IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13029 of 2009

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Bali Ram Prasad Singh, son of Sri Ram Pravesh Singh, resident of vilalge – Nisi, P.S. - Bakhtiyarpur, district – Patna.

... ... Petitioner

Versus

1. The General Manager (H.R.) Cum Reviewing Authority Bank of India, Express Tawer, Nariman Point, Post Box No. 11646, Mumbai-21.
2. The Assistant General Manager-cum-Appellate Authority, Bank of India, Chanakya Place, Birchand Patel Marg, Patna, Bihar.

The Chief Manager-cum-the Disciplinary Authority, Bank of India, Patna Zone, Chanakya Place, Birchand Patel Marg, Patna, Bihar.

... ... Respondents

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Appearance :

For the Petitioner/s : Mr. Chandra Bhushan Singh

For the Respondent/s : Mr. Ajay Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

C.A.V. JUDGMENT

Date : 27-11-2018

The present writ application has been preferred invoking extraordinary writ jurisdiction of this court for the following reliefs:

> "(A) For issuance as "Mandamus" of an appropriate writ/order or direction to the respondents for quashing the dismissal order of petitioner by respondents-authorities (i) Penalty order Ref. No. ZO/C.M./DA/VIG-166/22 dated 30.06.2008 of Respondent no. 3 as Annexure-5. (ii) Ref. No.ZO/PAT/A/VIG-166/349 dated 16.12.2008 Appellate order or Respondent No. 2 as Annexure-5(A) and (iii) Ref. No. PAK, RA-070 dated 20.05.009 Review order of Respondent no. 1 as Annexure-5(b)

are illegal, arbitrary and malafide.

(B) For issuance as ‘Certiorari’ of an appropriate writ/order or direction to the Respondents for reinstate the petitioner on their post with due promotion and other consequential benefits which is entitled as per Rule of the Bank.

(C)For issuance of appropriate writ/order or direction to the Respondents to restrain from the violation of Article 20(3), 14 and 16 of the Constitution of India and Sections 101 and 102 of the Indian Evidence Act, 1872.

(D) For issuance of appropriate writ/order or direction to the respondents as required at the time of hearing and other reliefs as sought of judicature with cost.”

Facts of the case

I. It is the case of the petitioner that while he was posted as Manager in in Kushila Branch under the then Gaya region in the Bank of India (hereinafter referred to as the “respondent-Bank”), a F.I.R. came to be lodged on 16.08.2000 against the petitioner and others alleging financial irregularities committed by the petitioner. The said case being Magadh University P.S. Case No. 51/2000 was investigated but according to the petitioner since no material could be collected against him to connect him with the offence alleged in the F.I.R., he was exonerated by the investigating agency. Annexure-1 to the writ application is the report-2 of the Superintendent of Police, Gaya and Annexure-1(A) is the supervision note dated 24.08.2000, 31.08.2000. In the writ application though the Annexure-1 and 1(A) are said to be the photocopies of the F.I.R. and the charge-sheet, but as stated above, the two Annexures referred above are different from what have been described in the body of the writ application.

II. Petitioner was suspended during the ongoing investigation and a departmental proceeding was initiated against him. He was served with a memorandum enclosing articles of charges dated 16.11.2000 (Annexure-2 to the writ application). Altogether IX (nine) charges were levelled against the petitioner. The petitioner was exonerated from charge no. III, VII, VIII and IX as those were not proved. Charge no. I, II, IV, V & VI for which the petitioner was found guilty are stated hereunder for a ready reference:

> **"Article-I**
>
> You had sanctioned and disbursed loans under crop loans, IRDP and PMRY loans without property applications, without identifying the borrowers, without obtaining property security documents and the loan amounts were disbursed through bogus firms and thus

fraudulently misappropriated Bank's funds to the extent of Rs. 15015 lacs exposing the Bank to serious loss. The quotations and bills obtained in these accounts are without any dates and no pre or post-sanction inspections were conducted. There were unauthenticated alterations of the activities and amount in the IRDP loan applications. In 6 accounts, no documents were traceable. The details of these 42 loan accounts along with the irregularities committed by you and the financial loss or Rs. 5,15,988.00 plus uncharged interest suffered by the Bank are given in Annexure-"A" in the Statement of Allegations.

