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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: August 19th, 2026*# **CNR No. DLHC01033332007**+ **W.P.(C) 2747/2007 & CM APPL. 5128/2007**THE ASST.G.M., STATE BANK
OF INDIA

.....Petitioner

Through: Mr. Rajiv Kapur, SC with
Mr. Akshit Kapur, AOR & Ms.
Riya Sood, Adv.

versus

Y.K. MALIK

.....Respondent

Through: Mr. Anuj Aggarwal,
Mr. Mayank Chauhan, Mr.
Prabhav Pachauri & Mr.
Gurkirat Singh, Advs.**CORAM:**
HON'BLE MR. JUSTICE AMIT MAHAJAN**AMIT MAHAJAN, J. (Oral)**

1. The present petition is filed under Articles 226/227 of the Constitution of India, assailing the award dated 27.07.2006 (hereafter referred to as the '**impugned award**') passed in I.D. No. 67/2004, whereby the learned Tribunal held the termination/dismissal from service illegal and directed reinstatement along with consequential benefits and full back wages.

2. Succinctly stated, the Workman filed a claim statement before the learned Tribunal stating, that on 18.06.1980, he joined Petitioner,

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at Mangalore branch, as a *clerk cum cashier*, whereafter, he was promoted as a *teller*. Thereafter, the workman was transferred to University Branch, SBI Roorkee, where the workman worked till 07.10.1994. He was subsequently transferred to the SBI Branch at Dibai, District Bulandshahr, where he continued to discharge his duties (until his services came to be terminated) in the year 2000.

3. The workman was served with a charge-sheet on 27.01.1998, alleging the act of misconduct, wherein the charges alleged against the workman were as follows:

- "1. You willfully and fraudulently opened a fictitious savings bank account No.20510 in the name of Shri S.K. Sharma while the original account No:20510 in the name of sharad Kumar (minor) UNG ms. Meena Mathur and shri Depal Mathur had already been closed on 2.5.89.*
- 2. You originated a fictitious entry for Rs. 10,832.16 by S/F in the above savings bank account with ulterior motive of fraudulent withdrawal.*
- 3. You willfully issued on 11.6.94 a cheque book containing cheque forms No. 572726 to 572750 on the above fictitious savings bank account no.20510 in your own handwriting by incorporating the name of Shri R.K. Sharma instead of Shri S.K. Sharma and put fictitious initials for receiving the cheque book*
- 4. You put through a credit entry 'by cash' for Rs 1,000/- as on 18.5.94 in the above fictitious savings bank account no.20510 in your own handwriting with ulterior motives*
- 5. You intentionally and fraudulently deleted the entry for Rs.3,968.95 representing interest from the savings bank account No.21072 of Smt. Shanti Naithani and entered the same as on 31.3.94 in the savings bank account No.20510 opened by you fraudulently with ulterior motives.*
- 6. You intentionally and fraudulently made on 25.8.94, a credit entry for Rs.5,775.00 in the above savings bank Account No.20510 in the name of shri*

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S.K. Sharma. The amount of the above entry was meant for the account of shri R.S. Tiwari.

7. You, while working as Teller, make the payment of under-mentioned six cheques and pocketed the "money by defrauding the Bank by Rs.13,650/-.

Account No.	Name of the	Cheque No.	Date	Amount (Rs.)
20510	Shri S.K. Sharma	572729	1.7.94	3,000
20510	Shri S.K. Sharma	572727	4.7.94	1,000
20510	Shri S.K. Sharma	572730	8.7.94	3,000
20510	Shri S.K. Sharma	572731	23.7.94	3,000
20510	Shri S.K. Sharma	572732	25.7.94	950
20510	Shri S.K. Sharma	572733	25.8.94	2,700

8. In the above fictitious saving bank account No. 20510, the payment of the following cheques was also received and pocketed by you.

Cheque No.	Date	Amount (Rs.)
572726	2.7.94	3,000
572728	1.7.94	3,000

9. You, while posted at Mangalore Branch, unauthorisedly closed and transferred on 4.5.91, savings bank account no. 8504 in the name of one Shri Krishan Lal to Tikamgarh Branch, on a written request by the depositor without ascertaining the specific reason for transfer and complete address at the other end for further communication and delivery of the passbook.

10. You did not seek approval of the authorised official for transferring the above saving bank account and you yourself transferred the account unauthorisedly. The bank has been defrauded by Rs 99,800/- through this account."

