



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

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Reserved on: 30th April, 2026

Pronounced on: 13th August, 2026

CNR No : DLHC010064242013

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W.P.(C)-1500/2013

SHRI RADHA KANTA PADHI

S/o Shri Bhaskar Padhi

House NO.-86-B (2nd Floor),

Sant Nagar, East of Kailash,

New Delhi-10065.

.....Petitioner

Through: Mr. Sharvan Dev, Ms. Shaily Pal, Mr. Shubham Garg, Mr. Pradeep Kumar Sharma and Mr. Manish, Advocates for Petitioner along with Petitioner.

versus

STATE BANK OF INDIA

Through its General Manager

(Appointing Authority)

Local Head Office

11, Sansad Marg,

New Delhi.

.....Respondent

Through: Mr. Siddharth Sangal, Ms. Mrinalini Tandon, Ms. Richa Mishra and Mr. Kashish Tewatia, Advocates for SBI.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T



1. The present writ petition has been filed under Article 226 of the Constitution of India seeking issuance of a ***Writ of Certiorari and Mandamus*** for quashing of the Order dated 30.12.2011 passed by the Appointing Authority, and the Order dated 10.04.2012 passed by the Appellate Authority, *whereby the petitioner has been removed from the service of the respondent Bank under Rule 67(i) of the State Bank of India Officers' Service Rules, 1992 (hereinafter referred to as "the Rules, 1992")*.
2. The petitioner seeks *reinstatement in service with full back wages, service benefits and compensation*.
3. ***The facts in brief*** are that the petitioner joined the respondent Bank on 15.02.1992 as *Fire Officer (JMGS-I)* at the Local Head Office, North Eastern Circle, Guwahati. He served at Guwahati for approximately eleven years and was thereafter, transferred to the Local Head Office (LHO), Bhubaneswar, and then to the Local Head Office, New Delhi on 16.10.2007, where he was posted as Fire Officer at the Circle Security Department.
4. *An anonymous email Complaint*, purportedly sent by "*SBI Fire Contractors*," was received by the respondent Bank, on 12.10.2009. The Complainants described themselves as vendors providing firefighting services to the Bank for over a decade. It was alleged that the petitioner was demanding illegal gratification from them in the form of cash and shopping for his personal belongings; that having initially demanded from Delhi based contractors, he had extended his demands to contractors at Agra and Jaipur; and that he frequently gave out his Account Number 11109334804 for the cash to be deposited. The Complaint sought an enquiry into the cash deposited therein from Agra, Delhi and Jaipur.
5. It was further alleged that on the Complainants refusing his demands,



the petitioner had permitted unauthorised vendors not on the Bank's approved panel, to undertake fire alarm system installation and maintenance work, at various offices and branches.

6. The Complaint was marked to Shri S.S. Taneja, Deputy Manager, Vigilance Department, for investigation.

7. Consequent upon the preliminary investigation, the Disciplinary Authority, being the Deputy General Manager (Operations), served a *Charge Sheet* upon the petitioner, *vide* Letter No. VIGL/MPB/613 dated 17.05.2010 under Rules 67/68 of the Rules, 1992, for violation of Rule 50(4).

8. The Charge Sheet contained *two allegations: Allegation No. 1*, that eleven cash deposit transactions totalling to Rs. 75,000/-, had been made by the representative(s) of Firms who are the Bank's vendors, at Chandigarh and Agra, in the petitioner's Current Account maintained at Personal Banking Branch, New Delhi; and *Allegation No. 2*, that *ten cash deposit transactions totalling Rs. 1,78,000/-* had been made in the said account, which "*appears to be beyond his known sources of income,*" at PBB New Delhi and at four branches in Jaipur.

9. The petitioner denied the allegations *vide* his Reply dated 31.05.2010 and alleged that he had been trapped by Shri S.S. Taneja, the Investigating Officer, who was his neighbour at SBI Officers Flats, East of Kailash, New Delhi.

10. The *Disciplinary Authority*, finding the reply unsatisfactory, ordered a *Departmental Enquiry* *vide* Letter dated 11.06.2010. Shri Mahesh Pande (SMGS-V) was appointed as the Inquiring Authority and Shri Jogender Singh (MMGS-III) as the Presenting Officer. The petitioner was defended



by Shri Himanshu Kapur, Deputy General Secretary, SBI Officers Association, Delhi Circle.