Article-II

You had sanctioned and disbursed loans in 8 accounts without opening the accounts in the ledger in violation of Bank's norms and procedures as given in Annexure "B" in the Statement of Allegations. You had sanctioned and disbursed loans in 21 accounts, where only the first postings were made in the ledger and subsequent vouchers, including second disbursements, interest amount, insurance premium were not posted in the ledger. Thus, you had disbursed amount aggregating to Rs.

3,33,410/- without maintain proper records in utter disregard of the Bank's norms and procedures resulting in financial loss of Rs. 3,33,410.00 plus uncharged interest to the Bank as per the details given in Annexure "B" and "C" in the Statement of Allegations.

Article-IV

You had sanctioned and disbursed loans of Rs. 12,000/- each in 3 loan accounts by crediting 50% of the loan amount in S.B. Account of the borrowers, which was subsequently withdrawn and deposited back in the loan accounts immediately after the disbursement and 50% of the loan amount was disbursed to non-existent supplier and thus fraudulently misappropriated the loan amount and subsidy claimed in the said accounts. In these accounts, goods were not supplied to the borrowers and the bills were that of non-existent firm resulting in financial loss of Rs. 23,220/- plus uncharged interest to the Bank. The details of these accounts are given in Annexure "D" in the Statement of Allegations.

Article-V

You had in connivance with one Shri Yogendra Prasad, middleman, who is also a bogus supplier and having a non-existent firm in the name of

M/s. Mehta Traders, sanctioned and disbursed loans aggregating Rs. 1,52,082.00 in 9 loan accounts under the IRDP Scheme despite the fact that none of these applications was forwarded by Block Authorities and without carrying pre-sanction and post-sanction inspection, as per the details given in Annexure "B" in Statement of Allegations. In all the aforesaid accounts bills of non-existent bogus firm, M/s. Mehta Traders, were kept on Branch records, no assets were supplied to the borrowers and the same borrowers were given cash as part of the loan amount and thus fraudulently misappropriated the Bank's funds resulting in financial loss of Rs. 1,52,082/- plus uncharged interest to the Bank. In some of the aforesaid accounts, the loans were sanctioned and disbursed to different persons other than the persons for whom the applications were forwarded by the Block Authorities.

Article-VI

You had sancationed a PMRY loan of Rs. 95,000/- on 29.07.1998 to Smt. Siya Devi, wife of Shri Yogendra Prasad, even though she was not entitled for the said loan. You had mentioned her age as 33 years in CBD-23 to bring it within the maximum age limit of 35 years applicable in PMRY scheme. The purpose of the loan was altered on the application from Manihari to Khad and the amount was disbursed to non-existent firm, M/s Mehta Traders. You failed to conduct post-sanction inspection and failed to ensure proper end-use of the funds. There is an outstanding of Rs. 113118/- as on 2.9.2000 exposing the Bank to financial loss of Rs. 1,13,118/- plus uncharged interest.”

In the background of the aforesaid allegations, the petitioner was charged for committing acts in breach of Regulation 3(I) and 23(II) and (V) of the Bank of India Officer Employees (Conduct) Regulations, 1976 (hereinafter referred to as the “Regulations, 1976”). The petitioner was charged of committing misconduct under Regulation 24 of the Regulations 1976. The relevant provisions of the Regulations, 1976 are quoted hereunder: -

“Regulation 3(i)

“Every Officer employee shall at all times to take all possible steps to ensure and protect the interest of the bank and discharge his duties with utmost integrity, honesty, devotion and diligence and do nothing which is unbecoming of a Bank Officer."

Regulation 23(ii)

"not under the influence of intoxicating drink or drug during the course of his duty and also take due care that the performance of his duties at any time is not affected in any way by the influence of such drink or drug."

Regulation (v)

"not use any intoxicating drink or drug in excess."

Regulation 24

"A breach of any of the provisions of these regulations shall be deemed to constitute a misconduct punishable under the Bank of India Officer Employees (Discipline & Appeal) Regulations, 1976."

