

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
11.11.2020	07/12/20

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NOS. 15463 & 16246 OF 2014

AND

M.P. NO. 2 OF 2014

M.Rajagopal ... Petitioner in WP 15463/2014

R.Veeraraghavan ... Petitioner in WP 16246/2014

- Vs -

1. The State Bank of India
rep. By its Chief General Manager
Local Head Office
No.16, College Lane (Nungambakkam)
Chennai 600 006. ... R-1 in both petitions
2. The Appellate Committee for
Disciplinary Proceedings
State Bank of India
Corporate Centre, Madam Cama Road
P.B. No.12, Mumbai 400 021. ... R-2 in WP 15463/14
3. The General Manager (Network-1)
(Disciplinary Authority)
State Bank of India
No.16, College Lane (Nungambakkam)
Chennai 600 006. ... R-3 in WP 15463/14 &
... R-2 in WP 16246/14
4. The Dy. General Manager (B&O)
Network-I, Zone-I
State Bank of India,
86, Rajaji Salai, Chennai 600 061.
... R-3 in WP 16246/14

W.P. No.15463 of 2014 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records in respect of the order of dismissal from service passed by the 1st respondent dated 19.5.2012 read with the order in appeal passed by the 2nd respondent dated 17.9.2013 confirming the

said order, quash the same and direct the respondent Bank to treat the petitioner as having retired from service on superannuation and consequently pay all the admissible retirement benefits like gratuity, pension and provident fund, leave encashment, etc.

W.P. No.16246 of 2014 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records in respect of the order of removal from service dated 8th Oct., 2012, passed by the 2nd respondent read with the order of the 1st respondent dated 8.2.2014 confirming the said order, quash the same due to material irregularities in inquiry and disproportionate punishment and direct the respondent bank to reinstate the petitioner in service.

For Petitioners: Mr. N.Seshadri in WP 15463/14
Mr. R.Abdul Mubeen in WP 16246/14

For Respondents: Mr. K.Sankaran for RR-1 & 2
Mr. S.Ravindran, SC, for
Mr. S.Bazeer Ahamed for R-3

COMMON ORDER

As both the petitions arise out of the same set of facts, they are heard together and disposed of by this common order.

2. The petitioner in WP No.15463/14 was the Chief Manager and the petitioner in WP No.16246/14 was the Deputy Manager of the respondent Bank at the relevant point of time. For certain delinquencies in the discharge of their official duties relating to approval of loan, in all 19 charges were framed against the petitioners for which the petitioners were subjected to enquiry after obtaining explanation from them.

3. The petitioner in WP No.15463/14 was due to retire on superannuation on 31.10.11, but in view of the pending charge memo, invoking Rule 19 (3) of the State Bank of India Officers' Service Rules (for short 'SBIOSR'), the petitioner was not permitted to retire from service. Enquiry commenced only after the retirement of the petitioner, by making the petitioner as deemed to be in service for the purpose of conduct of the disciplinary proceedings. After conduct of the enquiry against both the petitioners, the enquiry officer filed the report holding that some of the charges framed against the petitioners stood proved, while some were partly proved and the others were

not proved. Based on the enquiry report, further explanation was called for from the petitioners and on receipt of the same, being not satisfied, the disciplinary authority imposed the punishment of dismissal from service on the petitioner in W.P. No.15463/14, while the petitioner in W.P. No.16246/14 was inflicted with the punishment of compulsory retirement from service. Against the said orders of punishment, the petitioners preferred appeal before the appellate authority, who confirmed the orders of punishment. Being aggrieved by the said orders, the present petitions have been preferred.

Contentions advanced on behalf of the petitioner in W.P. No.15463/14 :

4. Learned counsel appearing for the petitioner attacked the very disciplinary proceedings by contending that only on the date of superannuation of the petitioner, the order for continuance of the petitioner in service was passed by invoking Rule 19 (3) of SBIOSR. It is the submission of the learned counsel for the petitioner that the preliminary enquiry itself having started only after the date of superannuation of the petitioner by means of a deeming clause, the subsequent proceeding of the disciplinary enquiry pursuant to invocation of power u/r 19 (3) is void and invalid. It is the submission of the learned counsel for the petitioner that there being no proceeding in the eye of law on the date of superannuation of the petitioner, continuing the disciplinary proceeding is per se illegal and unsustainable.

5. It is the further submission of the learned counsel for the petitioner that though charge memo was issued to the petitioner for grave charges, however, the petitioner not having been kept under suspension even till the date of his superannuation itself goes to show that the charges levelled against the petitioner were flimsy and not borne out by the materials at the hands of the respondents.

6. It is the further submission of the learned counsel for the petitioner that though as many as 19 charges have been framed, however, no motive, which is the crucial aspect in any proceeding, which entails major penalty, having been culled out, the allegations made against the petitioner would not be enforceable in the absence of motive being projected by the respondents.

7. It is the further submission of the learned counsel for the petitioner that the documents, which were marked in the

enquiry having not been provided to the petitioner/delinquent, the whole enquiry is a farce and cannot be relied on to punish the petitioners. It is the submission of the learned counsel that documents relied on in the disciplinary proceedings ought to be furnished to the petitioner so as to defend himself and the failure to provide the same, even inspite of request made, makes the whole enquiry an unsustainable one.

8. It is the further submission of the learned counsel for the petitioner that the documents, which have been marked to make out the charges against the petitioner are all documents, which are xerox copies, the originals of which have not been filed, and in the absence of the originals being marked, the veracity of the said documents is prone to be questioned. Further, it is the submission of the learned counsel for the petitioner that the documents marked have not been proved through oral evidence of any of the witnesses, which is against the rudimentary principle of law relating to the authenticity of the documents. Further, xerox copies of documents, relied upon in the enquiry proceedings are inadmissible as per the provisions of the Evidence Act and in the absence of any authentic document, which has been proved in a manner known to law, the charges framed against the petitioners does not stand substantiated.

9. It is the further submission of the learned counsel for the petitioner that it is the duty of the Deputy Manager to verify the documents and forward the files for the approval of the petitioner. It is not for the petitioner to look at each and every paper filed to arrive at a decision either to approve or not to approve the files and the dereliction in discharge of the duties by the Deputy Manager cannot be put against the petitioner. It is the further submission of the learned counsel for the petitioner that even in the enquiry, it has been established that the petitioner has directed the Deputy Manager to verify certain particulars, which did not form part of the papers, which have a bearing on the approval and on the assurance of the Deputy Manager that the said errors will be rectified, approval/sanction had been granted by the petitioner. Therefore, the abdication of duty on the part of the Deputy Manager should not be put against the petitioner.

