IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 4TH DAY OF DECEMBER 2015/13TH AGRAHAYANA, 1937

WP(C).No. 14756 of 2014 (T)

PETITIONER(S):

P.R.SUJATHA
W/O.SUNIL KUMAR, MANAGER, ZONAL OFFICE
STATE BANK OF TRAVANCORE, KOZHIKODE
RESIDENT OF AVINJIKKATTU MANA, MINI PALACE, UP-HILL
MALAPPURAM - 676 505.

BY ADVS.SRI.P.B.KRISHNAN
SRI.N.AJITH
SRI.P.M.NEELAKANDAN
SRI.P.B.SUBRAMANYAN
SRI.SABU GEORGE

RESPONDENT(S)/RESPONDENTS:-:
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1. STATE BANK OF TRAVANCORE
   REPRESENTED BY ITS CHAIRMAN, HEAD OFFICE, POOJAPPURA
   THIRUVANANTHAPURAM - 695 012.

2. DISCIPILINARY AUTHORITY,
   GENERAL MANAGER (HR), STATE BANK OF TRAVANCORE
   HEAD OFFICE, POOJAPPURA, THIRUVANANTHAPURAM - 695 012.

3. INQUIRING AUTHORITY,
   CHIEF MANAGER (ENQUIRY), ENQUIRY DEPARTMENT
   STATE BANK OF TRAVANCORE, HEAD OFFICE, POOJAPPURA
   THIRUVANANTHAPURAM - 695 012.

R1 -R 3 BY ADV. SRI.P.RAMAKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04-12-2015, ALONG WITH WPC. 12125/2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 14756 of 2014 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. DATED 07.06.2013, TRUE COPY OF THE MEMO ISSUED TO THE PETITIONER.

EXHIBIT P2. DATED 12.06.2013, TRUE COPY OF THE LETTER ADDRESSED TO THE SUB INSPECTOR OF POLICE, EDAVANNA.

EXHIBIT P3. DATED 14.06.2013, TRUE COPY OF F.I.R. OF CRIME NO.241 OF 2013 OF EDAVANNA POLICE STATION.

EXHIBIT P4. DATED 24.07.2013, TRUE COPY OF MEMO NO.AGM III/(KKD)/SF/ISSUED TO THE PETITIONER.

EXHIBIT P5. DATED 05.09.2013, TRUE COPY OF MEMO NO.AGM III/(KKD)/SF/ISSUED TO THE PETITIONER.

EXHIBIT P6. DATED 17.09.2013, TRUE COPY OF THE REPLY TO MEMO SUBMITTED BY THE PETITIONER.

EXHIBIT P7. DATED 25.02.2014, TRUE COPY OF THE CHARGE SHEET NO.DPD/1413/1658 ISSUED TO THE PETITIONER.

EXHIBIT P8. DATED 13.03.2014, TRUE COPY OF THE MEMO ISSUED TO THE PETITIONER.

EXHIBIT P9. DATED 19.03.2014, TRUE COPY OF THE ORDER NO.PAD/I/DMN/645 ISSUED TO THE PETITIONER.

EXHIBIT P10. DATED 11.04.2014, TRUE COPY OF THE REPLY TO CHARGE SHEET SUBMITTED BY THE PETITIONER.

EXHIBIT P11. DATED 22.04.2014, TRUE COPY OF THE ORDER NO.DPD/1413/156 ISSUED BY RESPONDENT NO.2.

EXHIBIT P12. DATED 07.05.2014, TRUE COPY OF THE ADDITIONAL EXPLANATION SUBMITTED BY THE PETITIONER.

EXHIBIT P13. DATED 07.05.2014, TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER BEFORE RESPONDENT NO.2.

EXHIBIT P14. DATED 09.05.2014, TRUE COPY OF THE NOTICE NO.ED/451 ISSUED TO THE PETITIONER.

EXHIBIT P15. DATED 13.05.2014, TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER BEFORE RESPONDENT NO.2.

EXHIBIT P16. DATED 19.05.2014, TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER BEFORE RESPONDENT NO.2.

EXHIBIT P17. DATED 19.05.2014, TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER BEFORE RESPONDENT NO.2.

EXHIBIT P18. DATED 19.05.2014, TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER BEFORE RESPONDENT NO.2.

EXHIBIT P19. DATED 19.05.2014, TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER BEFORE RESPONDENT NO.2.