In course of departmental inquiry, the petitioner was given an opportunity to engage his defence representative and to participate in the inquiry proceedings which he accordingly did. On conclusion of the inquiry, a copy of the inquiry report dated 27.04.2001 was duly served upon the petitioner and he was called upon to submit his representation on the findings of the inquiry. The petitioner had submitted his response in form of second show cause reply on 07.07.2001 but without considering the same the disciplinary authority passed order of penalty dated 10.07.2001. The petitioner carried a departmental appeal against the order dated 10.07.2001, but ultimately failed, thereupon he moved this court in CWJC No. 5468/2005 which was ultimately allowed on 21.05.2001. The penalty order dated 10.07.2001 and the appellate order arising from the same were set aside by the learned writ court and the disciplinary authority was given liberty to pass a fresh order within one month from the date of receipt/production of a copy of the order. A copy of the order dated 21.05.2008 passed in CWJC No. 5468/2005 is Annexure-4(A) of the writ application.

The disciplinary authority passed a fresh penalty order dated 30.06.2008 (Annexure-5 to the writ application). The disciplinary authority dealt with the contentions of the petitioner as contained in his representation dated 07.07.2001, and rejected the contentions of the petitioner for the reasons stated in various sub-paragraphs of paragraph-'7' of the penalty order dated 30.06.2008. The disciplinary authority held that the reasoned findings recorded by the inquiry authority needs no interference and as the charges against the petitioner vide charge no. I, II, IV, V and VI have been proved, considering the gravity of the charges it will be in the ends of justice to impose **the consolidated penalty of dismissal from bank's service which shall ordinarily be a disqualification for future**

employment. The concluding part of the order passed by the disciplinary authority reads as under: -

> " Shri B.R.P. Singh, Staff Officer, Koshila Branch be and is hereby awarded the major penalty of "Dismissal which shall ordinarily be a disqualification for future employment" in terms of Regulation 4(j) of Bank of India Officer Employees' (Discipline & Appeal) Regulations, 1976, for the acts of misconduct as enumerated in the Articles of Charge issued under cover of Memorandum dated 16.11.2000, held as proved in the departmental inquiry. It is further directed that since Shri Singh has been dismissed from Bank service he shall not earn any arrears of salary for the period between the date of earlier dismissal i.e. 10.07.2001 to till date except the Subsistence Allowance in accordance with law from 21.05.2008 to till date in terms of the Order dated 21.05.2008 of the Hon'ble High Court, Patna. ....."

The petitioner preferred a departmental appeal against the penalty order dated 30.06.2008, but failed to succeed. The appellate order dated 16.12.2008 is Annexure-5(A) to the writ application. The appellate authority has recorded that he did not find any merit in the contentions raised by the petitioner. According to the appellate authority, the order of the disciplinary authority is speaking in nature and has analysed the various aspects while recording the penalty. In ultimate analysis, the appellate authority found that the allegations against the petitioner are factual which calls for imposition of major penalty and there was no justifiable ground to interfere with the penalty order. The petitioner thereafter preferred a review before the General Manager (HR) but the Reviewing Authority rejected the same after holding that **"upon perusal of the records it is observed that the inquiry has been held in accordance with the principle of nature justice and there is no infirmity observed in the same. ...."**

It is the aforesaid orders of penalty, appellate order and the order of the reviewing authority which are under challenged in the present writ application.

<u>Stand of the Respondent Nos. 1 to 3</u>

The respondent Bank has sought to contest the writ application by filing a counter affidavit and two subsequent supplementary counter affidavits. It is their stand that the all concerned authorities of the Bank have considered the charges which have been proved against the petitioner and according to them it required a major penalty to be imposed upon the petitioner for financial misconduct and jeopardizing the interest of the Bank. It is their stand that the banking institution is running on the trust and faith of the customers, therefore, to avoid any distrust and loss of faith of the customers, it is necessary that the person against whom charge of financial irregularity is proved is not retained in service. The respondent Bank has enclosed the copy of the inquiry report (Annexure-A to the counter affidavit) in which the Inquiry Officer has dealt with the charges with reference to the case of the defence. The Inquiry Authority has discussed the deposition of the witnesses produced on behalf of the defence and the documents brought on record as Exhibit-D-1 to D-36.