10. It is the further contention of the learned counsel for the petitioner that insofar as the charges relating to non-furnishing of KYC documents by the customers, it is submitted that necessary directions were given by the petitioner to the Deputy Manager for annexing the KYC documents of the persons,

which was the duty of the Deputy Manager and the act of the Deputy Manager in not adhering to the instructions of the petitioner cannot be the basis for fastening the culpability on the petitioner. Moreso, the enquiry officer himself has held that but for three applications, the documents are complete in other respects would vindicate the stand of the petitioner and, therefore, the finding of the enquiry officer that the said charge stands partly proved is wholly unsustainable. The enquiry officer cannot give a contra finding relating to the culpability of the petitioner when he himself has opined that in most of the cases, the KYC documents relating to the customers have been provided.

11. It is the further contention of the petitioner that the charges framed against the petitioner are vague, more especially charge Nos. 1 and 19 and in the absence of clarity in the charges, the charges framed requires to be struck down. It is the further contention of the learned counsel for the petitioner that the statement of articles of charge as well as the statement of allegations do not contain any specific allegations that the petitioner had acted with ulterior motive and no mala fide having been attributed to the petitioner to cause loss to the respondents, imposition of major penalty cannot be sustained. In this regard, learned counsel placed strong reliance on the SBI Vigilance Manual 12-1-3 pertaining to major penalty proceedings, wherein the necessity of care to be taken while drafting a charge sheet has been stressed. In the case of the petitioner, the charges framed being vague and the allegations being bereft of any motive, the charges cannot be maintained against the petitioner.

12. It is the further contention of the learned counsel for the petitioner that though the appeal was preferred in June, 2012, however, the order in appeal has been passed after an unexplained delay of more than fifteen months, i.e., in September, 2013 and the same was communicated only in end October, 2013. The delay in considering and disposing of the appeal, not having been explained, renders the order in appeal an unsustainable one and the same deserves to be set aside.

13. Insofar as the loan sanctioned to the petitioner's daughter, it is the submission of the learned counsel for the petitioner that the project in which the petitioner's daughter had purchased the property, having been approved by the sister branch of the respondents and the petitioner's daughter having brought in more business to the bank, after obtaining oral permission from the competent authority, the petitioner had

sanctioned the loan and subsequent to the sanction of the loan had also written for post-facto approval of the said loan sanctioned. This, according to the learned counsel for the petitioner, shows the bona fides of the petitioner and merely the sanction of loan to one of the blood relative of the petitioner would not render the whole sanction a vitiated one, as the said asset is a performing asset even according to the respondents and there has been no loss on account of sanction of loan to the relative of the petitioner. At best, sanction not having been obtained prior to approval of the loan could be said to be an administrative lacunae and cannot be equated to a mala fide intent on the part of the petitioner to cause loss to the bank.

14. It is the further contention of the learned counsel appearing for the petitioner that pursuant to the initiation of disciplinary proceedings, the petitioner had sought certain particulars from the respondents under the Right to Information Act, which have not been furnished by the respondents. The particulars sought for having a bearing on the case of the petitioner, the non-furnishing of the said particulars definitely has to be construed on the negative side of the respondents case to enure benefit to the petitioner.

15. On top of all the above submissions, it is the vociferous and vehement submission of the learned counsel for the petitioner that the loss determined by the bank, has not been quantified and in the absence of any quantification, the loss determined cannot stand the test of legal scrutiny, more so when the materials available on record does not support the findings arrived at by the enquiry officer relating to the loss caused on account of the acts of the petitioner in not performing his duties in a bona fide manner.

16. In the above regard, it is the submission of the learned counsel for the petitioner that the order of dismissal of the petitioner from service has been passed on the ground that the acts of the petitioner are "likely to cause loss to the Bank", which terminology is unknown to service jurisprudence, more so in matters relating to disciplinary proceedings in which major punishment is being imposed on the delinquent. Not only the charges are vague, which are unsustainable, the punishment awarded, on the basis of the vague charges, being more vague, is totally non-est in law and an anticipatory loss, which is not existing on the date of disciplinary proceedings or even on the date of imposition of punishment cannot be the basis for imposition of a major penalty.

17. It is the further contention of the learned counsel for the petitioner that the introduction of a new concept from the one arrived at by the enquiry officer is wholly alien to service jurisprudence. While the enquiry officer has returned a finding of "likely to cause loss", the appellate authority, has gone further with the said finding and has introduced a concept of "consequent loss", which is not within the domain of the appellate authority, as any further finding by the appellate authority should not be arbitrary, but only after affording opportunity to the delinquent and adducing further evidence to arrive at a said finding. In the absence of the same, the finding recorded by the appellate authority, based on which the punishment imposed on the petitioner has been affirmed, is wholly unjustified, arbitrary, irrational and is liable to be interfered with.

18. Further, it is the submission of the learned counsel for the petitioner that there is no independent application of mind on the part of the disciplinary and the appellate authority to the materials, before imposing the punishment but both the authorities, merely, on the basis of the findings recorded by the enquiry officer, without giving any tangible and convincing reason whatsoever for accepting the said finding, have, through a non-speaking order, though running to many pages, have concurred with the findings of the enquiry officer and the non-speaking nature of the order deserves interference at the hands of this Court.

19. Equally, a further contention has been raised on behalf of the petitioner that the loss has been quantified on a likely basis and not actual basis and following the same analogy, if the position turns out that the bank is able to recover the monies due and payable to them, which have been given in the form of loans, approved by the petitioner, in such a scenario, the petitioner would be put to irreparable loss if he is deprived of all the monetary benefits due to him on his superannuation, as the said benefits, as per the ratio laid down by the Hon'ble Apex Court, are properties at the hands of the petitioner, which cannot be confiscated by the bank under the pretext of imposition of punishment.