11. The enquiry was conducted over multiple hearings between 15.07.2010 and 26.05.2011. The Presenting Officer submitted 25 prosecution documents, Ex. P-1 to P-25.

12. The petitioner submitted three defence documents: ***D-Ex 1***, a Declaration dated 27.05.2010 of his younger brother, Shri Nalini Kanta Padhi, on the letterhead of M/s Battalion Security Force, Silvassa; ***D-Ex 2***, a Declaration dated 25.05.2010 of his father-in-law, Shri Anantaram Sahu, residing at Berhampur, Orissa; and ***D-Ex 3*** his reply dated 31.05.2010 to the Disciplinary Authority. ***Neither the brother nor the father-in-law was examined as a witness.***

13. In the ***Departmental Enquiry***, Allegation No. 1 was held "***Not Proved***" on the ground that the prosecution did not submit any document to prove that the money was deposited by the representative of any vendor. ***Allegation No. 2 was held "Partly Proved"*** to the extent of only four transactions at Sr. Nos. 5, 7, 8 and 9, totalling to Rs. 48,000/-, made in Jaipur branches. The remaining six transactions at PBB New Delhi at Sr. Nos. 1, 2, 3, 4, 6 and 10, were not held proved.

14. The Inquiring Authority submitted its findings on 12.09.2011 to the ***Disciplinary Authority***, being the Deputy General Manager (Operations), who had issued the Charge Sheet.

15. The findings were forwarded to the petitioner *vide* letter dated 14.09.2011 for his representation, which he submitted on 26.09.2011. The Disciplinary Authority thereafter, concurred with the findings of the Inquiring Authority.



16. The proposed penalty of Removal from Service being a major penalty as per Rule 67(i), and the Disciplinary Authority being lower in rank than the Appointing Authority for that category of officers, the file was placed before the Appointing Authority, being the General Manager (Network-II), in terms of Rule 68(3)(iii). *The Appointing Authority issued a tentative Order dated 13.12.2011 proposing the penalty of "Removal from Service" under Rule 67(i).*

17. The petitioner was called for a personal hearing on 20.12.2011. He sought a fresh date on account of illness. A *second opportunity* was fixed for 29.12.2011 *vide* Letter dated 22.12.2011, which was delivered at the petitioner's residence at night on 23.12.2011.

18. The petitioner, upon resuming duty on 26.12.2011, addressed a letter dated 27.12.2011 requesting that his Defence Representative be allowed to present his case at the personal hearing, stating that without such assistance he would not be able to appear. No reply was received to this letter.

19. The Appointing Authority, **by Order dated 30.12.2011, imposed the penalty of "Removal from Service" under Rule 67(i) with effect from the date of service of Order**, which was served at the petitioner's residence at 8.30 PM, on 30.12.2011, even though the petitioner was on duty at the office, throughout the day. The Order recorded that the petitioner did not appear on 29.12.2011 and presumed that he had no submissions to make. The Order also informed the petitioner of his right of appeal under Rule 69 of the Rules, 1992, before the Appellate Authority.

20. Availing this right, the **petitioner preferred an Appeal dated 18.01.2012 before the Appellate Authority**, being the Chief General Manager. The Appellate Authority, *vide* Order dated 04.04.2012



communicated on 10.04.2012, **rejected the Appeal**, observing that the credits made with different signatures, on different dates at different branches, could not be linked to the Letters produced from relatives, and additionally noted that the petitioner had previously also been punished under Rule 67(g) *vide* Order dated 30.11.2007 for irregularities at LHO Bhubaneswar.

21. A Review Petition dated 31.05.2012 was preferred by the petitioner before the **Reviewing Committee at the SBI Corporate Centre, Mumbai**, under Rule 69(3) of the Rules, 1992. The Reviewing Committee, comprising the Chief General Manager (HR) and the Chief General Manager (SME), **rejected the Review Petition *vide* Order dated 16.01.2013.**

22. The petitioner has **challenged his removal from service on the grounds** that (i) the proceedings were initiated on an anonymous email complaint, in violation of the CVC Circular dated 31.01.2002; (ii) that the Charge Sheet was framed in violation of Rule 68(2)(iii) of the Rules, 1992 which requires definite and distinct charges, whereas Allegation No. 2 was worded on presumption as deposits "*which appears to be beyond his known sources of income*"; (iii) that the findings of the Inquiring Authority are perverse inasmuch as the same defence documents were accepted for Allegation No. 1 and rejected for Allegation No. 2 without any prosecution evidence; (iv) that no meaningful opportunity of personal hearing was afforded before the imposition of the major penalty; (v) that the Appellate Authority impermissibly relied upon a prior punishment dated 30.11.2007 which was not part of the present Charge Sheet; and (vi) that the penalty of Removal from Service is shockingly disproportionate to the misconduct held proved, having deprived the petitioner and his family of the entire retiral



entitlement earned over nearly twenty years of service.