4. Thereafter, departmental enquiry was conducted against the workman on 08.11.1999, and the Enquiry Officer submitted his report to the disciplinary authority. The Enquiry Officer held that charge nos. 1 to 6 & 8 to be circumstantially proved as the workman had not produced any document in his favour, while Charge Nos. 7, 9 and 10 were found to be not proved.



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5. On 20.10.2001, the Disciplinary Authority, endorsed the observations in the enquiry report, held the Charge No. 7 also proved, and thus, imposed the penalty of *dismissal from service*.

6. Consequently, the workman preferred an appeal against the order of termination passed by the Disciplinary Authority before the Appellate Authority. *Vide* order dated 06.06.2003, the Appellate Authority dismissed the appeal, holding that it found no reason to differ from the decision of the disciplinary authority.

7. Aggrieved by the order of the learned Appellate Authority, the workman raised an industrial dispute against the Petitioner, which was referred to the learned Tribunal. The referred point of adjudication was as under: -

“Whether the action of the Asstt. General Manager Region-II, Meerut in punishing dismissal from the services on Shri Y.K. Malik, S/o late Shri O.P. Malik, Teller w.e.f. 20.10.2001 is just, fair and legal? If not for what relief he is entitled to”

8. The learned Tribunal, upon appreciation of the evidence placed on record and the enquiry proceedings, discussed the observations and the findings of the Enquiry Officer *qua* each charge, and observed that firstly, it is not even a case of discrepancy in evidence rather a case of no evidence and there was no evidence to connect the workman to the allegations raised in the chargesheet; secondly, the threshold of proof, even with respect to circumstantial evidence was not met; thirdly, even the burden of proof has been reversed and the charges were held to be proved circumstantially in the absence of any evidence from the side of the workman, when the onus to prove the charges was upon the



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Department by leading cogent evidence and producing relevant documents/witnesses; fourthly, the conclusions drawn by the Enquiry Officer to hold the charges prove, were not supported by cogent reasoning or discussion; Fifthly, as regards charges of forgery, there was no opinion of the handwriting expert neither has anyone mentioned that they could identify the handwriting of the officer; and lastly, though enquiry officer had held the charge no. 7 not proved, the Disciplinary Authority has reversed the finding without giving any reasoning for the same.

9. Hence, *vide* the impugned Award, the learned held that the Petitioner failed to adduce any cogent, reliable or substantive evidence to prove the charges leveled against the workman and that the findings recorded in the departmental enquiry were perverse and could not justify the order of termination. Consequently, the order of dismissal was set-aside and the Respondent was directed to be re-instated with full back wages and consequential benefits.

10. Aggrieved thereby, the present petition has been filed.

11. The learned counsel for the Petitioner submits that the learned Tribunal has gravely erred in interfering with the orders passed in the departmental enquiry when the findings were based on evidence led before the Enquiry Officer. The Petitioner bank had produced 4 witnesses in the departmental proceeding and the documents *inter alia* D1: Original Account opening form, D2: Balance Book of concern SB Ledger, D3: Ledger Transaction Sheet, and D4: Annual interest applied in the SB Ledger were also produced, which proved the charges, as rightly observed by the Inquiry officer.



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12. He submits that the charges stood proved circumstantially and same was a Case of circumstantial evidence; the standard of proof in departmental proceedings is preponderance of probability rather than proof beyond doubt, which stood satisfied. Thus, the Disciplinary Authority was justified in ordering punishment of “*dismissal from service*”.

13. He further submits that, as regards the relief awarded, once the workman had lost confidence of the bank, he could not have been directed to be re-instated and the workman has attained the age of supputation in March 2020 during the pendency of proceedings. Even otherwise, relief of re-instatement and back wages is not automatic and no relief of compensation should be granted in such cases of fraud and misuse of public funds.

14. He also submits that, without prejudice to the above, the matter be remanded to the learned Tribunal and an opportunity be afforded to the Petitioner to lead evidence on merits. He submits that though the Petitioner had specifically sought opportunity for proving the misconduct on merits by leading evidence, if it is found that the enquiry is not fair/proper, however, the same request was not considered. Reliance is placed upon the below reproduce paragraph of *Amrit Vanspati Co. Ltd v. Khem Chand & Anr.*, (2006) 6 SC 325; *Workmen Of Messers Firestone Tyre v. Management & Others* (1973) 1 SCC 813; and *Delhi Cloth and General Mills v. Ludh Budh Singh* 1972 (1) SCC 595.