EXHIBIT P20. DATED 23.05.2014, TRUE COPY OF THE PROCEEDINGS OF THE PRELIMINARY HEARING.

RESPONDENT(S)' EXHIBITS

EXT.R1(a): TRUE COPY OF THE REPRESENTATION DATED 23.5.2014 SUBMITTED BY THE PETITIONER

EXT.R1(b): TRUE COPY OF THE REPRESENTATION DATED 31.5.2014 SUBMITTED BY THE PETITIONER

EXT.R1(c): TRUE COPY OF THE REPRESENTATION DATED 7.6.2014

TRUE COPY

P.A TO JUDGE

jma

CR

K. VINOD CHANDRAN, J

- -

W.P(C) Nos. 14756 of 2014 &
12125 of 2015

- -

Dated this the 04th day of December, 2015

J U D G M E N T

The two writ petitions challenge two separate enquiry proceedings which have different cause of action, but with slight interrelation. The writ petitions would have to be considered separately but in a common judgment since the actions of the petitioner which are alleged against her as misconducts have that inter connection.

2. W.P(C) No. 14756/2014 addresses the issue of whether a departmental enquiry could be continued when a criminal proceeding, on the very same set of facts, is pending before the Criminal Court. The facts which led to the disciplinary enquiry were that the respondent Bank,who was the employer of the petitioner detected serious latches in the grant of Agricultural

Gold Loans(AGL), by the petitioner who officiated as Manager in one Edavanna Branch, to three persons, who were admittedly the petitioner's daughter, her sister-in-law and a relative, and on the security of spurious gold. The petitioner was suspended pending initiation of disciplinary proceedings, by Ext.P1, and a complaint seen at Ext.P2, was registered with the Sub Inspector of Police, Edavanna Police Station. The complaint was taken on file and FIR was registered as Ext.P3, alleging offenses under Sections 420, 409 read with 34 IPC and the same is said to be now pending as C.C No. 325/2013 before the Court of the Chief Judicial Magistrate, Manjeri.

3. The petitioner was issued with a show cause notice on 20.07.2013 by Ext.P4, wherein it was alleged that one of the AGL's was sanctioned on 09.04.2012 when the petitioner was posted as Manager of Edavanna Branch between 2010 and 2012, the sanction and disbursal having been accorded to petitioner's sister-in-law. The two other loans were sanctioned and disbursed to her

daughter and a relative, on 30.05.2013, when the petitioner was holding temporary charge of the Branch, between 29.05.2013 to 01.06.2013. A further memo was issued on 26.08.2013 produced as Ext.P5, wherein the petitioner, when working as Branch Manager at Edathala Branch on 3.1.2013, 19.2.2013, 28.03.2013 and 24.04.2013 sanctioned four loans; two to her daughter and two to her sister-in-law. The said loans were sanctioned as the Branch Manager, bypassing the accountant who has the authority to sanction such loans. It was also alleged that there were serious irregularities in the pledging of more than 112 AGL's amounting to Rs.91,87,750/- in the name of the petitioner's relatives.

4. The petitioner showed cause and but not satisfied with the explanation a charge sheet was issued by Ext.P7 dated 25.02.2014. The charges were with respect to the allegations leveled in Exts.P4 and P5 memo. The petitioner was admittedly allowed to join duty after revoking the suspension on 13.03.2014. To the charge sheet, the petitioner had given her further

explanation at Ext.P10 after which an enquiry was ordered as per Ext.P11 dated 22.04.2014. The petitioner subsequent to the initiation of disciplinary proceedings filed two further explanations at Exts.P12 and P13 and requested that the domestic enquiry proceedings be kept in abeyance till the criminal case is concluded. The Enquiry Officer, however, proceeded with the enquiry on 23.05.2014, read over the charges to the petitioner and after recording her plea of not guilty, proceeded with the enquiry, posted it for further hearing on 08.07.2014. The petitioner then moved the above writ petition and obtained stay of the enquiry proceedings by order dated 16.06.2014.