The Inquiry Officer has also considered the document brought by the defence saying that the 12 persons who had earlier complained against the petitioner regarding non-receipt of goods, loan amount had now claimed that they had received the goods and loan amount. The Inquiry Officer found that out of 12 persons, 11 were illiterate whose LTI were shown without there being any verification and none of these 12 persons could depose as defence witnesses, moreover the Presenting Officer on behalf of the Management Bank had challenged the genuinety/authenticity and veracity of these documents.

The Inquiry Officer has also considered the 89 documents submitted on behalf of the management of the

Bank and then discussed the oral evidence of the four management witnesses out of whom one Chandra Bhushan Kumar Singh, PMRY loanee (MW4) was declared hostile.

During the hearing of the writ application vide order dated 30.01.2018 this court directed the respondent Bank to file a specific supplementary affidavit on the status of the accounts at the time of drawing of charges against the petitioner and the facts as to whether those accounts which is part of charge no. 1, were bad accounts and had been declared NPA? In response to the said order the respondent Bank has filed the supplementary counter affidavit in which while enclosing copies of some documents as daily ordersheet of the inquiry proceeding from 23.001.2001 to 25.01.2001 (Annexure-B series), copies of statements of complainant/borrowers (Annexure-C series)/Exhibit-77(b) and copy of the list of accounts of the borrowers classified as NPA (Annexure-D series), the respondent Bank has also informed this court that since the matter is too old, the concerned file could not be located. It is stated in the said supplementary affidavit that with the introduction of computerization based system many of the accounts were closed due to writting off, hence details are difficult to be ascertained.

In the second supplementary counter affidavit, the Bank has placed on record a copy of the investigation report dated 26.09.2000 for the purpose of ascertaining the allegations the investigation was conducted prior to drawing the Articles of Charges.

Submissions on behalf of the petitioner

In course of argument, learned counsel for the petitioner has assailed the order of penalty and other impugned orders alleging that a fair procedure was not adopted in course of inquiry. It is his submission that the management of the Bank had failed to produce any single borrower as a witness before the Inquiry Officer to support the allegations and the borrower Shri Chandra Bhushan Kumar Singh who was produced as management witness no. 4 when denied the allegations made against the petitioner, he was declared hostile. It is submitted that the major punishment of dismissal from service has been imposed only on the basis of the evidence of the management witnesses namely, Shri S.K. Sharma, Manager, Koshila Branch (MW1) and Shri S.H. Kajal, Officer, Bodh Gaya Branch (MW2).

It is also the submission of the petitioner that no financial loss has taken place in this case and due to shortage of staff in the branch office the petitioner was not able to complete the entire documents and later on during the suspension period the petitioner was not allowed to enter in the Bank premises, therefore he was unable to complete the documentation. He has sought to explain the shortcomings in the documentation in the following words: -

(i) Photograph of Smt. Nirmala Devi (M-32) is available in her S/B Account also in the crop loan;

(ii) Existence of firm M/s Maa Tara Traders, B.K. Enterprises and M.K. Traders as also the disbursements made to them have been proved by the documents produced on behalf of the defence. It has been found that the these firms have been maintaining their accounts in the State Bank of India, Gaya and Allahabad Bank at Gaya;

(iii) The Bank has wrongly shown a likely loss of Rs. 15.15 lacs and Rs. 5,15,988.00 without there being any document to prove the same.

The petitioner has denied the charges it is submitted that the Inquiry Officer could not appreciate that the borrower M/s Sonam Devi and Mr. R. Das had already deposited the amount and that there was no any complaint by any of the borrowers. It is submitted that even Jago Manjhi (borrower) denied in writing about the allegations against the petitioner. The petitioner has relied upon the judgment of the Hon'ble Supreme Court in the case of **Union of India and Another Vs. B.C. Chaturvedi** reported in **1995 (6) SCC 750** to submit that the power of the Hon'ble High Court under Article 226 is in the nature of a plenary jurisdiction and has got inherent power to do 'complete justice' between the parties and where punishment/penalty imposed by the disciplinary/appellate authority in departmental inquiry against a public servant is disproportionately excessive so as to shock the judicial conscience, High Court can modify the punishment/penalty by moulding the relief to avoid possible infringement of Article 40.