15. Hence, it is urged that the present petition be allowed.



16. *Per contra*, the learned counsel for the workman vehemently opposes the present petition and submits that the learned Tribunal has rightly appreciated the evidence on record and returned well-reasoned findings warranting no interference under Article 226 of the Constitution. He submits that the workman has been falsely implicated and that his services were terminated without giving any notice, rendering the termination illegal and unjust. He submits that the findings in the departmental enquiry are based on mere presumptions and surmises and that none of the charges could have been held proved.

17. He submits that the findings of the Inquiry Officer/ Disciplinary Authority were evidently perverse. Inquiry Officer went on to prove the charges even though there was no direct evidence to show the guilt of the Respondent. The Charges 1 to 6 & 8 were held to be '*circumstantially proved*' by the Inquiry officer, on the basis of documents which were unsupported by any witness/ testimony. The I.O. could not find anything to establish the charges against the Respondent herein, and mechanically held charges "*circumstantially proved*" observing that the defense has not produced any evidence/ documents against the said charges, in complete violation of the settled principle.

18. He further submits that, as regards involvement of the workman in relation to the preparation of forged documents remained unproven, since none of the departmental witnesses testified to that effect, the documents were neither exhibited nor confronted to the workman during the inquiry and no relevant questions were asked during cross-



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examination. Even the handwriting was not compared. Thus, the impugned award had rightly observed that the Inquiry Officer has erred in revering the burden of proof upon the workman proceedings on the premise that it is the duty of the workman to produce evidence and documents in his favour on the charges, if they were not proved by the Petitioner.

19. He further submits that the disciplinary authority reversed the findings *qua* charge no. 7, without affording any reasons for differing/ disagreeing with the finding of the Inquiry Officer as regards Charge 7

20. Hence, there is no infirmity in the Impugned Award, and the petition is liable to be dismissed.

21. This Court, *vide* order dated 23.04.2007, stayed the operation of the impugned award, subject to the Petitioner depositing the sum of Rs. 7,500/- towards litigation charges.

22. The workman filed an application under Section 17B of the Industrial Disputes Act, 1947, before this Court. The same was allowed *vide* Order dated 31.1.0.2008 and this Court directed the petitioner to pay full wages last drawn or minimum wages, whichever is higher, from the date of award till the disposal of the present petition.

23. Submissions heard and the material placed on record along with departmental proceedings perused.

24. At the outset, it is necessary to note that the scope of interference under Article 226 and 227 of the Constitution of India with an Award passed by the Learned Tribunal. This Court's interference is only warranted where the findings are perverse, based



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on no evidence, suffer from patent illegality or disclose a jurisdictional error. This Court cannot sit in appeal over the observations arrived at by the learned Tribunal, which is the fact finding authority and if the view adopted is a plausible view.

25. Adverting to the merits of the present case, the record reflects that all these arguments have been duly addressed by the learned Tribunal.

26. Observations and findings on Charges No. 1-8 are discussed herein below, since both authorities had held Charges no. 9 and 10 not proved.

27. As regards Charge No. 1, the same pertained to opening of a fictitious S/B Account No. 20510 when the original stood closed. The learned Tribunal has rightly observed that though documents D-1 to D-4 were relied upon to prove the same, the same did not conclusively connect the Workman to the fictitious Account or the documents establishing a fictitious account was opened. Further, no questions as to who prepared these documents was asked from the witnesses. No question regarding these documents was asked. None of the witnesses have stated that these documents were prepared by the Respondent to open the fictitious account and the Workman was not even confronted with these.

28. As regards Charge No. 2, the same pertained to origination of fictitious entry of Rs. 10,832.16, with ulterior motive of fraudulent withdrawal. The Enquiry Officer has not recorded any reasons as to how the same stands proved and has not returned any factual findings or evidence on which the same were held to be proved.



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29. As regards Charge No. 3, the same pertained to issuance of cheque forms no. 572726-572750, opened in the above S/B a/c 20510 opened fictitiously. The learned Tribunal has rightly observed that though the same was again held proved circumstantially, there are no findings and discussion of the circumstances under which the cheque books have been issued.

30. As regards the Charge No. 4, the same pertained to the putting an entry of Rs. 1000/- by cash in the above account with ulterior motive. Though the inquiry officer has relied upon Document D-3, there is nothing, not even oral evidence, to connect the Workman with the forged entry or that the handwriting is of the workman. Even no witness could state that the act is done by the workman/ the document was prepared by D-3 or could identify the same as his handwriting.