20. To substantiate the above contentions, learned counsel appearing for the petitioner placed reliance on the following decisions :-

"1) K.L.Tripathi - Vs - State Bank of India &
Ors. (AIR 1969 SC 984)

- 2) Central Bank of India - Vs - Prakash Chand Jain (AIR 1969 SC 984)
- 3) Kasi - Vs - Indian Bank (2001 (2) SCC 38)
- 4) Ranjit Thakur - Vs - Union of India (1987 (4) SCC 1)
- 5) Sengara Singh & Ors. - Vs - State of Punjab (1983 (4) SCC 225)
- 6) Marimuthu - Vs - State Bank of India (WP 9145/2001 - Dt. 30.4.10)
- 7) Canara Bank & Ors. - Vs - Dibasish Das & Ors. (CA 7539/1999 - SC)
- 8) S.P.Malhotra - Vs - Punjab National Bank & Ors. (CA 5128/2013)
- 9) Kuldeep singh - Vs - Commissioner of Police (1999 (2) SC 10)
- 10) Punjab National Bank - Vs - Kunj Bihari Mishra (1998 (7) SCC 84)
- 11) State Bank of India - Vs - Samareadra Kishore & Ors. (1994 (2) SCC 537)
- 12) S.Madhavan - Vs - Indian Bank (W.P. No.16187/1998 (MHC))
- 13) Chandrakanth - Vs - Guntur Dt. Milk Producers Society (1994 (2) ALT 253)
- 14) J.P.Saxena - Vs - State of M.P. (AIR 1961 SC 1070)
- 15) M.Shanmugam - Vs - RBI (ILR 2002 Kar)
- 16) M.Mohandas - Vs - State Bank of India (WA No.1699/10 - MHC)
- 17) State Bank of India - Vs - S.S.Koghal (1994 Supp. (2) SCC 468)
- 18) State of Jharkhand & Ors. - Vs - Jitendra Kumar Srivastava & Anr. (2013 (12) SCC 210)
- 19) UCO Bank & anr. - Vs - Rajinder Lal Capoor (2007 (6) SCC 694)
- 20) South Bengal State Transport Corpn. - Vs - Sapan Kumar Mitra & Ors. (2006 (2) SCC 584)
- 21) Dy. General Manager, SBI & Ors. - Vs - Ashutosh Das & Anr. (FMA 843/2014 - Calcutta High Court)

Contentions of the petitioner in W.P. No.16246 of 2014 :

21. While the learned counsel appearing for the petitioner in W.P. No.16246/2014 adopted the contentions relating to the legal aspect of the matter, however, insofar as the contentions relating to pointing a finger on the petitioner as the person, who has not diligently performed his duties, inspite of the directions of his superior officer, viz., the petitioner in W.P.

No.15463/14, the petitioner contends that not following the directions of his superior would squarely fall within the ambit of insubordination, which would entail disciplinary action and curiously, in the present case, the petitioner having judiciously followed the directions of his superior and has discharged his work has been implicated in the disciplinary proceedings, which is unknown in service law.

22. It is the submission of the learned counsel for the petitioner that the undue delay in passing orders on the appeal filed by the petitioner, after a delay of more than 15 months, vitiates the order inasmuch as the SBIO SR contemplates 45 days time within which the appeal should be disposed of. However, the appeal has been disposed of within the said time frame, which is against the reply given by the respondents to the query raised by the petitioner under the RTI Act, wherein it has been categorically stated by the respondents that the appeal has to be disposed of within a period of 45 days.

23. It is the further submission of the learned counsel for the petitioner that on mere presumptions and assumptions and based on inferences, the charges should not be dealt with and that the charge framed should be explicit and clear and any vagueness in the charge should result in the charge being set aside. In the present case, it is the submission of the learned counsel for the petitioner that all the charges framed against the petitioner being vague, more especially, when the charges attract major penalty, vagueness in the charges framed would have to result in striking down of the same by this Court.

24. It is the contrite submission of the learned counsel for the petitioner that there is gross violation of principles of natural justice and sheer non-compliance with the RBI notifications and the Vigilance Manual as also the SBIO SR and the cumulative effect of the above should enure to the benefit of the petitioner and the punishment imposed on the petitioner deserves to be set aside.

25. It is the further contention of the learned counsel for the petitioner that the findings recorded by the enquiry officer cannot be arbitrarily changed by the disciplinary/appellate authority without putting the petitioner on notice and hearing him. However, in the case on hand, the disciplinary authority has deviated from the findings recorded by the enquiry officer with regard to two charges by holding the same as proved, though the petitioner has neither been put on notice nor explanation was called for from the petitioner as to why such deviation from

the said findings should not be made by the disciplinary authority. In view of the flagrant error committed by the disciplinary authority, the entire disciplinary proceedings stands vitiated and the resultant punishment imposed on the petitioner cannot be sustained.

26. In the alternative, it is also pleaded that even if this Court decides that the punishment is not disproportionate to the delinquency alleged against the petitioner, this Court, in exercise of its inherent power may modify the punishment into one of compulsory retirement, so that the pains of the petitioner in the form of more than 24 years of laborious and unblemished service with the respondent Bank shall not result in deprivation of the much needed retirement benefits at the fag end of his career.

27. Per contra, learned senior counsel, leading the arguments on behalf of the respondents, submitted that the non-adherence of the petitioners to the well established procedures relating to disbursement of loan inclusive of the failure on the part of the petitioners to inform the Controller about the complaint made with regard to the fraudulent activities of the builder leading to grant of 75 housing loans had resulted in an estimated loss to the tune of about Rs.4.2 Crores to the respondent Bank.

28. It is the submission of the learned senior counsel that the checks and balances provided in the form of various norms and procedures in the grant of loans requires strict compliance for the bank to safeguard itself from malicious attack from unscrupulous elements, who make every attempt to erode the cash flow in the banks. However, the petitioners, throwing caution to the winds, in scant regard to the very many norms and procedures codified for the grant of loans, had sanctioned loans to very many cases, which ultimately turned as non-performing assets, much to the disadvantage of the bank.

29. It is the contention of the learned senior counsel for the respondents that the enquiry was conducted in a fair and proper manner and based on valid reasons and the findings arrived at by the enquiry officer are borne out by record and based on the materials placed, the disciplinary authority has imposed the punishment as above, which has been affirmed by the appellate authority by way of a lengthy and reasoned order.

30. It is the submission of the learned senior counsel that this Court, sitting under Article 226 of the Constitution, has

very limited scope with regard to interfering in disciplinary proceedings. Unless there is serious violations of principles of natural justice or the findings of the enquiry officer are perverse or on the face of the facts, the punishment is extremely shocking to the conscience of the court, the Courts shall normally not interfere with the said order. In the case on hand, the petitioners have, with utter disregard to the various norms prescribed, have indulged in acts, which are not in consonance with the positions held by them and they are solely responsible for the loss that would be suffered by the Bank, as the possibility of securing the money from the said non-performing asset is extremely low. Taking all the above into consideration, the value of the loss caused is to the tune of Rs.4.20 Crores, the respondents had inflicted the punishments on the petitioners.