Further reliance has also been placed on a Single Judge judgment of this Court in the case of **Aman Kumar Vs. The Chairman, Uttar Bihar Gramin Bank & Ors.** reported in **2018(1) PLJR 95 (HC)**, wherein the learned coordinate Bench of this court relied upon the Constitution Bench judgment of the Hon'ble Supreme Court in the case of **Union of India Vs. H.C. Goel** reported in **AIR 1964 SC 364** and judgment of the Hon'ble Supreme Court in the case of **Kuldeep Singh Vs. Commissioner of Police & Ors**. reported in **(1999) 2 SCC 10** and took a view that the findings recorded in a domestic inquiry can be categorized as perversed if it is shown that such findings are not supported by any evidence on record or are not based on the evidence adduced by the parties or no reasonable person could have come to those findings on the basis of that evidence. It is submitted that in the case of **Kuldeep Singh (Supra)** the Hon'ble Apex Court has held that the witnesses whose statements are relied on must be produced in course of departmental inquiry.

Submissions on behalf of the management Bank

The management Bank has contested the submissions of the petitioner. It is submitted that the charges against the petitioner were serious in nature, he had indulged in financial irregularities which are completely unbecoming for a Bank Officer. Learned counsel submits that in the present case the petitioner being the Branch Manager had acted in reckless manner ignoring the interest of the Bank. The petitioner had sanctioned and disbursed the loan amount through a middle man and through bogus suppliers, even without pre-appraisal of loan proposal and by making alteration in purpose of loan without there being any such mandate of the borrowers. According to the Bank, in many loan accounts 50% of the loan amount was credited in the S/B account of the borrowers, which is impermissible particularly in IRDP and PMRY loans, rest 50% were credited to bogus suppliers and the articles were shown to have been supplied through those bogus suppliers. It is submitted that no procedural irregularity could be found in the conduct of inquiry proceeding, in the present case. It is submitted that there is no error in decision making process, and, therefore, the concurrent findings present in the present case need not be interfered with.

The management Bank has relied upon the judgment of the Hon'ble Supreme Court in the case of **State Bank of India & Ors. vs. Ramesh Dinkar Punde** reported in **2006(7) SCC 212** to contend that the High Court in exercise of its power under Article 226 of the Constitution of India is not supposed to make re-appreciation of evidence or substitute its views and would not be justified in interfering with the findings of the facts. Learned counsel submits that in the present case the facts which have crystalised in course of Inquiry clearly show that the petitioner had indulged in disbursement of crop loans under IRDP and PMRY schemes without proper application form, without identifying the borrowers and without obtaining proper security documents and disbursed the amount through bogus firms.

The respondent Bank has relied upon the judgment of the Hon'ble Supreme Court in the case of **Disciplinary Authority-cum-Regional Manager & Ors. Vs. Nikunja Bihari Patnaik** reported in **1996 (9) SCC 69** to contend that no defence is available to the employee of a Bank to show that there was no loss or profit resulted in a case when it has been found that the employee had acted without authority. Examining the word "misconduct" in the light of Regulation 24 of the Regulations 1976 in the said case, the Hon'ble Supreme Court held that Regulation 3 requires every officer/employee of the Bank to take all possible steps to protect the interest of the Bank and to discharge his duty with utmost integrity, honesty, devotion and diligence and to do nothing which is unbecoming of a Bank Officer. It requires the officer/employee to maintain good conduct and discipline and to act to the best of his judgment in performance of his official duties or in exercise of the powers conferred upon him, breach of Regulation ‘3’ has been held “misconduct” within the meaning of Regulation 24.

In the aforementioned background, learned counsel representing the respondent Bank has prayed for dismissal of the writ application.

Findings

In the present case it is apparent from the allegations present in the Articles of Charges that the major penalty proceeding was initiated against the petitioner for his alleged acts of misconduct while working as Manager of the Koshila Branch of the Bank. He was posted in the Branch w.e.f. 05.06.1998 till the date of his suspension vide order dated 27.09.2000. The charges against the petitioner included a charge that he had sanctioned and disbursed loans under crop loan, IRDP and PMRY loans without proper applications, without identifying the borrowers, without obtaining security documents and the loan amount were disbursed through bogus firms and thus fraudulently misappropriated the Bank’s funds to the tune of Rs. 15.15

Lacs and thereby exposing the Bank to serious loss. The quotations and bills obtained in these accounts were without any dates and no pre and post inspections were conducted. There were unauthenticated alterations of the activities and amount in IRDP loan applications. In six accounts, no documents were traceable. Annexure-A enclosed with the statement of allegations is the detail of the 42 loan accounts wherein a financial loss of Rs. 5,15,988.00 plus uncharged interest suffered by the Bank have been provided.