31. As regards the Charge No. 5, the same pertained to fraudulent deletion of entry of Rs. 3268.95 from SB A/C 21072 and entering the same in A/C 20510 with ulterior motive. Reliance was placed upon document DIX i.e. credit and debit voucher, D-6 and D-3 to hold that the entry had been deleted and entered in 20510 account. Notably, the same were not even shown to the workman. However, the Enquiry Officer had himself held that who added this entry could have been only been identified by confirmation of writing/finger impression expert, which had not been produced. Yet the charged were held to be proved against the workman circumstantially, without any evidence on who actually prepared this voucher.

32. As regards charge no. 6, the same pertained to fraudulently making entry of Rs. 5775 in 20510 a/c when the entry pertained to



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another account. Similar as above, though it was held proved that the entry has been made fraudulently, who made the entry could not be identified in the absence of handwriting expert. Yet the charge was held proved against the workman circumstantially without any evidence attributing the act to him.

33. As regards charge No. 7, the same pertained to making payment of 6 cheques and pocketing the amount. The inquiry officer had categorically noted the charge could not be proved as, apart from oral evidence of W-2 and 3, there is no document or evidence or evidence of writing expert to prove that the cheques were drawn by the workman and the payment was received by him. It has been rightly observed by the learned Tribunal that the Disciplinary Authority, though has power to alter the findings, the same has to be done by assigning cogent reasons, which was absent in the present case.

34. As regards charge No. 8, the same pertained to pocketing payment of 2 cheques from 20510 account. The enquiry officer notes that as per circumstantial evidence, the workman “*could have*” received the above amount. No conclusive findings have been given and the circumstances are also not disclosed as to how he has pocketed the same.

35. Thus, in the opinion of this Court, the learned Tribunal, upon due perusal of departmental enquiry, rightly held that in most of the charges, the evidence which could establish a direct link between the alleged act and the workman was not produced. It is well settled that even to satisfy the threshold of preponderance of probabilities or even circumstantial evidence, cogent evidence establishing the guilt of the



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workman has to be adduced. Additionally, the workman cannot be burdened with the onus to prove a negative and disprove allegations of forgery/withdrawal of money (which he has already denied) and thus, no adverse inference could have been drawn in the present case.

36. Thus, the learned Tribunal rightly concluded that the findings recorded in the departmental enquiry could not constitute a valid basis for imposing the extreme penalty of dismissal. The same is a plausible view and thus, the impugned order does not warrant interference in the exercise of writ jurisdiction.

37. As regards the alternate plea of remanding the matter, it has been urged that an opportunity be granted to the Petitioner to lead additional evidence.

38. There is no dispute as regards the settled law that once it has been held that no enquiry was conducted or the enquiry was defective, the Tribunal/Labour Court, in order to satisfy itself about the legality of the order of punishment, has to give opportunity to the employer to lead evidence afresh, on merits and to the employee to rebut the evidence so produced, if such a request has been at the appropriate stage.

39. However, in the present case, this Court cannot turn a blind eye to the fact that already more than two decades have elapsed since the institution of the present proceedings, and the disciplinary proceedings pertain to events of 1990's i.e. almost 3 decades old. Additionally, despite repeated queries from this Court as to the nature of the additional evidence and what evidence is desired to be led, the submissions advanced in this regard remained vague and general in



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nature, and no satisfactory explanation was furnished. It has also not been explained how the evidence proposed to be led would cure the deficiencies discussed above. Thus, the Petitioner has not been able to make out a case of remanding the matter.

40. Hence, if the matter is remanded at such a distant point in time, the litigation would only get prolonged and no useful purpose would be served. Additionally, this Court is informed that the workman has been paid about 21 Lakhs, under Section 17B of the Industrial Disputes Act and the workman has already attained the age of superannuation.

41. Thus, considering the long lapse of time since termination, the present age of the Respondent, and the substantial amount already paid under Section 17B of the Act, this Court is of the considered view that the ends of justice would be met by awarding a lump-sum award as full and final compensation in lieu of reinstatement and back wages.

42. The sustenance allowance has already been paid to the workman, thus, considering the totality of circumstances, the Respondent is awarded an additional sum of Rs. 5,00,000/-. The same shall be paid by the Petitioner within a period of eight weeks from the date of this Order.

43. However, the Petitioner is bound to pay any remaining amount in compliance of the 17B orders passed by this Court. In case of any grievance, the Respondent at liberty to avail appropriate remedy.



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44. Consequently, the impugned award is modified to the aforesaid extent and petition, along with pending application(s), if any, are disposed of.

AMIT MAHAJAN, J

AUGUST 19, 2026
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Signature Not Verified

Signed By: HARMINDER

KAUR

Signing Date: 24.08.2026

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