31. It is the further contention of the learned senior counsel for the respondents that the stand of the petitioner that the disciplinary proceedings cannot continue beyond the period of retirement is wholly untenable, as rule 19 (3) of the SBIOSR clothes the authority with the power to continue the disciplinary proceedings even after an officer reaches the age of superannuation by way of deeming the delinquent to be in continuous service for the purpose of disciplinary proceedings alone.

32. Insofar as the charge sheet being vague is concerned, it is the submission of the learned senior counsel for the respondent that the charges are specific and the annexures dovetails the details of the various misconducts committed by the petitioners, which would be evident from the detailed explanation submitted by the petitioners. Therefore, the contention of the petitioner that the charges are vague does not merit acceptance. Further, the vagueness in the charges, as alleged, has not been raised by the petitioner earlier and only before this Court, such a stand is taken by the petitioners, which clearly shows the diabolical mind of the petitioners to thwart the punishment imposed on them.

33. Learned senior counsel for the respondents, countering the submission that the non-suspension of the petitioners pending enquiry reveals that the charges levelled against them were not of serious nature, submitted that it is within the discretion of the bank to suspend or not suspend an employee pending disciplinary proceedings. Mere non-suspension of an employee during disciplinary proceedings would not lead to absolute absolution of the petitioners from the rigour of the

charges. Further, the petitioners past record would not in any way come in aid of the petitioners and pale into insignificance insofar as the present charges are concerned, as the loss suffered by the bank due to the conduct of the petitioner definitely warrants action and, therefore, the past records of the petitioners would not be an extenuating factor to inflict lesser punishment on the petitioner.

34. Though the petitioners have contended that the documents were not marked in their presence in the enquiry, however, it is refuted by the respondents and it is the further submission of the learned senior counsel for the petitioners that those documents were in the custody of the petitioners to which they were privy and party and the documents speak for itself and it is not necessary that the documents should be proved in a manner as provided under the Evidence Act, as the standard of proof and admissibility of proof in a disciplinary proceedings cannot be equated to the standard of proof and admissibility of proof required in a criminal trial, which is conducted strictly on the basis of the provisions codified in the enactment. In the disciplinary proceedings, the evidence is judged based on the preponderance of probabilities and not in the strictest sense as evaluated in a criminal trial and, therefore, the stand of the petitioners that the documents should be rejected in toto, is nothing but an afterthought on the basis of erudite legal advice.

35. It is the submission of the learned senior counsel for the respondents that the stand of the petitioners that even assuming the charges stood proved, would only lead to likely loss to the Bank and, therefore, the charges themselves were premature, cannot be accepted on the face of the record as the sanction granted to the various loans were in utter disregard to the various well laid procedures, thereby, exposing the bank to a huge loss and subsequent litigations, which cannot always be said to result in tangible result. The stand of the petitioners that the respondents can always take recourse to the legal process to set right a wrong and till litigation is over and the amount of loss is quantified, no action can be taken against the petitioners, is not only too far-fetched, but accepting such a contention would result in initiation of zero disciplinary proceedings against any employee of the bank for even 'N' number of delinquencies.

36. It is the further contention of the learned senior counsel that the petitioner in W.P. No.16246/14 cannot take shelter citing that he was simply following the directions of

his superior officer and that he is only the recommending authority and not the sanctioning authority is wholly untenable for the simple reason that it is only on the basis of the records and recommendations given by the said petitioner, the superior officer, on further scrutiny of the documents, approves the loan. Therefore, burden equally shifts on the shoulders of both the petitioners and one cannot sly away by pointing a finger on the other, which is only the way in which both the petitioners are acting. Accusation is hurled by one on the other to vindicate their innocence, which is nothing but an attempt on the part of the petitioners to protect each other by dubious means.

37. In support of his contentions, learned senior counsel placed reliance on the following decisions :-

- 1) Tara Chand Vyas - Vs - Chairman & Disciplinary Authority & Ors. (Manu/SC/1161/1997)
- 2) Damoh Panna Sagar Rural Regional Bank & Ors. - Vs - Munna Lal Jain (Manu/SC/1081/2004)
- 3) Mihir Kumar Hazara Choudhury - Vs - LIC & Ors. (Manu/SC/1133/2017)
- 4) Om Prakash Mann - Vs - Director of Education (Basic) & Ors. (Manu/SC/8469/2006)
- 5) J.D.Jain - Vs - Management of State Bank of India & Ors. (Manu/SC/0427/1981)
- 6) Orissa Mining Corpn. & Anr. - VS - Anand Chandra Prusty (1996 (11) SCC 600)
- 7) Disciplinary Authority -cum- Regional Manager & Ors. - Vs - Nikunja Bihari Patnaik (1996 (9) SCC 69)
- 8) State Bank of India & Ors. - Vs - Narendra Kumar Pandey (2013 (2) LLJ 1 (SC))
- 9) State Bank of India - Vs - Ram Lal Bhaskar & Anr. (2011 (10) SCC 249)
- 10) GM (Operations), SBI - Vs - R.Periyasamy (Manu/SC/1141/2014)

38. Learned counsel appearing for respondents 1 and 2 adopted the arguments advanced by the learned senior counsel for the 3rd respondent and further submitted that the order passed by the appellate authority would clearly reveal that the appellate authority has considered the materials along with the enquiry report threadbare and has applied his mind independently and come to the conclusion to affirm the findings of the enquiry officer as also the punishment imposed by the disciplinary authority and, therefore, no interference is warranted with the orders impugned herein.

39. This Court gave its undivided attention to the submissions advanced by the learned counsel appearing on either side and also perused the materials available on record as also the decisions relied on by the learned counsel on either side.

40. The Hon'ble Supreme Court, in *B.C. Chaturvedi v. Union of India*, (1995 (6) SCC 749), while dealing with issue relating to the power of the Court relating to judicial review of the order passed by the disciplinary authority, held as under :

"12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappraise the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would

have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.

13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to reappraise the evidence or the nature of punishment. In a disciplinary inquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In *Union of India v. H.C. Goel* [(1964) 4 SCR 718 : AIR 1964 SC 364 : (1964) 1 LLJ 38] this Court held at p. 728 that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued."