5. The learned counsel for the petitioner would urge on the strength of precedents, that on the very same set of facts, a criminal proceeding has been initiated and the same was delayed only since the officer of the respondent Bank, who was the prime witness, who conducted the investigation, did not appear when summoned and the Court had to issue a bailable warrant and then

a non-bailable warrant, which is evident from the report dated 28.02.2015 filed by the CJM, on the direction of this Court in the above writ petition. The learned counsel for the petitioner would also place before this Court a series of decisions of the Hon'ble Supreme Court dealing with the issue of the parallel proceedings, with respect to the very same set of facts, departmental and criminal; to buttress the contentions that the departmental proceeding has to be stayed till a finding is entered by the criminal court. The decision relied on are (1996) 6 SCC 417 (State of Rajasthan v. B.K Meena and others), 1997 (2) SCC 699 (Depot Manager, A.P. State Road Transport Corporation v. Mohd. Yousuf Miya and others), 1999 (3) SCC 679 (Capt. M. Paul Anthony v. Bharat Gold Mines Ltd. And others), 2012 (1) SCC 442 (Divisional Controller, Karnataka State Road Transport Corporation v. M.G Vittal Rao) and 2015 (2) SCC 365 (S. Bhaskar Reddy v. Supt. Of Police).

6. The reference to each of the decisions is not

required. B.K Meena (supra) and Mohd.Yousuf (supra) were considered in Capt.M. Paul Anthony (supra) and the conclusions deducible from the various decisions were succinctly stated so:-

> i) Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately.
>
> ii) If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case.
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> iii) Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case, will depend upon the nature of offence, the nature of the case launched against the employee on the basis of evidence and material collected against

him during investigation or as reflected in the charge sheet.

iv) The factors mentioned at (ii) and (iii) above cannot be considered in isolation to stay the departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.

v) If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty his honour may be vindicated and in case he is found guilty, the administration may get rid of him at the earliest.

M.G.Vittal (supra) and S.Bhaskar Reddy (supra) are cases in which the Hon'ble Supreme Court found that when there are parallel proceedings, an honorable acquittal in a criminal case should definitely have some significance on the departmental proceedings. This court is of the opinion that a consideration of such an issue is premature since, as of now both the criminal proceeding and the departmental proceeding are pending. However, the learned counsel would urge that this aspect would also commend a stay of the departmental proceeding till the criminal proceeding is concluded.

7. The allegations raised herein have to be tested with the conclusions of the Hon'ble Supreme Court as extracted herein. Before proceeding to examine the nature of the criminal proceeding and the nature of the charge in the disciplinary proceedings, it has to be emphasized that the Hon'ble Supreme Court has specifically held that in considering the stay of disciplinary proceeding an examination of the gravity of the charges and whether it involves complicated questions of law and fact, cannot be considered in isolation and it has to be assessed keeping in mind that, there is no bar in both the proceedings being continued simultaneously. The normal delay that would be

occasioned in conclusion of criminal proceedings would always commend conclusion of the disciplinary proceedings unless compelling circumstances exist, otherwise.

8. B.K Meena (supra) emphasizes on the consideration being of the gravity and nature of the charge and whether it involves complicated questions of fact and law as also the prejudice caused to the defense of the employee in the criminal case. This has to be weighed with the balancing consideration of the expediency in concluding a disciplinary proceeding, without delay. Mohd. Yousuf Miya (supra) also reiterated that it would not be desirable to lay down any inflexible rule that, when parallel proceedings are initiated, even on the very same set of facts; always the departmental proceeding be stayed. Each case has to be considered in the backdrop of its own facts and circumstances, and the person proceeded against cannot be allowed to continue in employment indefinitely The conclusion of disciplinary proceedings was also held to be a reigning consideration, since the

interest of administration and good governance demand that the departmental proceedings are concluded expeditiously. It was held "It must be remembered that interests of administration demand that undesirable elements are thrown out and any charge of misdemeanour is enquired into promptly. The disciplinary proceedings are meant not really to punish the guilty but to keep the administrative machinery unsullied by getting rid of bad elements. The interest of the delinquent officer also lies in a prompt conclusion of the disciplinary proceedings. If he is not guilty of the charges, his honour should be vindicated at the earliest possible moment and if he is guilty, he should be dealt with promptly according to law. It is not also in the interest of administration that persons accused of serious misdemeanour should be continued in office indefinitely, i.e, for long periods awaiting the result of criminal proceedings." Hence it is not an inviolable rule, even when the charge is of a grave nature and involve questions of law and fact, there could be stay of disciplinary proceedings indefinitely.

