is further held by the Supreme Court that jurisdiction of the High Court under Article 226 of the Constitution is not that of an appellate court inasmuch as findings of the fact reached by a tribunal as result of appreciation of evidence cannot be questioned in writ proceedings. In paragraph 23 of the judgment following has been laid down:

“23. The jurisdiction to issue a writ of certiorari under Article 226 is a supervisory jurisdiction. The Court exercises it not as an appellate court. The findings of fact reached by an inferior court or tribunal as a result of the appreciation of evidence are not reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by a tribunal, a writ can be issued if it is shown that in recording the said finding, the tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Again if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. A finding of fact recorded by the Tribunal cannot be challenged on the ground that the relevant and material evidence adduced before the Tribunal is insufficient or inadequate to sustain a finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal. See *Syed Yakoob v. K.S. Radhakrishnan*.”

31. Again, in *Union of India and others v. P. Ganasekaran, (2015) 2 SCC 610*, the same principles regarding judicial review of disciplinary proceedings were reiterated. In paragraphs 12 and 13 following has been laid down:

“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

- (a) the enquiry is held by a competent authority;
- (b) the enquiry is held according to the procedure prescribed in that behalf;
- (c) there is violation of the principles of natural justice in conducting the proceedings;
- (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;
- (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;
- (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;
- (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;
- (h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;
- (i) the finding of fact is based on no evidence.

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

- (i) reappreciate the evidence;
- (ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;
- (iii) go into the adequacy of the evidence;
- (iv) go into the reliability of the evidence;
- (v) interfere, if there be some legal evidence on which findings can be based.
- (vi) correct the error of fact however grave it may appear to be;
- (vii) go into the proportionality of punishment unless it shocks its conscience.”

(emphasis supplied)

32. From the above it is deducible that the High Court has not to act as an appellate authority in disciplinary proceedings, re-appreciating evidence before enquiry officer inasmuch as the High Court is not and cannot act as a second court of first appeal. The High Court in exercise of powers under Article 226 shall not venture into reappreciation of evidence. The High Court under Article 226 of the Constitution cannot interfere with the conclusions drawn in the enquiry, in case the same has been conducted in accordance with law. The High Court cannot go

into adequacy of evidence nor can it go into reliability of evidence. The High Court cannot correct the error of fact however grave it may appear to be and it cannot go into the proportionality of punishment unless it shocks its conscience.

33. To the above extent is also the decision of the Supreme Court in *Central Industrial Security Force and others v. Abrar Ali*, reported in (2017) 4 SCC 507. In paragraphs 13 and 14 following has been laid down:

“13. Contrary to findings of the disciplinary authority, the High Court accepted the version of the respondent that he fell ill and was being treated by a local doctor without assigning any reasons. It was held by the disciplinary authority that the unit had better medical facilities which could have been availed by the respondent if he was really suffering from illness. It was further held that the delinquent did not produce any evidence of treatment by a local doctor. The High Court should not have entered into the arena of facts which tantamounts to reappreciation of evidence. It is settled law that reappreciation of evidence is not permissible in the exercise of jurisdiction under Article 226 of the Constitution of India.”

34. It is worthwhile to mention here that there are specific and certain allegations made against petitioner, which were enquired into by respondent-bank. Petitioner was informed about those allegations. He was afforded opportunity to project his case well-knit. He, as by his own showing, submitted his side of story, which was taken note of and considered by respondent-bank. He participated in the enquiry proceedings, disciplinary proceedings and appeal proceedings. Respondent-bank has had domain to conduct enquiry, to conduct disciplinary proceedings and conduct appeal proceedings. He partook in all proceedings.

35. Thus, the conclusions drawn either by Enquiry Officer, Disciplinary Authority and/or Appellate authority on the basis of the material before them cannot be said to be suffering from any infirmity which may warrant judicial review by the Constitutional court. In view of legal

position, this Court in exercise of powers under Article 226 cannot reappreciate the evidence and give its opinion contrary to the findings/ opinions given by enquiry officer, disciplinary authority and appellate authority of respondent-bank.

36. Impugned orders make it clear that Disciplinary Authority as well as Appellate Authority have considered the whole material before it and were satisfied to impose punishment on petitioner. Although contentions have been made by petitioner with regard to each and every charge, yet, in view of well settled law as discussed above, I would not go individually into the same as I am not reappreciating the evidence. Suffice it would be to say that broadly the charges were proved on the basis of factual position which in turn was based on official documentation. In such circumstances impugned orders do not call for any interference.

37. Based on the above discussions, writ petition is devoid of any merit and is accordingly, **dismissed** with connected CM(s). Interim direction, if any, shall stand vacated.

(Vinod Chatterji Koul)
Judge

Srinagar
24.12.2024
'Manzoor'

Whether approved for reporting? Yes/No.