23. *Per contra, the respondent Bank* has stated in its **Counter Affidavit**, affirmed by Shri Rajiv K. Goel, Chief Manager (HR), that the present petition is not maintainable and is a gross abuse of process of law. It is contended that the petitioner was given full opportunity to defend himself during the enquiry; *the Inquiring Authority conducted a detailed enquiry; and only after due investigation and inquiry, was the petitioner removed from service.*

24. It is further contended that the petitioner *has not alleged bias* against any of the authorities concerned with the disciplinary action, and that the action was taken in the ordinary course without any bias or favour.

25. The respondent has stated that Charges No. 1 and No. 2 *are different in nature and are not inter-dependent.* With regard **to the four Jaipur transactions held proved**, it is submitted that the petitioner failed to produce any folio of the paying slip, to prove that the money was deposited by him or his relatives; the paying slips were signed by different unidentified persons; the petitioner was posted in Delhi when the deposits were made at Jaipur; his father-in-law had never been living at Jaipur; and his brother, whose business was based at Silvassa, never appeared as a witness to prove his presence at the different locations, on the relevant dates.

26. Furthermore, the declarations of the brother and father-in-law, the close relatives, were filed without any independent evidence of their resources. *The respondent has specifically relied upon the petitioner's Assets and Liabilities statements, to submit that the petitioner declared loans from relatives as Rs. 4 Lakhs, in both the statements dated 31.03.2008 and 31.03.2009, with no increase despite the claim of having received Rs.*



2,73,000/- from relatives during the same period.

27. It is asserted that the Petitioner does not have a clean track record, *having been punished earlier under Rule 67(g)* for irregularities at LHO, Bhubaneswar. The respondent has submitted that the petitioner was called for personal hearing on two occasions, viz. 20.12.2011 and 29.12.2011, but chose not to appear despite being available, and that his request for a Defence Representative during the personal hearing was rightfully not acceded to, as there is no provision for the same in the Rules, 1992.

28. The petitioner in his ***Rejoinder Affidavit*** has submitted that the Counter Affidavit was filed beyond the time granted by this Court, and that the respondent failed to produce the Departmental Proceedings, as directed vide Order dated 06.03.2013. The petitioner reaffirmed the contents of the Writ Petition and has submitted that both, Allegation No. 1 and Allegation No. 2, arise from the same set of cash deposits in the same account and are inter-related; that the respondent Bank intentionally split one set of financial transactions into two allegations, with the aim of somehow proving the charge. Since Allegation No. 1 stood "Not Proved," Allegation No. 2 cannot stand on its own legs as the very foundation of the Charge stood demolished.

29. The petitioner has submitted that the Inquiring Authority accepted the defence documents D-Ex 1 and D-Ex 2 for the purpose of Allegation No. 1 and exonerated the petitioner, but rejected the very same documents for the purpose of Allegation No. 2, without any prosecution evidence, which renders the findings perverse. The prosecution was required to stand on its own legs and the charge cannot be proved on the basis of the weakness of the defence.

30. The petitioner has further submitted that the Appellate Authority



violated the Service Rules by relying upon the prior Bhubaneswar punishment, which was not part of the present Charge Sheet, and that past record should not influence action in the present proceedings.

31. The petitioner has submitted that neither the Disciplinary Authority nor the Appointing Authority, considered his submissions dated 26.09.2011 while issuing the tentative Order, and that the Order of the Appointing Authority, *is a non-speaking Order*.

32. It is further submitted that the penalty of removal from service on the basis of four transactions totalling Rs. 48,000/-, without any proven financial loss to the Bank, *is shockingly disproportionate*; that the petitioner was only 45 days short of completing 20 years of qualifying service, and the Order rendered him ineligible for pension, depriving him and his family of their sustenance.