9. Looking at the criminal proceeding filed, the same is for the offences of Cheating (420 IPC) and Criminal Breach of Trust (409 IPC). The petitioner who was holding a responsible position in the respondent public sector bank had accepted spurious gold as security for gold loans which is the essential allegation, which resulted in the charge of offences of cheating and criminal breach of trust. The disciplinary proceeding, though on the same set of facts, assumes a different colour altogether for reason of such loans having been sanctioned by the petitioner to her daughter, her sister-in-law and a relative which is against regulations. Such sanction of loans also was not a solitary incident, but has occurred in various branches, where the petitioner officiated or held charge as Branch Manager. Four instances were detected between 19.05.2012 to 09.04.2013 when the petitioner was Branch Manager of Edathala Branch. One instance was detected in the year 2012 when the petitioner was the Branch Manager of

Edavanna Branch and two of such instances when the petitioner was holding charge of the Manager of the Edavanna Branch' temporarily for three days, when such gold loans were sanctioned to the petitioner's daughter and a relative.

10. The charge sheet at Ext.P7 would indicate that the petitioner was the Branch Manager of Edavanna Branch, in 2012, when she had sanctioned gold loans to her sister-in-law by accepting pledge of ornaments, two of which were spurious. Again, when she was on deputation for 3 days, two gold loans coming to about Rs.4,00,000/- were sanctioned to her daughter and her relative, again on pledge of ornaments, 18 items of which were found to be spurious. During the same period on deputation at Edavanna Branch, she is said to have closed five gold loans by preparing vouchers by herself and without obtaining signature of the loanees on the vouchers, as acknowledgment of receipt of gold ornaments pledged. There were also earlier instances of sanctioning gold loans to her daughter and sister-in-law, while she

was continued as regular Branch Manager in Edathala Branch in the period 2012- 2013. It was also alleged that the petitioner had sanctioned a gold loan in the name of a temporary subordinate staff of another Branch, violating the norms and regulations of the respondent bank.

11. The specific charge was with respect to the sanction of gold loans to relatives without following the Know Your Customer (KYC) norms brought out by the public sector banks under instructions of the Reserve Bank of India, to properly identify the customers and keep a tag on the financial transactions carried on, presumably to ensure compliance on the various fiscal laws. Hence it is to be emphasised that the lapses/omissions/irregularities alleged against the petitioner were not merely of accepting spurious ornaments as pledge against AGL. The acceptance of spurious gold ornaments is only one aspect of the misdemeanours which led to the various charges leveled. The charge pending consideration before the Criminal

Court is that of accepting spurious gold as security, the resolution of which alone, either way, cannot be very material for the conclusion of disciplinary proceeding. The other charges are also very grave in nature and if the petitioner is found guilty, it cannot be said that the acquittal in the criminal case, however, honourable it might be, would absolve the petitioner from punishment in the departmental proceedings.

12. The acceptance of spurious ornaments by way of pledge, definitely is a grave charge, which has to be proved in the criminal case on the basis of the evidence led before the Criminal Court, the quality of which should be such as, to prove the charge beyond all reasonable doubt, in the event of which alone, the petitioner would be found guilty of the offences alleged against her under the IPC. However, the evidence that is required in a departmental proceeding is not of a like nature and as noticed above, the departmental proceeding also touches upon various other aspects of the petitioner's conduct as a responsible officer of a

public sector financial institution dealing with public funds the position occupied in the official capacity, being one essentially of a trustee.

13. The Hon'ble Supreme Court has also in B.K Meena (supra) held that administrative machinery also has to be kept free of bad elements. Especially so in a financial institution, where an officer deals with public money and there is scope for continued misdemeanours if a person of suspect conduct, is continued. The suspicion cast also throws a pall of ignominy over the delinquent employee. Hence it is in the interest of the delinquent employee and the organization that the proceedings be concluded expeditiously, to either exonerate the delinquent employee and continue him in employment free of any stigma or on the other hand if found guilty, to impose appropriate punishment of a deterrent nature or even termination from service so as to free the organization of such undesirable elements.

14. It is to be noticed that M. Paul Anthony (supra)

while culling out broad principles, as extracted herein above, held that clauses (ii) and (iii) cannot be considered in isolation. Due regard to the expediency of not delaying disciplinary proceedings also had to be given due weight and the issue had to be considered on the individual facts arising in each case.

15. Briefly noticing the facts in B.K Meena (supra); the charge sheet was issued on 13.10.1992 and defense was filed on 09.02.1993, the FIR was launched on 15.05.1993 in the criminal court. The Tribunal stayed the departmental proceedings, which stay continued till the decision of the Hon'ble Supreme Court dated 27.09.1996. Hence after three years, the Hon'ble Supreme Court found that the charges against the delinquent employee therein were very serious, pertaining to misappropriation of public funds and the plea that he would be compelled to disclose the defense was, at best a surmise or a speculation. The Court refused to accept the said reasoning as valid. Therein also the delinquent employee was suspended in 1990 and taken back on October, 1993.

