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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 13.07.2021

PRONOUNCED ON : 15.09.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.No.10081 of 2017
and
WMP.No.11068 of 2017

Bharath Kumar

... Petitioner

Vs.

1. The Deputy General Manager (B & O),
Appellate Authority,
State Bank of India,
Zonal Office, Coimbatore.

2. The Regional Manager (Region IV),
Disciplinary Authority,
State Bank of India,
Region IV, Network-2, Coimbatore,
Kurunji Complex,
State Bank Road,
Coimbatore-641 018.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of order dated 22.02.2017 on the file of the first respondent herein and to quash the same and consequently direct the respondents to reinstate the petitioner with back wages and all other benefits.

For Petitioner : Mrs.Radha Gopalan
for Mr.T.Padmanabhan

For Respondents : Mr.C.Mohan
for M/s.King and Patridge

O R D E R

The present Writ Petition is heard through Video Conferencing on 13.07.2021.



2. The petitioner herein, while working as a Customer Assistant in Udumalpet Branch of the State Bank of India, was levelled with charges of misappropriation of customers' money to the total tune of Rs.1,21,784/-. As per the charges, the petitioner was claimed to have put through 26 transactions by debiting various Government accounts /other accounts and credited the proceeds to his savings bank account and his father's savings bank account. Apart from these charges, he was also charged for debiting the parking account in respect of customers, without any corresponding credit in the parking account. Instead of debiting his savings bank account, he was claimed to have debited the parking account for recrediting to the actual beneficiaries and thereby misappropriated a sum of Rs.54,858/- . The last charge against the petitioner was that he has caused financial loss to the tune of Rs.1,76,642/-. The Enquiry Officer had submitted a report dated 15.02.2016 and after consideration of the petitioner's written submission, he was imposed with a punishment of dismissal from service on 31.08.2016. The appeal against the punishment was dismissed by the first respondent on 22.02.2017. The petitioner has challenged this punishment in the present writ petition.

3. The learned counsel for the petitioner predominantly raised two grounds. Firstly, that the respondents had denied the petitioner's request for engaging the services of a lawyer or representative of the registered trade union, which right has been provided for, in Clause 12 of the Bi-partite Settlement, dated 10.04.2002. Secondly, it is their submission that the punishment was based on 'no evidence' and that the disciplinary authority had misconstrued the evidence before him while holding the charges as proved.

4. Per contra, the learned counsel appearing for the respondent bank submitted that the right to engage a lawyer in terms of the Bi-partite Settlement, dated 10.04.2002, is not an absolute right as held by the Hon'ble Division Bench of this Court in the case of V.Mathivanan Vs. State Bank of India, Zonal Office, Network-2, Administration Unit, Madurai-2 reported in 2012 SCC Online Mad 478 and also various other judgments. He further submitted that the scope of judicial review of the disciplinary action by the High Court is very limited and re-appraisal of the evidence before Enquiry Officer, is impermissible.

5. Insofar as the first ground raised by the learned counsel for the petitioner is concerned, it is seen that the petitioner had made a request for being represented through a lawyer in the disciplinary proceedings, which request was disregarded by the respondents. In order to substantiate such a right to claim representation, reliance was placed on Clause (12) of the Bi-



partite Settlement, dated 10.04.2002, which agreement entitles a delinquent employee to be represented by a representative of a represented trade union of bank employees or through a lawyer with the permission of the bank. To substantiate this proposition, the learned counsel placed reliance on a decision of a learned Single Judge of this Court in the case of S.Viswanathan Vs. State Bank of India and another passed in W.P.No.8407 of 2015 dated 06.06.2016. The relevant portion of the order of the learned Single Judge in S.Viswanathan's case (supra) reads as follows:

"14. The sum and substance of the contention of the learned counsel for the petitioner is that in terms of Clause 12 of the Bipartite Settlement dated 10.04.2002, the petitioner is entitled to have the assistance of a lawyer to represent his case in a domestic enquiry. Therefore, for better appreciation, Clause 12 of the Bipartite Settlement is extracted below:

The procedure in such cases shall be as follows:-

(a)He shall also be permitted to be defended-

(i) (x) by a representative of a registered trade union of bank employees of which he is a member on the date first notified for the commencement of the enquiry.