33. *Learned counsel for the petitioner, in his written synopsis* of arguments, has asserted that the entire proceedings are vitiated since inception, inasmuch as they were initiated on the basis of an anonymous email Complaint, in violation of the *Central Vigilance Commission* Circular No. 98/DSP/9 dated 31.01.2002, which categorically directed that under no circumstance should any investigation be commenced or action initiated on anonymous or pseudonymous Complaints.

34. It is further submitted that the *Charge Sheet violated Rule 68(2)(iii) of the Rules, 1992* which mandates that the Disciplinary Authority shall frame "*definite and distinct charges*," and that Allegation No. 2, worded as "*which appears to be beyond his known sources of income*," is vague, indefinite and framed on presumptions. Moreover, this Court had directed the respondent *vide* Order dated 14.12.2018 to produce the inquiry proceedings, which



direction itself demonstrates that the Order of the Appointing Authority was *a non-speaking order*.

35. Reliance is placed on Union of India v. Vineet Ohri, 2009 SCC OnLine Del 1881; Surath Chandra Chakravorthy v. State of West Bengal, (1971) 1 LLJ 293 SC; Anil Gilurker v. Bilaspur Raipur Kshetria Gramin Bank, JT2011(10)SC373; S.K. Raheman v. State of Orissa, 60 CLT 419; State of Uttar Pradesh v. Mohd. Sherif, AIR 1982 SC 937; Kuldeep Singh, 1999-I-LLJ-604; State Bank of India v. Ranjit Kumar Chakraborty, Civil Appeal No. 3233 of 2005; SBI v. D.C. Aggarwal, (1993) 1 SCC 13; and Mysore State Road Transport Corporation v. Mirja Khasim Ali Beg, AIR 1977 SCC 747.

36. *Per contra, the learned counsel for the respondent Bank in his written submissions*, has contended that the petitioner was granted full opportunity to defend his case; all documents were supplied; and the principles of natural justice were completely followed. The burden was on the petitioner to prove the sources of the deposits in which he miserably failed; that the declarations of the brother and father-in-law were an attempt to wriggle out of the charges; and that Bank Officers are required to maintain the highest level of integrity and honesty.

37. The petitioner's prior punishment, coupled with the unexplained deposits, constituted a clear case of loss of confidence, and that the punishment of removal from service, is perfectly justified. It is further submitted that the punishment imposed by the Disciplinary Authority cannot be subjected to judicial review unless it is shocking to the conscience of the Court.

38. Reliance is placed on State through Deputy Superintendent of Police



v. R. Soundirarasu, (2023) 6 SCC 768; *Suresh Pathrella v. Oriental Bank of Commerce*, (2006) 10 SCC 572; and *Chief Executive Officer, Krishna District Cooperative Central Bank Ltd. v. K. Hanumantha Rao*, (2017) 2 SCC 528.

Submissions heard. Records perused.

39. Briefly stated, the petitioner, a Fire Officer with nearly twenty years of service in the respondent Bank, was charge-sheeted on two allegations relating to cash deposits in his account. The Inquiring Authority held Allegation No. 1, that the deposits were made by the Bank's vendors, as "**Not Proved**," and Allegation No. 2, that the deposits were beyond his known sources of income, as "**Partly Proved**," limited to four transactions totalling Rs. 48,000/-. The penalty of "*Removal from Service*" was imposed, and the Appeal and Review were rejected.

40. The short question which arises for consideration is whether the penalty of *Removal from Service imposed upon the petitioner, on a charge of which one allegation was held not proved and the other only partly proved to the extent of Rs. 48,000/-, can be sustained in law.*

41. Before coming to the merits, *it is necessary to note the limits within which this Court exercises its power of judicial review in service matters.*

42. The Supreme Court in *B.C. Chaturvedi v. Union of India*, (1995) 6 SCC 749, held that the Court does not sit as an Appellate Authority over the findings of the disciplinary authority and does not reappreciate the evidence. The Court may interfere where the enquiry *is contrary to the rules of natural justice or the statutory rules*, or where the finding is based *on no evidence or is such as no reasonable person could reach*. On the question of penalty, it was held that if the punishment shocks the conscience of the



Court, the Court would mould the relief and in rare cases, itself impose the appropriate punishment for reasons recorded.