The petitioner had allegedly sanctioned and disbursed loans in its account without opening the accounts in ledger in violation of Banks norms and procedures. He had sanctioned and disbursed loans in 21 loan accounts, where the first posting was made in the ledger but the subsequent vouchers, including second disbursements, interest amount, insurance premium were not posted in the ledger. A perusal of the Inquiry report would show that the Inquiry Officer has looked into various exhibits M-1 to M-42 and after going through the same, gave his observations and held that in all crop loan accounts mentioned in his report the signature/LTI, documents are completely blank. In PMRY account documents are blank. The pre-sanction inspection reports are also not available in most of the accounts. Bills, money receipts, quotations were undated.

MW-1, Sri S.K. Sharma had confirmed during his deposition that documents were kept blank and the security documents were missing. The Inquiry Officer found that the defence had neither contradicted this nor it gave any explanation in this connection. The Inquiry Officer was, therefore, satisfied that the proper applications were not obtained, borrowers were not properly identified and proper security documents were not obtained.

As regards the disbursements to three firms (i) M/s M.K. Traders (ii) M/s Maa Tara Traders (iii) M/s B.K. Enterprises and (iv) M/s Mehta Traders, the management witnesses stated that they tried to locate the shops of M/s Maa Tara Traders and B.K. Enterprises, but they could not locate the shops at the address given in the quotations. After going through the defence documents in form of the statement of current account of the firms and their registration certificates, the Inquiry Officer held that even though mere Bank accounts/copy of registration cannot be taken as a full proof of the existence of the firm but keeping in view the statement of the defence witnesses it is proved that the firms were in existence, but then the Inquiry Officer held that **"however it is very difficult to believe that one firm can supply everything from Kirana items to**

boring plant items, machines, thela etc. ….”

Regarding an unauthenticated alterations of activities on account the Inquiry Officer found that on Exhibit-M1 to M42, barring one or two documents there is cutting in activity and loan amount. He has referred Exhibit-M-1, M-2, M-21, M-22, M-23 and M-24.

The submission of the defence that posting of vouchers, opening of accounts etc. are the duties of clerk, the Inquiry Officer has rightly held that it is the prime duty of the Branch Manager to ensure that these are properly opened and posted in ledgers, proper security documents are taken and filled in.

Regarding Charge No. II, the Inquiry Officer found that the management had produced certain vouchers such as Exhibit M-78 and M-82 to prove the non-posting of second and subsequent debits. In course of inquiry, the petitioner himself admitted that six accounts (not eight accounts) were not opened in ledgers. He had also admitted that in certain accounts which China Paswan, Kailash Manjhi, Sheela Devi etc. debits were not made in their accounts, but he tried to pass on his responsibility on his Clerk. In my opinion, the Inquiry Officer rightly concluded that it is the primary duty of the Manager to see that each loan account is properly opened in ledger and amounts are debited.

On going through the findings of the Inquiry Officer, I noticed that the Inquiry Officer has applied his mind to the entire materials available on the record, has discussed the various exhibits of the managements as well as defence and then recorded his observations with regard to the proof of charges. So far as procedural aspects are concerned, it is not in dispute that the petitioner was given an opportunity to engage his defence representative and had been allowed to participate in the inquiry. No violation of principles of natural justice or violation of the principles of fairness in holding the departmental inquiry could be noticed by this court.

The petitioner has given much emphasis on his argument that the management of the Bank failed to produce a single witness in course of the departmental proceeding and the only borrower who could be produced on behalf of the management was Shri Chandra Bhushan Kumar Singh (MW-4) who became hostile. In this connection I would agree with the view taken by the disciplinary authority in the penalty order dated 30.06.2008, wherein he has negatived the contention of the petitioner on this issue by saying that the pre-recorded statements of the borrowers presented by the Presenting Officer were produced in the inquiry and it’s authenticity was certified by the management witnesses before whom the same were taken. These witnesses i.e. MW1 and MW3 were produced in the inquiry for examination and cross-examination by the management and the defence respectively.