(y) where the employee is not a member of any trade union of bank employees on the aforesaid date, by a representative of a registered trade union of employees of the bank in which he is employed:

or

(ii) at the request of the said Union by a representative of the state federation or all India Organization to which such union is affiliated.

(iii) with the bank's permission, by a lawyer."

From the above said Bipartite Settlement, it is clear that the charge sheeted employee can engage the services of a representative of a registered trade Union of Bank employees of which he is a member and further it also gives him an option to engage a lawyer with the permission of the Bank.



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15. The petitioner filed a suit in O.S.No.124 of 2013 before the Small Causes Court, Chennai, against the Union, of which he is a Member, claiming damages against the very same Union. The respondent Bank was impleaded as second defendant in the said Suit. It was the contention of the petitioner in the Suit that State Bank Staff Union deliberately flouted the bye laws and caused him monetary loss. Therefore, it is averred by the petitioner that since the suit filed by him against the Union claiming damages is pending, he is not in a position to take the assistance of a representative of his Union to appear before the Enquiry Officer, and besides, neither the Union nor Members of the Union would help him, hence, he wanted the enquiry officer to permit him to engage a lawyer to defend his case effectively.

16. It is the specific case of the petitioner that he was pitted against a trained prosecutor viz., Mr.Sathiyamurthi, who defended the bank in 12 enquiries by acting as Presenting Officer. Further, the Enquiry Officer is also an Expert in the field of domestic enquiry as he holds the post of Chief Manager (Enquiry). According to the petitioner, inasmuch as both the persons at the contesting end against him being experts in the field of enquiry while he is handicapped of receiving the only assistance available viz., a representative from the Union since he filed a suit against the Union claiming damages, the principles of fair-play require that his plea for engaging a lawyer must be accepted.

17. This Court could see substance in the case of the petitioner, for, it is the duty of the Court to keep the balance to avoid the perpetuation of an imbalance in the conduct of disciplinary proceedings, because by any act of the employer, the employee should not be put to disadvantage in the conduct of disciplinary proceedings, otherwise this would amount to denial of reasonable opportunity. Therefore, this Court is of the view, the Disciplinary Authority ought to have allowed the claim of the petitioner to engage a lawyer to represent his claim in a domestic enquiry, by taking note of the fact that he had already filed a Civil Suit as stated above against the Union and as such he would not be in



a position to get the assistance of a representative of the Union."

The ratio laid down in the aforesaid decision may not be strictly considered as a precedent in view of the earlier Hon'ble Division Bench's decision of this Court in V.Mathivanan's case (supra) and also since the facts in S.Viswanathan's case (supra) would be distinguishable from the present case in hand.

6. In V.Mathivanan's case (supra), the Hon'ble Division Bench of this Court had dealt with an issue arising from the delinquency of an employee of State Bank of India, who places reliance on the Bi-partite Settlement, dated 10.04.2002 and claimed for representation through an Advocate. The Hon'ble Division Bench had dealt with this issue by placing reliance on the decision of the Hon'ble Supreme Court in K.Raghuram Babu's case therein [2008 (4) SCC 406] and rejected the employee's plea that there is no vested right for a delinquent employee to claim the right of assistance of an lawyer in a departmental enquiry on the basis of the Bi-partite Settlement, dated 10.04.2002. The relevant portion of the order reads as follows:

"20. Thus, the law laid down by the Honourable Apex Court shows that the doctrine of principles of natural justice in the matter of a domestic enquiry has to be understood in the context of the specific provisions contained in the rule or regulation. Ordinarily, a delinquent officer has to conduct his case on his own in a domestic/departmental enquiry as the same is not a criminal trial or a suit where a party has the right to be represented by an Advocate. In D.G., Railway Protection Force and others v. K.Raghuram Babu reported in 2008 (4) SCC 406, the Apex Court pointed out that there is no absolute or vested right in any charge-sheeted employee to make representation either through a Counsel or through any person unless the Statutes or the rules provided for the same. Thus, even if such a right is granted, it can be a controlled/restricted right reserving the discretion with the employer to consider the said request. The Honourable Apex Court clarified this by further saying that if the charge is serious and complex nature, the delinquent's request to be represented through a counsel or agent could be conceded. The Apex Court referred to the decisions of the House of Lords, particularly, Lord Denning who held that "in a domestic



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enquiry, justice can often be done in them better by a good layman than by a bad lawyer".