43. This Court has therefore, not gone into the sufficiency of the evidence before the Inquiring Authority. Whether the declarations of the petitioner's brother and father-in-law deserved to be believed, and what weight was to be given to the fact that neither was examined, are matters for the consideration of departmental authority alone. What this Court examines is whether the findings answer the charge, and whether the penalty answers the finding.

I. The finding of the Disciplinary Authorities:

44. The Charge Sheet dated 17.05.2010 was issued against the petitioner for violation of Rule 50(4) of the Rules, 1992, which reads as under:

"50. (4) Every officer shall, at all times, take all possible steps to ensure and protect the interests of the Bank and discharge his duties with utmost integrity, honesty, devotion and diligence and do nothing which is unbecoming of an officer."

45. The Charges against the petitioner were as under:

“Allegation No. 1: That between 27.10.2008 and 12.10.2009, eleven cash deposit transactions totalling Rs. 75,000/- had been made in the petitioner's Current Account No. 11109334804 maintained at Personal Banking Branch, New Delhi, by the representative(s) of firms who were the Bank's vendors, one at Sector-18D Chandigarh and ten at New Shah Ganj, Agra.



***Allegation No. 2:** That between 09.03.2009 and 29.09.2009, ten cash deposit transactions totalling Rs. 1,78,000/- had been made in the said Current Account, six at PBB New Delhi and four at Bajaj Nagar Jaipur, Jaipur South Branch, Jaipur Special Branch and Hawa Sarak Jaipur respectively, which "appears to be beyond his known sources of income."*

46. The petitioner in his Rejoinder contended that both Allegations arose from the same set of cash deposits and that the Bank had split one transaction stream into two. ***That contention is not borne out by the record.***

47. The eleven transactions comprising Allegation No. 1 were at Chandigarh and Agra between October, 2008 and October, 2009, and the ten transactions comprising Allegation No. 2 were at Delhi and Jaipur between March, 2009 till September 2009. No transaction that figured in two allegations, were same.

48. The Inquiring Authority, by report dated 12.09.2011, held Allegation No. 1 as "*Not Proved*," recording that the Presenting Officer had not submitted any document to show that the eleven deposits had been made by any vendor of the Bank or any representative of any vendor. The Disciplinary Authority concurred, and the finding of "*Not Proved*" on ***Allegation No. 1*** has attained finality.

49. With regard to ***Allegation No. 2***, of the ten transactions, six at PBB, New Delhi and totalling Rs. 1,30,000/-, were held *not proved on the ground that the credit slips had been signed by the petitioner himself*. The remaining four, at the Jaipur branches, totalling Rs. 48,000/-, were held "**Partly**



Proved" as beyond the petitioner's known sources of income. In arriving at this conclusion, the Inquiring Authority took into account that the four Jaipur vouchers bore the signatures of three **different** persons and one voucher, Ex. P-20/1, **was unsigned**; that M/s Battalion Security Force, of which the petitioner's brother, Shri Nalini Kanta Padhi, was said to be a partner, was a Firm supplying manpower and not dealing in fire safety equipment, and its depositing money at different North Indian locations was on the principle of "preponderance of probability" not convincing; and that the amounts in question were not reflected in the Assets and Liabilities Statements as on 31.03.2008 and 31.03.2009. Therefore, guilt in respect of these four entries was found, to which the Disciplinary Authority concurred.

50. The scope of judicial review of a departmental finding is well settled. The Supreme Court, in a long line of decisions culminating in State Bank of India v. A.G.D. Reddy, (2023) SCC OnLine SC 1063, has held that a Writ Court under Article 226 does not sit as an appellate authority over the findings of the disciplinary authority, does not reappreciate the evidence, and is not to substitute its own view for that of the disciplinary authority. The Apex Court held thus:

"36. It is now well settled that the scope of judicial review against a departmental enquiry proceeding is very limited. It is not in the nature of an appeal and a review on merits of the decision is not permissible. The scope of the enquiry is to examine whether the decision-making process is legitimate and to ensure that the findings are not bereft of any evidence. If the records reveal that the findings are based on some evidence, it is not the function of the court in a judicial review



to re-appreciate the same and arrive at an independent finding on the evidence."