The delinquent employee was found to be continuing in his office and it was found to be in the interest of both parties that the disciplinary proceedings are concluded.

16. The facts without any reiteration are similar in the present case also. The petitioner was a Branch Manager holding charge of a entire Branch and the financial transactions conducted therein; when serious allegations of having sanctioned gold loans against the norms prescribed by the Bank, to relatives and that too on pledge of spurious ornaments and closure of other gold loans without proper authorisation and acknowledgment from the loanees, were the charges alleged, which are quite grave in nature. The petitioner is also continuing in service though said to be now posted to audit. The mere fact that the petitioner was not put in charge of money transactions and is placed in audit, would not in any manner condone her continuance, if she is in fact guilty of the offences. It cannot but be noticed that the department of audit is an internal watch-dog of the organization, which cannot be

infested with tainted employees.

17. In such circumstance, this Court cannot concede to the prayer of the petitioner, that the petitioner would be prejudiced if the disciplinary proceedings are continued, pending criminal proceedings, which again is a mere speculative ground, raised merely to protract proceedings and delay the disciplinary action and continue indefinitely in employment. Hence it is directed that the proceedings would be continued and completed and if the disciplinary proceeding is over and the criminal case is not concluded, within six months from today, then, the disciplinary authority after serving the copy of the enquiry report and calling for the objections,would wait till the six month period is over from today before hearing the petitioner and deciding on the matter.

18. If the criminal proceeding is over, then, definitely, the disciplinary authority would have a discretion to decide whether such finding, in any manner, interferes with the findings in the enquiry and the findings of the disciplinary authority. With

the above directions, W.P(C)No.14756-/2014 would stand dismissed.

19. The disciplinary proceedings challenged in W.P(C) No.12125/2015 arises from the conduct of the petitioner, which is an offshoot of the enquiry proceedings challenged in the other writ petition. The petitioner while working as Manager of Manjery Branch, on 05.06.2013, just two days after sanctioning the gold loan at the Edavanna Branch, transferred an amount of Rs.3,84,000/- from the account of a former employee of the Bank, maintained at the Residence Road, Bangalore Branch. The transfer was made to the petitioner's own account with the Kaloor Branch, without any authorization and she withdrew cash of Rs.3,84,000/- from Manjeri Branch, out of her account maintained at Kaloor on the same date. Consequently Rs.3,82,300/- was deposited in the AGL account of Aparna and Rajkumar, maintained at the Edavanna Branch, who were respectively her daughter and relative. This obviously, was an attempt to cover her tracks.

20. Serious discrepancies in her conduct primarily of

not having maintained absolute financial integrity, which any Bank Official is required to maintain, was also alleged against her. Enquiry was proceeded with and she was suspended on 10.09.2014. At that time the petitioner had been proceeded against for the earlier charge and though an enquiry was also ordered she was reinstated revoking the earlier suspension and the enquiry too was under stay.

21. The petitioner challenged the subsequent suspension also by writ petition numbered as W.P(C) No.23982/2014 in which a counter affidavit was filed on behalf of the Bank alleging that the suspension was based on one unauthorised transaction in the account of Smt. Gomathy Subramania Iyer. The petitioner produced the authorisation issued by the said Gomathy for transfer of funds from Bangalore to Kaloor. Pausing here for a moment, it is relevant to see whether such authorisation was available with the Bank at the time of the transaction, which would have to be looked at, in the enquiry

proceedings. W.P(C) No.23982/2014 was allowed and the Bank was given permission to expedite the disciplinary proceedings. Then the charge sheet was issued to the petitioner and the petitioner was posted at the Specialised Treasury at Mumbai which again was challenged by the petitioner and the petitioner was posted back to Thiruvananthapuram.

22. On 08.04.2015, the present writ petition was filed , in which there was an interim order passed directing conclusion of enquiry proceedings but keeping in abeyance the punishment if any decided to be imposed, till orders are issued by this Court. The writ petition was also heard with the other writ petition. The Bank has filed a detailed counter affidavit, in which the report of the Enquiry Officer is produced. The disciplinary authority has not proceeded further, since, the writ petition is pending.