(Emphasis Supplied)

41. The above view has been reiterated by the Hon'ble Supreme Court in *Principal Secy. Govt. of A.P. v. M. Adinarayana*, (2004 (12) SCC 579), wherein, it has been held as under :-

"23. We have read this charge in the light of allegations in support thereof. In the instant case, it is not disputed that the respondent has neither supplied any prior information on the Government nor did he send any prior intimation to the Government. By not doing this, he has contravened the provisions of Rule 9. The Tribunal has also categorically held that the respondent has not applied for prior information before he purchased the items from the competent authority nor he intimated to the competent authority forthwith soon after the purchase of the several items. Therefore, in our view, the charged officer has violated Rule 9 of the Conduct Rules and thus is guilty of misconduct within Rule 2-H (sic) of the Andhra Pradesh Disciplinary Amendment Act, 1993. In view of the abovesaid finding we hold that respondent is guilty of both the charges framed against him

within Rule 2 (b) of the Conduct Rules of 1961 framed under the Amendment Act, 1993.

* * * * *

26. In our opinion, judicial review cannot extend to the examination of the correctness of the charges as it is not an appeal but only a review of the manner in which the decision was made. We have, therefore, no hesitation in setting aside the order of the Andhra Pradesh Administrative Tribunal and the judgment of the Division Bench of the High Court for reasons stated (supra). The order passed by the Government removing the respondent from service is in order and, therefore, the appeal filed by the appellant State stands allowed. Further, there will be no order as to costs."

42. In a recent decision in Director General of Police, RPF & Ors. - Vs - Rajendra Kumar Dubey (C.A. No.3820/2020 dated 25.11.20), the Hon'ble Supreme Court, adverting to the various decisions of the Apex Court relating to the interference by the High Court in exercise of its writ jurisdiction with respect to disciplinary proceedings, including the decision in Chaturvedi's case (supra), held as under :-

"12.1 It is well settled that the High Court must not act as an appellate authority, and re-appreciate the evidence led before the enquiry officer.

We will advert to some of the decisions of this Court with respect to interference by the High Courts with findings in a departmental enquiry against a public servant.

In State of Andhra Pradesh v S.Sree Rama Rao, a three judge bench of this Court held that the High Court under Article 226 of the Constitution is not a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant. It is not the function of the High Court under its writ jurisdiction to review the evidence, and arrive at an independent finding on the evidence. The High Court may, however interfere where the departmental authority which has held the proceedings against the delinquent officer are inconsistent with the principles of natural justice, where the findings are based on no evidence, which may reasonably support the

conclusion that the delinquent officer is guilty of the charge, or in violation of the statutory rules prescribing the mode of enquiry, or the authorities were actuated by some extraneous considerations and failed to reach a fair decision, or allowed themselves to be influenced by irrelevant considerations, or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion. If however the enquiry is properly held, the departmental authority is the sole judge of facts, and if there is some legal evidence on which the findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a writ petition.

These principles were further reiterated in the State of Andhra Pradesh v Chitra Venkata Rao. The jurisdiction to issue a writ of certiorari under Article 226 is a supervisory jurisdiction. The court exercises the power not as an appellate court. The findings of fact reached by an inferior court or tribunal on the appreciation of evidence, are not re-opened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ court, but not an error of fact, however grave it may be. A writ can be issued if it is shown that in recording the finding of fact, the tribunal has erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence. A finding of fact recorded by the tribunal cannot be challenged on the ground that the material evidence adduced before the tribunal is insufficient or inadequate to sustain a finding. The adequacy or sufficiency of evidence led on a point, and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the tribunal.

In subsequent decisions of this Court, including Union of India v. G. Ganayutham, Director General RPF v. Ch. Sai Babu, Chennai Metropolitan Water Supply and Sewerage Board v T.T. Murali, Union of India v. Manab Kumar Guha,

these principles have been consistently followed.

In a recent judgment delivered by this Court in the State of Rajasthan & Ors. v. Heem Singh this Court has summed up the law in following words :

"33. In exercising judicial review in disciplinary matters, there are two ends of the spectrum. The first embodies a rule of restraint. The second defines when interference is permissible. The rule of restraint constricts the ambit of judicial review. This is for a valid reason. The determination of whether a misconduct has been committed lies primarily within the domain of the disciplinary authority. The judge does not assume the mantle of the disciplinary authority. Nor does the judge wear the hat of an employer. Deference to a finding of fact by the disciplinary authority is a recognition of the idea that it is the employer who is responsible for the efficient conduct of their service. Disciplinary enquiries have to abide by the rules of natural justice. But they are not governed by strict rules of evidence which apply to judicial proceedings. The standard of proof is hence not the strict standard which governs a criminal trial, of proof beyond reasonable doubt, but a civil standard governed by a preponderance of probabilities. Within the rule of preponderance, there are varying approaches based on context and subject. The first end of the spectrum is founded on deference and autonomy - deference to the position of the disciplinary authority as a fact finding authority and autonomy of the employer in maintaining discipline and efficiency of the service. At the other end of the spectrum is the principle that the court has the jurisdiction to interfere when the findings in the enquiry are based on no evidence or when they suffer from perversity. A failure to consider vital evidence is an incident of what the law regards as a perverse determination of fact. Proportionality is an entrenched feature of our jurisprudence. Service jurisprudence has

recognized it for long years in allowing for the authority of the court to interfere when the finding or the penalty are disproportionate to the weight of the evidence or misconduct. Judicial craft lies in maintaining a steady sail between the banks of these two shores which have been termed as the two ends of the spectrum. Judges do not rest with a mere recitation of the hands-off mantra when they exercise judicial review. To determine whether the finding in a disciplinary enquiry is based on some evidence an initial or threshold level of scrutiny is undertaken. That is to satisfy the conscience of the court that there is some evidence to support the charge of misconduct and to guard against perversity. But this does not allow the court to re-appreciate evidentiary findings in a disciplinary enquiry or to substitute a view which appears to the judge to be more appropriate. To do so would offend the first principle which has been outlined above. The ultimate guide is the exercise of robust common sense without which the judges' craft is in vain."

In *Union of India v. P. Gunasekaran*, this Court held that the High Court in exercise of its power under Articles 226 and 227 of the Constitution of India shall not venture into re-appreciation of the evidence. The High Court would determine whether : (a) the enquiry is held by the competent authority; (b) the enquiry is held according to the procedure prescribed in that behalf; (c) there is violation of the principles of natural justice in conducting the proceedings; (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations which are extraneous to the evidence and merits of the case; (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations; (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion; (g) the disciplinary authority had erroneously failed to

admit the admissible and material evidence; (h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding; (i) the finding of fact is based on no evidence.