51. The interference is, thus, confined to cases where the enquiry has been held in a *manner inconsistent with the rules of natural justice or the statutory rules governing the mode of enquiry, or where the finding is based on no evidence or is one that no reasonable person could have reached*. The sufficiency of the evidence, the credibility of the witnesses, and the weight to be given to the material on record are matters within the exclusive domain of the disciplinary authority.

52. In the present case, the finding on Allegation No. 2 to the extent of four Jaipur transactions is supported by the material set out above, which the Inquiring Authority has weighed. It is not for this Court, in the exercise of writ jurisdiction, to reassess that material or to substitute its own assessment of the source of the four Jaipur deposits to that of the Inquiring Authority. *The finding, so far as it goes, do not merit interference.*

53. This Court, however, is required to take note of a feature of the record, which do not go to the finding as such, but bear upon what the finding, so returned, actually establishes.

54. The Charge under Rule 50(4) was framed on the premise that the petitioner had, in the discharge of his duties as Fire Officer, received money in his personal account from persons whose interests his official conduct was capable of advancing. ***With Allegation No. 1 held not proved, the vendor nexus was not established,*** and what remained under Allegation No. 2 was that *four credits totalling Rs. 48,000/- in the petitioner's personal account had been held to be beyond his known sources of income.*

55. *This feature does not warrant interference with the finding on*



Allegation No. 2 as such. This however, bears upon the question that arises for consideration namely, whether the penalty of Removal from Service imposed on the strength of this finding, is proportionate to the misconduct so held proved.

II. Whether the penalty is proportionate to the Guilt under Allegation

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56. Even where the departmental finding is not open to interference, the penalty imposed on its strength is subject to the test of proportionality. The Supreme Court in *A.G.D. Reddy (supra)*, itself recognised this jurisdiction, examining whether the penalty in that case shocked the conscience of the Court before declining to interfere with it.

57. Similarly, in *B.C. Chaturvedi v. Union of India*, (1995) 6 SCC 749, the Supreme Court held that where the punishment shocks the conscience of the Court, the Court would mould the relief and, in rare cases, itself impose the appropriate penalty.

58. Rule 67 of the Rules, 1992 provides a graded scale of penalties:

"67. Without prejudice to any other provisions contained in these rules, any one or more of the following penalties may be imposed on an officer, for an act of misconduct or for any other good and sufficient reason to be recorded in writing:

Minor Penalties

(a) Censure;

(b) Withholding of increments of pay with or without cumulative effect;

(c) Withholding of promotion;

(d) Recovery from pay or such other amount as may be due to him of the whole or part of any pecuniary loss caused to the



Bank by negligence or breach of orders;

(e) Reduction to a lower stage in time-scale of pay for a period not exceeding 3 years, without cumulative effect and not adversely affecting the officer's pension.

Major Penalties

(f) Save as provided for in (e) above, reduction to a lower stage in the time-scale of pay for a specified period...;

(g) Reduction to a lower grade or post;

*(h) **Compulsory retirement;***

*(i) **Removal from service;***

*(j) **Dismissal.**"*

59. The petitioner was visited with the penalty under clause (i), of *Removal from Service*, which stands second only to *Dismissal*. The distinction between clause (i) and clause (h) is central to the present case. ***Compulsory Retirement*** severs the employment while preserving the pension and terminal benefits earned by the officer over the course of his service. ***Removal*** severs the employment and forfeits those benefits.

60. In *Umesh Kumar Pahwa v. Board of Directors, Uttarakhand Gramin Bank*, (2022) 4 SCC 385, a Branch Officer with twenty-eight years of service was removed from service after nine out of ten charges were held proved, including charges of lack of probity and integrity, misuse of official position, and acts unbecoming of an officer. The Supreme Court, in paragraph 3.2 of the judgment, observed that no financial loss had been caused to the Bank and that the officer had served twenty-eight years without any allegation against him, and held that the punishment of *Removal* was "*too harsh and disproportionate*" to the charges proved. *Holding it to be a case of loss of confidence in the employee, the Supreme Court substituted Removal with Compulsory Retirement, and directed that*



the officer receive all benefits flowing from that conversion.