21. In the context of these decisions of the Honourable Apex Court and this Court, it is clear that no such absolute right has been given under the Memorandum of Settlement for a delinquent officer to have a representation through a lawyer. Where the regulations provide for a representation through a representative of a Registered Trade Union granting permission for engaging a lawyer, thus left to the discretion of the employer, we do not find any violation of principles of natural justice.

...

27. As far as the present case is concerned, it is not denied by the appellant/writ petitioner that the Memorandum of Settlement dated 10.04.2002 specifically dealing with the conduct of disciplinary proceedings, is binding on the writ petitioner herein and it provides for a wide range, including representation through a defence representative in the enquiry proceedings. There is no denial of the fact that as per clause 12 of the Memorandum of Settlement, the delinquent employee can have the defence representation through the Registered Trade Union of Bank Employees of which the delinquent officer is a member and even if he is not a member in any Trade Union, he is entitled to have the assistance of a representative of the Trade Union of the Bank Employees or Federation or All India Organisation to which the same is affiliated. The only area where the Bank has the discretion is in the matter of considering the request of a delinquent employee to have the assistance of a lawyer. In so providing such a discretion, we do not find any violation of either constitutional right or principles of natural justice.

28. As already pointed out, the question of relevancy of the Advocates Act, 1961, does not hold water and rightly so, the learned Counsel for the appellant/writ petitioner did not canvass the issue before us.

29. As already pointed out, the only ground argued by the learned Counsel for the appellant/writ petitioner is that when the delinquent officer seeks the assistance of a lawyer, as a matter of right, the same should



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have been granted. Secondly, the gravity of the charges should be looked into.

30. It is not denied by the writ petitioner that neither the enquiry officer nor the representative of the Bank and the Management are legally trained persons in the enquiry proceedings. On the admitted fact that the Settlement does not provide for engaging a lawyer as a matter of right and that the Bank itself have not appointed the enquiry officer as a lawyer nor the representative of the Management to be a lawyer, we do not find any justification in accepting the case of the appellant/writ petitioner that the appellant/writ petitioner is entitled to have the assistance of a lawyer."

7. When the Hon'ble Division Bench has dealt with Clause 12 of the Bi-partite Settlement, dated 10.04.2002 and had held that the right of representation through a lawyer is not an absolute right, this Court is unable to adopt the ratio of the learned Single Judge in S.Viswanathan's case (supra). Incidentally, the decision of the Hon'ble Division Bench in V.Mathivanan's case (supra) was not relied or referred to by the learned Single Judge in S.Viswanathan's case (supra). Secondly, the ratio in S.Viswanathan's case (supra) may not be strictly applicable to the facts of the petitioner's case since in S.Viswanathan's case (supra), the petitioner therein had filed a civil suit against the trade union and therefore was not able to avail the assistance of the representatives of the trade union and even otherwise, the assistance of a lawyer was sought for during the pendency of the departmental enquiry and not thereafter. In the instant case, the petitioner had allowed the domestic enquiry to be completed and after the charges were held to be proved, he has sought for the assistance for representation, which is not the facts in S.Viswanathan's case (supra). Accordingly, the ratio relied upon by the learned counsel for the petitioner may not be applicable to the petitioner's case here.

8. This apart, in another case arising out of the respondent's bank in the case of State Bank of India Vs. Jah Developers Pvt. Ltd., and Others [2019-(6)-SCC-787], a similar ratio was reiterated by the Hon'ble Supreme Court in the following manner:

"11. Since the judgment of the Delhi High Court has held that the two in-house committees can be considered to be tribunals, and that therefore, a lawyer has the right to represent his client before such in-house committees, it is first necessary to determine whether these in-



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house committees can be said to be tribunals for the purpose of Section 30 of the Advocates Act. Section 30 of the Advocates Act reads as follows:

"30. Right of advocates to practise.—Subject to the provisions of this Act, every advocate whose name is entered in the State roll shall be entitled as of right to practise throughout the territories to which this Act extends,—

(i) in all courts including the Supreme Court;

(ii) before any tribunal or person legally authorized to take evidence; and

(iii) before any other authority or person before whom such advocate is by or under any law for the time being in force entitled to practise."