In paragraph 13 of the judgment, the Court held that :

"13. Under Articles 226 / 227 of the Constitution of India, the High Court shall not :

- (i) re-appreciate the evidence;
- (ii) interfere with the conclusions in the enquiry, in the case the same has been conducted in accordance with law;
- (iii) go into the adequacy of the evidence;
- (iv) go into the reliability of the evidence;
- (v) interfere, if there be some legal evidence on which findings can be based;
- (vi) correct the error of fact however grave it may appear to be;
- (vii) go into the proportionality of punishment unless it shocks its conscience."

(Emphasis Supplied)

43. From the ratio laid down above, it is implicitly clear that the Courts, in exercise of its power of judicial review, cannot extend the examination to the correctness of the act of the disciplinary authority, but only limit itself to the manner in which the decision has been arrived at by the authorities and whether the same is in accordance with law. This Court is to test only the correctness of the decision arrived at by the authorities on the basis of the evidence before it and not proceed with the case as if it is an appeal against the impugned order.

44. A perusal of the records reveal that many documents have been placed before the enquiry officer to prove the delinquency committed. However, it is the contention of the petitioners that the said documents, being xerox copies, the same cannot be relied upon, as they don't have the evidentiary value to be considered even as secondary evidence, as the same has not been authenticated in a manner known to law.

45. It is to be pointed out that the standard of proof required in a departmental proceedings is not in the same league as the standard of proof required to establish a charge in a

criminal case. Disciplinary enquiries have to abide by the rules of natural justice. But they are not governed by strict rules of evidence which apply to judicial proceedings. The standard of proof is hence not the strict standard which governs a criminal trial, of proof beyond reasonable doubt, but a civil standard governed by a preponderance of probabilities. While the standard of proof in a criminal trial would be on the basis of the provisions of the Evidence Act and other statutes, however, in the departmental proceedings, it is only on the touchstone of preponderance of probabilities, the evidence is evaluated and, therefore, it is impermissible to equate the way in which the evidence ought to be evaluated.

46. True it is that in the proceedings many documents placed were xerox copies, which has been appreciated and a finding has been rendered by the enquiry officer. The Hon'ble Supreme Court, in Rajendra Kumar Dubey's case (supra), following the ratio laid down in Gunasekaran's case has held that the High Court, sitting under Article 226 of the Constitution, while determining its scope of interference in a departmental proceedings is only bound to determine whether (a) the enquiry is held by the competent authority; (b) the enquiry is held according to the procedure prescribed in that behalf; (c) there is violation of the principles of natural justice in conducting the proceedings; (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations which are extraneous to the evidence and merits of the case; (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations; (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion; (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence; (h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding; (i) the finding of fact is based on no evidence.

47. In the case on hand, as could be seen from the materials, though violations of principles of natural justice is claimed by the petitioners stating that they were not allowed to peruse the documents relied on, however, a perusal of the enquiry report reveals that opportunity was granted to the petitioners to peruse the documents relied on. Once a finding is rendered by the enquiry officer, which has been accepted by the disciplinary and appellate authorities, as stated above, this Court, sitting under Article 226 of the Constitution cannot reappreciate the evidence in toto, as if it is sitting in

appeal. Once this Court finds that the procedure has been followed in the conduct of the disciplinary proceedings, unless it is shown that a fair conclusion is not reached or that the evidence has not been admitted or inadmissible evidence has been admitted which prevailed upon the disciplinary authority to come to the erroneous conclusion, this Court would not be justified in interfering with the decision arrived at by the disciplinary authority. It is also borne out by record that many documents have been marked by the petitioners as defence exhibits and which have also been taken into account by the enquiry officer while rendering a finding. Therefore, it would not be open for the petitioners to contend that either the enquiry has not been conducted in a proper manner or that the enquiry officer has not appreciated the materials in proper perspective while rendering his finding. Further, it is also evident that no extraneous considerations have influenced either the enquiry officer of the disciplinary authority. Such being the case, there being no lacunae or discrepancy, as pointed out by the Hon'ble Supreme Court, in the conduct of the departmental proceedings, this Court, in exercise of its powers under Article 226 is not inclined to reappreciate the evidence as if sitting in appeal over the appellate decision.

48. Further, it is to be stressed that the Court in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to reappreciate the evidence or the nature of punishment. In a disciplinary inquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court. It has been the consistent view of the Courts that the nature of evidence required in a disciplinary proceedings is not in the same level as required in a criminal trial, as in the disciplinary proceedings, the finding is arrived at on the basis of preponderance of probabilities. In such a scenario, it is not the function of the High Court under its writ jurisdiction to review the evidence, and arrive at an independent finding on the evidence. If the enquiry is properly held within the four boundaries of legal necessities, then the departmental authority is the sole judge of facts, and if there is some legal evidence on which the findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a writ petition. An error of law which is apparent on the face of the record can be corrected

by a writ court, but not an error of fact, however grave it may be. High Court in exercise of its power under Articles 226 and 227 of the Constitution of India shall not venture into re-appreciation of the evidence and further the Supreme Court has also codified the circumstances under which re-appreciation of evidence is permissible.

49. As is evident from the argument advanced by the learned counsel for the petitioners, much of the contentions relate to the administrative lapses committed by the petitioners. It is not the submission of the petitioners that there are no administrative lapses. While, the petitioner in W.P. No.15463/14 contends that the administrative lapses are not so very serious to warrant the punishment imposed, however, the petitioner in W.P. No.16246/14 contends that the administrative lapses are only on account of the fact that he was scrupulously following the directions of his superior officer and, therefore, the lapses, as pointed out in the enquiry, cannot be equated as lapses committed by him warranting any punishment. From the above, it is clearly evident that the two petitioners are simply trying to shift the ball to each other's court. It is to be pointed out that the petitioners are not mere clerical staff to feign ignorance or claim innocence stating that the delinquency committed by them is not so very grave, as there are many tiers in the administrative hierarchy in which the said delinquency can be corrected. The petitioners are officers in the cadre of processing and approving authority on whose shoulders the safe, proper and efficient functioning of the branch is entrusted.