61. The facts of the present case, tested against the yardstick applied in *Umesh Kumar Pahwa*, present a stronger case for interference. In *Umesh Kumar Pahwa*, nine charges stood proved. In the present case, *of the two Allegations, one was held "Not Proved" in its entirety, and the second was held "Partly Proved" only to the extent of four transactions out of ten, amounting to Rs. 48,000/- out of Rs. 1,78,000/-.*

62. In *Umesh Kumar Pahwa*, no financial loss to the Bank was alleged. In the present case, likewise, no financial loss has been alleged, much less proved. In *Umesh Kumar Pahwa*, the officer had twenty-eight years of unblemished service. In the present case, the petitioner had completed nineteen years and ten months of service, standing forty-five days short of the twenty years, which would have qualified him for pension.

63. The Supreme Court in State of *Mysore v. K. Manche Gowda*, AIR 1964 SC 506, held that where past punishments or past conduct are proposed to be relied upon in determining the punishment, the delinquent must be afforded a reasonable opportunity to know that such past record is proposed to be taken into consideration and to meet the same. The principle has been reiterated in *Mohd. Yunus Khan v. State of U.P.*, (2010) 10 SCC 539, wherein it was held that if the disciplinary authority intends to consider the past conduct of the employee in imposing punishment, the delinquent is entitled to notice thereof and, ordinarily, such matter should form part of the charge-sheet or be brought to his notice at the stage of show-cause before punishment is imposed.

64. The Apex Court in *Union of India v. Bishamber Das Dogra*, (2009) 13 SCC 102, while recognising that past conduct may be considered in an



appropriate case, likewise observed that it is desirable that the delinquent be informed that his past conduct would be taken into consideration while imposing punishment.

65. In assessing the proportionality of the penalty, this Court cannot lose sight of the fact that the Appellate Authority, while considering the petitioner's Appeal, *additionally took note of the punishment imposed upon him under Rule 67(g) of the Rules, 1992 vide Order dated 30.11.2007, for irregularities committed while he was posted at LHO, Bhubaneswar.* The said previous punishment did not form part of the Charge Sheet in the present proceedings, nor was the petitioner informed, at the stage of consideration of the present penalty, that the said punishment was proposed to be taken into account for determining the appropriate penalty in the present case.

66. In the present case, there is nothing in the record to indicate that the petitioner was put to notice that the Order dated 30.11.2007 would be relied upon by the Appellate Authority, in deciding whether the penalty of Removal from Service imposed in the present proceedings ought to be sustained.

67. The penalty of Removal from Service, thus, imposed on the strength of what has ultimately been found against the petitioner, *is disproportionate.* It has extinguished the pensionary and terminal benefits earned by him over nearly two decades, upon a finding limited to four transactions totalling Rs. 48,000/-, at a time when he stood forty-five days short of qualifying for pension. The penalty accordingly, *crosses the threshold* laid down in *B.C. Chaturvedi (supra)* and *Umesh Kumar Pahwa (supra)*, and calls for *modification.*



68. The petitioner has remained out of service since 30.12.2011, a period of nearly fourteen years. The Petitioner has been found guilty of four Jaipur unaccounted entries totalling to Rs.48,000/-; a circumstance which the respondent Bank has stated that its confidence in the petitioner has been shaken. The Bank's position, in the framework of *Umesh Kumar Pahwa*, is not without basis.

69. In these circumstances, the appropriate course is to substitute the penalty of Removal from Service under Rule 67(i) with the penalty of Compulsory Retirement under Rule 67(h) of the Rules, 1992. This preserves the retiral entitlement earned by the petitioner over the course of his service, while giving effect to the respondent Bank's position that continued employment is not open.

70. Accordingly, the Order dated 30.12.2011 of the Appointing Authority, and the Order dated 10.04.2012 of the Appellate Authority, insofar as they impose upon the petitioner the penalty of Removal from Service under Rule 67(i) of the Rules, 1992, is modified. The penalty of Removal from Service is set aside and, in its place, the penalty of Compulsory Retirement under Rule 67(h) of the Rules, 1992 is substituted from the date he completes his twenty years and the period of about 45 days prior to it, be treated as leave without pay.

Conclusion and Relief:

71. The **Writ Petition is allowed, in part.**

72. The petitioner shall be treated as having been compulsorily retired from the date he completed his twenty years and shall be entitled to all benefits flowing from such conversion, including pension, gratuity and provident fund, as admissible under the Rules.



73. The Writ Petition along with pending Applications, if any, stands disposed of accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

AUGUST 13, 2026/VA/RS