23. The learned Counsel for the petitioner contend that the first charge of unauthorized fund transfer, has not been proved and in such circumstance, the entire disciplinary

proceedings is to be scuttled, since, the three charges are based on the allegation that the fund transfer was without authorization. If the fund transfer is found to be on authorization, then there could be no charge alleged against the petitioner, argues learned counsel. It is also pointed out that the earlier counter affidavit filed by the Bank in the earlier proceedings raised an allegation with respect to one transaction and the charge sheet raises three charges.

24. It cannot but be noticed that the grounds raised by the petitioner are specious and unsustainable. The mere fact that the suspension was made on the basis of one transaction and the suspension was supported on such allegation, before this Court, would not deprive the Bank from alleging further charges, when, those misconducts are disclosed on a preliminary enquiry. The other contention that the Enquiry Officer's findings conclude the innocence of the petitioner, also cannot be countenanced. It is trite that the Enquiry Officer's findings are not conclusive. The Enquiry

Officer is only a delegate of the departmental authority and merely collects the evidence in a properly constituted enquiry offering all opportunity to the delinquent employee to examine documents, to cross examine his witnesses and to proffer his defense and any witnesses thereto, as also a hearing on his defense. The Enquiry Officer would definitely enter into the findings of guilt or otherwise, but that does not conclude the matter. It is for the disciplinary authority to go through the evidence and either concur with the findings of the enquiry authority or differ from that.

25. The only reservation would be that in the context of the disciplinary authority deciding to differ from the findings of the Enquiry Officer, and decides to find a charge against the delinquent, which the enquiry officer has exonerated her of; then the delinquent should be heard on that specific charge. The reasons for differing from the findings of the Enquiry Officer are to be stated and the delinquent employee given an opportunity

before the same is concluded. The findings of the disciplinary authority would be final and the findings of the Enquiry Officer, in such circumstance is of no consequence. The learned Counsel has placed a number of decisions to contend that even at the stage of the charge sheet, this Court could interfere.

26. Union of India and Others v. Upendra Singh (1994 (3) SCC 357) was a case in which the Hon'ble Supreme Court considered the scope and extent of judicial review, in general, especially when examining the correctness of charges, particularly at the stage of framing of charges. There the issue raised was the jurisdiction of the Central Administrative Tribunal which was akin to that of the jurisdiction of Article 226 and a writ was held to be permissible only when patent lack of jurisdiction is discernible. Government of Tamil Nadu v K.N. Ramamurthy (1997 (7) SCC 101) was a case in which again the powers under judicial review was held to be possible of invocation only if inference of a misconduct cannot be drawn from the charges and the supporting

particulars, or if the charges are contrary to law. State of Punjab v. V.K. Khanna (2001 (2) SCC 330) considered the question of fairness in action when bias was alleged against the administrative authority. Union of India and another v. Kunisetty Satyanarayana (2006 (12) SCC 28) found that the writ petition challenging a show cause notice or charge sheet was ordinarily not maintainable and only in very rare and exceptional cases, the High Court could quash a charge sheet and that too only on the finding of total lack of jurisdiction and absolute illegality.

27. This Court is of the opinion that no such defect arise in the instant case. Suffice it to notice that on orders from this Court itself the enquiry has been concluded. A report has been submitted to the disciplinary authority. The disciplinary authority has now to supply the enquiry report to the delinquent and call for her objections if not already done. If the disciplinary authority has any difference of opinion from the findings in the report of the Enquiry Officer, he has to communicate the reasons

for such change in opinion and call for further objections from the delinquent employee, the petitioner herein. A personal hearing would also be mandatory then and the disciplinary authority has to enter into a finding on all the three charges and if found against the delinquent employee, would also have to decide on the penalty to be imposed.

28. It is also to be noticed that the present charge does not have any connection with the criminal case pending. In such circumstance, the petitioner would be issued with proper notice as directed herein and the disciplinary authority would consider the matter, in accordance with law and in terms of the regulations of the Bank. It is made clear that the observations made in this judgment, with respect to the charges and on the consequences which would ensue, if such charges are found against the delinquent employee, are mere prima facie observations of a general nature, which need not at all govern or tie down the disciplinary authority, in considering the matter which is entirely

within the exclusive discretion of the disciplinary authority, only regulated by the principles of natural justice and the principles governing the proper exercise of discretion.

Writ petitions hence are dismissed with the reservation as indicated above. No costs.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

jma //true copy//

P.A to Judge