50. The contention of the petitioners that inspite of issuance of charge memo, the petitioners not having been placed under suspension, would only go to show that the charges against the petitioners are not grave, does not merit acceptance for the simple reason that it is within the domain of the concerned authority either to suspend or retain the delinquent pursuant to issuance of charge memo. The mere fact that the petitioners have not been suspended would in no way make the charges alleged against the petitioners a minor one. Therefore, this contention does not deserve acceptance.

51. Insofar as the contention of the petitioner in W.P. No.15463/14 relating to retention of the petitioner in service on the last day of his superannuation by invoking the deeming provision u/r 19 (3) of SBIOSR, though in reality the disciplinary proceedings started only after the date of retirement of the petitioner and, therefore, the whole disciplinary proceedings is non est in law, cannot be accepted

for the simple reason that on the date when the disciplinary proceedings against the petitioner commenced, in view of the invocation of Rule 19 (3), by deeming fiction, the petitioner was well and truly in service, though not in actual service by discharging his duties and the petitioner not having been discharged from service on superannuation, it does not lie in the mouth of the petitioner to contend that he was not in the services of the respondents for all purposes on and from the date of his superannuation. Accepting the said contention of the petitioner would render Rule 19 (3) otiose and the petitioner not having challenged the said rule as ultra vires in a manner known to law, the contention of the petitioner deserves to be negatived.

52. Atop the contentions raised by the learned counsel for the petitioners, stands two crucial contentions, viz., the one relating to the likely loss caused by the act of the petitioners and the vagueness of the charges. It is the contention of the petitioners that the amount of loss having not been quantified, it is only a hypothetical view of the respondents that the loss would be to the tune of Rs.4.20 Crores and there being no actual loss caused to the bank on the date when the disciplinary proceedings were initiated against the petitioners, the charges insofar as giving a likely loss, which is a mere fictional figure, does not stand the test of judicial scrutiny.

53. A perusal of the charges reveal that the charges have been framed pointing out the discrepancies of the petitioners in the discharge of their duties, which has resulted in violation of the procedural norms prescribed with regard to grant of loans. It is not the case of the petitioners that loans were granted, meaning thereby, that monetary transactions have been cleared and approved by the petitioners, which has incurred outward monetary transactions by the bank with customers to whom loans have been approved. It is thereby clear that monetary transactions are involved resulting in outward flow of cash, which ought to be recovered by the bank and unless it is not recovered, the said non-recovery definitely enures to the debit side of the bank. Further, as evidenced from the enquiry report as also the order passed by the disciplinary authority, 57 transactions approved by the petitioners have become non-performing assets, meaning thereby, that the respondent bank is not able to recover even the actual amount advanced to the said entities.

54. Further, as rightly contended on behalf of the respondents, in banking parlance, if the stand as taken by the

petitioners that actual quantification of loss should be arrived at before taking any disciplinary action against the delinquent officials is to be accepted, the banks and financial institutions can very well remove the disciplinary action clause from their code or regulations, as the case may be, as it would be very difficult for the banks to conclude the proceedings under the appropriate statute to recover the money paid to the defaulters and, therefore, quantifying the actual loss would not be possible in the life time of the delinquent and, therefore, neither the delinquent can be superannuated, contemplating disciplinary proceedings or charge nor any action could be taken against any employee of the banks if quantification is actually to be made for the employer to take action. Therefore, the said contention advanced on behalf of the petitioners does not augur well with this Court to come to the rescue of the petitioners.

55. The further contention of the petitioners that the concept of 'consequent loss' coined by the appellate authority for the charges relating to likely to cause loss, would put a different colour on the charges and is nothing but a fresh finding and, therefore, without putting the petitioners on notice with regard to the said finding, proceeding to hold the petitioners guilty and impose the punishment is wholly unsustainable does not appeal to this Court for the simple reason that the term 'consequent loss' is based on the admitted facts that certain of the loans given by the petitioners have become non-performing assets, which has consequentially led to monetary loss to the bank and 'likely to cause loss' stands fortified by the loans granted becoming non-performing assets leading to the consequent loss. Therefore, the term used by the enquiry officer in assessing the loss to the bank as the 'likely loss cause' would take within its fold the 'consequent loss' coined by the appellate authority and, therefore, the said view of the appellate authority cannot be said to be a fresh finding warranting grant of opportunity to the petitioners to put forth their case.

56. It is further to be pointed out that pending the writ petitions, in December, 2019, an additional counter affidavit has been filed on behalf of the respondents, wherein the respondents have averred that the likely loss in respect of the 75 loans disbursed by the petitioners for which they were held responsible was quantified at Rs.4.20 Crores and pursuant to the steps taken by the respondents under the relevant provisions of the statute, for recovering the money against the loans, considered as non-performing assets, still a sum of Rs.2,57,98,493.60 is pending realisation from the non-performing

assets in respect of the loan transactions approved by the petitioners. The delinquencies were prior to the year 2010 and even after a decade, not even a half of the amount has been recovered by the respondents. In such a backdrop, the contention of the petitioners that there was no quantification of loss does not merit acceptance. Further, the stand of the petitioners that the act of the respondents have made the loans approved by them to turn as non-performing assets cannot be accepted by this Court for the simple reason that no material whatsoever has been placed by the petitioners except to state that the amounts approved by them were not released in full to the said borrowers, whereby it led to the assets becoming non-performing assets.

57. For the sake of argument, if the above stand is accepted, then the petitioners would have come before this Court with the plea that the amounts were released in full to the borrowers by the respondents which vindicate their stand that the approval given by them for the said loans were bona fide. In the absence of any materials being placed by the petitioners place to discredit the materials relied on by the respondents, the contention of the petitioners has to fall on its feet.

58. Further, the contention relating to there being no motive pointed out in the charges as per Rule 12.1.3 of the SBI Vigilance Manual would also not stand attracted, as the rule prescribed in the said manual pertains to vigilance cases, which would be tried as per the provisions of the relevant statutes before the criminal court and would not take within its ambit the charges framed in the disciplinary proceedings. Further, the main ground alleged is dereliction of duty on the part of the petitioners. Dereliction of duty relates to the sub-optimal performance of the petitioners in detriment to interests of the employer, and such dereliction could only be inferred to be for the interests, which are against the employer. Such being the case, absence of codification of motive in the charges cannot be a ground, which would wipe out all the acts of the petitioners and absolve them of the charges framed against them.