On the contrary the retraction statements of the borrowers presented by the defence was simply produced before the inquiry authority after the inquiry was concluded and not through any witness. The said prerecorded statements produced by the defence were purportedly bearing the thumb impression of the borrowers without any authentication or name of witness before whom the same were taken. It is on this ground it has been held that the defence has got the opportunity to examine the authenticity/genuineness of the documents produced by the Presenting Officer through MW1 and MW3, which the defence did not avail for the reasons best known to them.

In the case of **Nand Kishore Prasad Vs. State of Bihar** reported in **1978 (3) SCC 366 = AIR 1978 SC 1277**; which has been discussed by learned Single Judge of this court in **Aman Kumar (Supra)**, it was held that the disciplinary proceedings are in the nature of a quasi judicial character, and therefore the tribunal being a quasi judicial authority may arrive at its conclusion on the basis of some evidence which means such evidence which have some degree of definiteness, points towards the guilt of the delinquent and does not leave the matter in a suspicious state as mere suspicion cannot take the place of proof in a domestic inquiry. It is only when the findings recorded in a domestic inquiry are not supported by any evidence on record or are not based on the evidence adduced by the parties or no reasonable person could have come to those findings on the basis of that evidence, the findings recorded in domestic inquiry can be characterized as perverse.

In the present case, the materials in form of several management exhibits and the oral evidence of the management witnesses are clearly indicating towards the reasonableness on the part of the inquiry officer in arriving at the findings recorded in the Inquiry report. It cannot be said that the findings of the Inquiry Officer are perversed. This court would remind itself with the judgment of the Hon'ble Supreme Court rendered in the case of **State Bank of India and Others (Supra)** wherein it has been held that it was impermissible for the High Court to reappreciate evidence which have been considered by the Inquiry Officer. The jurisdiction of the High Court is circumscribed and confined to correct the errors of law of procedural errors, if any, resulting in manifest miscarriage of justice or violation of principles of natural justice. Similarly, this court would take note of the judgment of the Hon'ble Apex Court in the case of **Union of India Vs. Sardar Bahadur** reported in **(1972) 2 SCR 218** wherein it has been held that *"a disciplinary proceeding is not a criminal trial. The standard proof required is that of preponderance of probability and not proof beyond reasonable* *doubt.............”*

In the case of **Chairman & Managing Director, United Commercial Bank and Others Vs. P.C. Kakkar** reported in **2003 (4) SCC 364**; the Hon’ble Supreme Court held that “a Bank Officer is required to exercise higher standards of honestly and integrity. He deals with money of the depositors and the customers. Every officer/employee of the Bank is required to take all possible steps to protect the interest of the Bank and to discharge his duty with utmost integrity, honestly, devotion and diligence and to do nothing which is unbecoming of a Bank Officer. Good conduct and discipline are inseparable from the functioning of the every officer/employee of the Bank. .....”

In the case of **Disciplinary Authority-cum-Regional Manager Vs. Nikunja Kumari Patnaik (supra)** the Hon’ble Apex Court has held that “It is no defence available to say that there was no loss or profit resulted in case, when the officer/employee acted without authority. The very discipline of an organization more particularly a Bank is dependent upon each of its officers and officers acting and operating within their allotted sphere. Acting beyond once authority is by itself a breach of discipline and is a misconduct.........”

This court has also noticed that right from the Disciplinary Authority till the Reviewing Authority, all have applied their mind to the contention of the petitioner and then passed their respective orders based on reasons.

In view of the scope and ambit within which this court can examine the correctness of the impugned orders, this court does not find any reason to take a different view and replace it over and above the views of the Disciplinary Authority, the Appellate Authority and the Reviewing Authority of the respondent Bank.

This writ application thus fails and is accordingly dismissed. No order as to cost.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	**AFR**
CAV DATE	01.11.2018
Uploading Date	27.11.2018
Transmission Date	NA