

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE**

WPO/1225/2009

JNANRANJAN GHOSH

-VERSUS-

UNION BANK OF INDIA AND ORS.

Present :

The Hon'ble Justice Shampa Dutt (Paul)

For the Petitioner : *Mr. Anindya Lahiri, Sr. Adv.*
Ms. Mainak Ganguly, Adv.
Mr. Anish Chakraborty, Adv.
Mr. Subhomay Paul, Adv.

For the Respondent/ Bank : *Mr. Ranjay De, Sr. Adv.*
Mr. Basabjit Banerjee, Adv.
Mr. Adityajit Able Bose, Adv.

Judgment reserved on : 06.08.2026

Judgment delivered on : 10.09.2026

SHAMPA DUTT (PAUL), J. :-

1. The writ application has been preferred being aggrieved by the order of suspension dated 23.06.2025, charge sheet dated 16.09.2009, entire enquiry proceeding and the finding of the Enquiry Officer dated 06.04.2007 along with the order of dismissal dated 06.07.2007 and the order dated 13.11.2007 passed by the appellate authority.
2. The petitioner's case is that he was appointed as Probationary Clerk on 08.12.1982 in the respondent Bank. The petitioner was thereafter

promoted to the post in the Office Cadre in Junior Management Grade/Scale-1. The petitioner was transferred to Goa as Branch Manager on 27.05.1998. On 16.10.2000 and on 04.04.2001 the petitioner was awarded with 'Letter of Appreciation' for maintaining 'Nil NPA status' in the Goa branch of the respondent/Bank. On 31.03.2001 the petitioner was transferred to Jadavpur Branch as Branch Manager. Again, on 05.04.2004 he was transferred to Bhowanipore Branch as Branch Manager and was under tremendous constant pressure to increase the business of the branch. Subsequently, he was promoted to Middle Management Grade/Scale-III on 17.12.2004 and then transferred to Asansol on 17.05.2005.

3. It is further argued by the petitioner that:-

“It is settled law that the standard of proof before a quasi-judicial Industrial Tribunal has to be the same as in enquiry proceeding, and appellate jurisdiction is not to be exercised. The test is of preponderance of probability.”

4. The petitioner has relied upon the judgment in ***High Court of Judicature at Bombay Vs. Uday Singh, (1997) 5 SCC 129 (para 10)***, wherein the Supreme Court held:-

“10. It is seen that the evidence came to be recorded pursuant to the complaint made by Smt Kundanben, defendant in the suit for eviction. It is true that due to time-lag between the date of the complaint and the date of recording of evidence in 1992 by the Enquiry Officer, there are bound to be some discrepancies in evidence. But the disciplinary proceedings are not a criminal trial. Therefore, the scope of enquiry is entirely different from that

of criminal trial in which the charge is required to be proved beyond doubt. But in the case of disciplinary enquiry, the technical rules of evidence have no application. The doctrine of “proof beyond doubt” has no application. Preponderance of probabilities and some material on record would be necessary to reach a conclusion whether or not the delinquent has committed misconduct. The test laid down by various judgments of this Court is to see whether there is evidence on record to reach the conclusion that the delinquent has committed misconduct and whether a reasonable man, in the circumstances, would be justified in reaching that conclusion. The question, therefore, is whether on the basis of the evidence on record, the charge of misconduct of demanding an illegal gratification for rendering a judgment favourable to a party has been proved.....”

5. Judgment in **State of Bihar -vs- Phulpari Kumari reported in (2020) 2 SCC 130 (para 6.1, 6.2) and Allahabad Bank & Ors. -vs- Krishna Narayan Tiwari reported in (2017) 2 SCC 308 (Para 7, 8)** is relied upon by the petitioner in support of his argument that adequacy or sufficiency of material including the charge is beyond scrutiny.
6. On a report submitted by the Internal Inspector regarding irregularity, a charge-sheet was submitted and enquiry proceeding held and he was found guilty by the Enquiry Officer which resulted in dismissal of the petitioner from service on 06.07.2007. The second penalty was imposed upon the petitioner by forfeiting his provident fund dues on 30.07.2007 and his appeal was dismissed on 13.11.2007.