59. Insofar as the contention that non-passing of any order in the application filed by the petitioners under RTI is only for the purpose of defeating the legitimate rights of the petitioners by not giving the details, which would be in detriment to the respondents, the said contention does not arise for consideration before this Court as the remedy open to the petitioner for the said lapse on the part of the respondents lies elsewhere, at that point of time, and not before this

Court. Therefore, this Court is not entering into the said issue in depth.

60. A holistic consideration of all the pleas raised by the petitioners coupled with the perusal of the orders passed by the authorities below reveal that the authorities, on an independent application of mind to the materials placed before them, have arrived at a finding that the delinquency alleged against the petitioners stood proved and that the petitioners have not placed any materials to the contra to substantiate their case and in the absence of the same, the punishment was imposed on the petitioners.

61. In the case on hand, the enquiry officer, having analyzed the evidence placed before him, has given a finding as to the guilt of the petitioner, which has been accepted by the disciplinary authority on independent application of mind and confirmed by the appellate authority on the basis of the materials available before him. Once the said authorities have concurred with the view on the basis of the materials, this Court, sitting under Article 226 of the Constitution of India, shall desist from interfering with such a decision, unless it is shown to be so very perverse and is not on the basis of materials available on record. In the case on hand, as aforesaid, independent application of mind is exhibited in all the orders passed by the concerned authorities and all the orders are speaking orders, which dovetail all the details based on which the said conclusion have been arrived at. Therefore, the technical pleas raised by the petitioner cannot be gone into by this Court under Article 226 of the Constitution.

62. The judicial arm can extend only to the limited extent of adjudicating the correctness of the order passed by the authorities, which is not in violation of principles of natural justice and which has been passed on the basis of tenable evidence, though not within the realm of the Evidence Act. The judicial review cannot extend beyond the demarcated scope, as adumbrated by the Hon'ble Apex Court time and again and there being no infirmity in the conduct of the proceedings as well as the appreciation of evidence, more so in a departmental proceedings, the orders passed by the authorities below does not suffer the vice of principles of natural justice or procedural violation and the orders passed by the disciplinary authority as confirmed by the appellate authority cannot be said to be a prejudiced order or an order passed without application of mind, which requires interference at the hands of this Court.

63. Insofar as the punishment imposed on the petitioner is concerned as to its just and reasonableness, this Court would like to advert to the ratio laid down by the Courts under Article 226 of the Constitution with regard to the punishment imposed.

64. It has been the consistent view of the Courts that it is always within the domain of the appointing authority to decide on the punishment to be imposed on the delinquent, which should be proportionate to the delinquency. Only when the punishment is disproportionate and shocking the conscience, should the courts interfere in the same in exercise of powers under Art. 226 of the Constitution. In Prem Nath Bali - Vs - High Court of Delhi (2015 (16) SCC 415), the Hon'ble Supreme Court held as under :-

"20. It is a settled principle of law that once the charges levelled against the delinquent employee are proved then it is for the appointing authority to decide as to what punishment should be imposed on the delinquent employee as per the Rules. The appointing authority, keeping in view the nature and gravity of the charges, findings of the inquiry officer, entire service record of the delinquent employee and all relevant factors relating to the delinquent, exercised its discretion and then imposed the punishment as provided in the Rules.

21. Once such discretion is exercised by the appointing authority in inflicting the punishment (whether minor or major) then the courts are slow to interfere in the quantum of punishment and only in rare and appropriate case substitutes the punishment. Such power is exercised when the court finds that the delinquent employee is able to prove that the punishment inflicted on him is wholly unreasonable, arbitrary and disproportionate to the gravity of the proved charges thereby shocking the conscience of the court or when it is found to be in contravention of the Rules. The Court may, in such cases, remit the case to the appointing authority for imposing any other punishment as against what was

originally awarded to the delinquent employee by the appointing authority as per the Rules or may substitute the punishment by itself instead of remitting to the appointing authority."

(Emphasis Supplied)

65. In the case on hand, a careful perusal of the entire records right from the conduct of the enquiry culminating in the imposition of punishment and the rejection of the appeal by the appellate authority reveal that there has been proper and independent application of mind on the part of the concerned authorities, who dealt with the case of the petitioners. It is further to be pointed out that the petitioners having been entrusted with the task of safeguarding the interests of the respondents should not, by their own act, become demons for the respondents and if such an act is not curtailed with iron hands, lest this would send a wrong signal to the other employees under the respondents to resort to these types of activities, which would erode the interests of the respondents. As already stated, this Court, sitting in judicial review, is not required to go through the entire materials as if the matter is in appeal before this Court, but only to arrive at a subjective finding as to whether the enquiry has been conducted in a fair and proper manner and whereupon, the disciplinary authority has independently applied his mind while imposing the punishment. This Court is in consensus with the order passed by the disciplinary authority as confirmed by the appellate authority and is of the view that the same does not warrant any interference at the hands of this Court. Further the delinquency committed by the petitioners have resulted in grave monetary loss to the respondents, which has not been recovered till date and acceding to the request of the petitioners for modification of the punishment so as to enable them to receive their terminal benefits, including pension, would not only be a bounty, which would be a guise under which the petitioners receive the seal of approval from this Court for the delinquent act perpetrated by them. In such a backdrop, while this Court is not inclined to accede to the request of the petitioners, this Court further holds that the punishment imposed on the petitioners is also just and reasonable considering the nature of delinquency, no sympathy can flow from this Court for such an act. Therefore, the punishment imposed on the petitioners is in no way shocking the conscience of this Court or disproportionate to the delinquency and, therefore, this Court is not inclined to interfere with the same.

66. For the reasons aforesaid, these writ petitions are devoid of merits and, accordingly, the same are dismissed. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

GLN
To

1. The Chief General Manager,
State Bank of India,
Local Head Office ,
No.16, College Lane (Nungambakkam)
Chennai 600 006.
2. The Appellate Committee for
Disciplinary Proceedings,
State Bank of India,
Corporate Centre, Madam Cama Road,
P.B. No.12, Mumbai 400 021.
3. The General Manager (Network-1)
(Disciplinary Authority),
State Bank of India,
No.16, College Lane (Nungambakkam)
Chennai 600 006.
4. The Deputy General Manager(B & O)
Net Work-I, Zone-I,
State Bank of India,
86, Rajaji Salai, Chennai-600 001.

+2cc to M/s.N.Seshadri, Advocate Sr.39185
+1cc to M/s.R.Abdul Mubeen, Advocate Sr.39287

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