7. Mr. De, learned senior Counsel appearing for the respondent/Bank submitted that on a proper enquiry being conducted on the basis of proper evidence, punishment imposed upon the petitioner is appropriate and requires no interference by the Court as there is no violation of principles of natural justice nor any abuse of process of law and the scope of judicial review by this Court is limited. He has relied upon the judgment of the Hon'ble Apex Court reported in **2021 (14) SCC 735 (Director General of Police, Railway Protection Force & Ors. vs. Rajendra Kumar Dubey)**, wherein at paragraph 21.1, the Hon'ble Supreme Court held as follows:

“21.1 We will first discuss the scope of interference by the High Court in exercise of its writ jurisdiction with respect of disciplinary proceeding. It is well settled that the High Court must not act as an appellate authority, and re-appreciate the evidence led before the enquiry office....”

8. In course of hearing the respondent admitted before this Court that for such irregularities for which the petitioner was dismissed from service, **no criminal case was initiated by the bank.** This Court, then, directed the respondent to file a report answering the following queries :

“I. Who are the authorities who ratified the 36 loans sanctioned by the writ petitioner ?

II. As to whether the authorities, who ratified the 36 loans which allegedly were sanctioned by not following the rules,

regulations and guidelines of the bank, were proceeded against or not ?”

9. A report to that effect was placed by the respondent authority stating as follows:

*“As per the Office Memorandum dated 14.08.2006 of **Central Vigilance Commission, Sri B. N. Sathish** was issued with Statement of Imputation of Lapses to initiate a minor penalty proceedings. The said Imputation of Lapses was forwarded to Sri Sathish vide letter dated 16.09.2006.*

*As per records **Sri B. N. Sathish** by a letter dated 20.10.2006 submitted his Reply to the Executive Director and Disciplinary Authority of the erstwhile bank wherein he admitted the fact of being posted at Zonal Office at the relevant point of time. Secondly, **he ratified the loan proposals and lastly, there were procedural lapses in connection therewith.** The relevant portions of the said Reply are being appended hereunder:*

*“..... Though Shri Ghosh was in Scale II and later promoted as Senior Manager, he was supposed to exercise his lending powers of a small branch as per the Scheme of Delegation of Lending Powers, as Bhowanipur was a new branch. **As a result, most of the loans had to be ratified by Zonal Office. However, I would like to submit here that I had not ratified them in a routine manner without satisfying the genuineness of the proposals. In this regard, I would like to place before you the following facts, which promoted me to ratify the action of the branch.....***

..... in view of the foregoing, I request your kindness to take a lenient view of the procedural lapses, if any, observed on my part in the matter and drop further proceedings taking

into account my above submissions and also the past record of my 3 decades in this institution, throughout which, the bank's interest was the uppermost in all my action.....”

10. As such, it appears from the report submitted by the respondent bank that the loans sanctioned by the petitioner were duly **ratified by the Zonal Office.**
11. Keeping the said facts in mind and also the scope of judicial review by this Court in interfering with the enquiry proceedings and its findings, **this Court is of the view that “dismissal from service” of the petitioner appears to be disproportionate to the charges levelled against the petitioner which appears to have been ratified by the superior authorities i.e., Zonal Office.** This Court thus finds that the penalty imposed upon the petitioner in the present case was imposed without following the principles of natural justice and is, thus, an abuse of the process of law.
12. In the matter of **John D'Suza vs Karnataka State Road Transport Corporation** reported in **AIR ONLINE 2019 SC 1202**, the Supreme Court also held:-

“33. It, thus, stands out that though the Labour Court or the Tribunal while exercising their jurisdiction under Section 33(2)(b) are empowered to permit the parties to lead evidence in respect of the legality and propriety of the domestic enquiry held into the misconduct of a workman, such evidence would be taken into consideration by the Labour Court or the Tribunal only if it is found that the domestic enquiry conducted by the management on the scale that the standard of proof required

therein can be “preponderance of probability” and not a “proof beyond all reasonable doubts” suffers from inherent defects or is violative of principles of natural justice. In other words, the Labour Court or the Tribunal cannot without first examining the material led in the domestic enquiry jump to a conclusion and mechanically permit the parties to lead evidence as if it is an essential procedural part of the enquiry to be held under Section 33(2)(b) of the Act.”

13. As such, for the ends of justice, this Court directs that the penalty imposed be **modified from “dismissal from service” to “compulsory retirement”**. **Accordingly, all outstanding dues and entitlement of the petitioner be paid within three months from the date of this order.**
14. Accordingly, WPO No.1225 of 2009 is **allowed** with the aforesaid directions.
15. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

(SHAMPA DUTT (PAUL), J.)