12. The impugned judgment has held that the expression "legally authorised to take evidence" goes with the word "person" and not with the word "tribunal". While this may be correct, it is clear that before a body can be said to be a "tribunal", it must be invested with the judicial power of the State to decide a lis which arises before it. This would necessarily mean that all "tribunals" must be legally authorised to take evidence by statute or subordinate legislation or otherwise, the judicial power of the State vesting in such tribunal. This Court, in *Jaswant Sugar Mills Ltd., Meerut v. Lakshmi Chand and Ors.*, [1963] Supp (1) SCR 242, held that a Conciliation Officer under clause 29 of an Order promulgated under the U.P. Industrial Disputes Act, 1947, has to act judicially. However, he cannot be regarded as a "tribunal" within the meaning of Article 136 of the Constitution of India as such tribunal must be a body invested with the judicial power of the State, which a Conciliation Officer was not so invested with. Similarly, in *Engineering Mazdoor Sabha and Anr. v. Hind Cycles Ltd.*, [1963] Supp (1) SCR 625, this Court held that an arbitrator appointed under Section 10-A of the Industrial Disputes Act, 1947 could not be said to be a tribunal because the State has not invested him with judicial power. His position may be stated to be



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higher than that of a private arbitrator, but lower than that of a tribunal.

13. Similarly, in *Associated Cement Companies Ltd. v. P.N. Sharma and Anr.*, [1965] 2 SCR 366, this Court held that the State of Punjab is a tribunal when it exercises its authority under Rule 6(6) of the Punjab Welfare Officers Recruitment and Conditions of Service Rules, 1952. Hence, an order passed by the State of Punjab would be appealable, as the State of Punjab is a "tribunal" within the meaning of Article 136(1) of the Constitution of India. The majority judgment, through Gajendragadkar, C.J., held that the basic test is whether the adjudicating power which a particular authority is empowered to exercise, has been conferred on it by a statute and can be described as a part of the State's inherent power exercised in discharging its judicial function, can be said to be satisfied on the facts of the case. In a separate concurring judgment, Bachawat, J., held:

"44. An authority other than a Court may be vested by statute with judicial power in widely different circumstances, which it would be impossible and indeed inadvisable to attempt to define exhaustively. The proper thing is to examine each case as it arises, and to ascertain whether the powers vested in the authority can be truly described as judicial functions or judicial powers of the State. For the purpose of this case, it is sufficient to say that any outside authority empowered by the State to determine conclusively the rights of two or more contending parties with regard to any matter in controversy between them satisfies the test of an authority vested with the judicial powers of the State and may be regarded as a tribunal within the meaning of Article 136. Such a power of adjudication implies that the authority must act judicially and must determine the dispute by ascertainment of the relevant facts on the materials before it and by application of the relevant law to those facts. This test of a tribunal is not meant to be exhaustive, and it may be that other bodies not satisfying this test are also tribunals. In order to be a tribunal, it is essential that the power of adjudication must be derived from a statute or a statutory rule. An authority or body deriving its power of adjudication from an agreement of



10. The learned counsel for the petitioner drew the attention of this Court to various evidences before the enquiry officer and stated that the account numbers relating to the charges did not pertain to the petitioner and thereby attempted to draw an inference on the factual findings of the domestic enquiry. Such a ground cannot be stated to be a case of "No Evidence". The account numbers pointed out by the learned counsel relates to a charge, where the petitioner was accused to have credited the proceeds to his own savings bank account. However, the charge sheet also refers to 11 other transactions where the petitioner was alleged to have debited government accounts and other accounts and credited the proceeds to his father's savings bank account. This apart, the evidences relating to the petitioner having raised debits from the accounts/parking accounts, without any corresponding credits, without any authorization or approvals from the branch officials to re-credit the amount to correct beneficiaries at the time of request raised from the concerned department, has not been countered. Thus, the ultimate punishment imposed upon the petitioner, cannot be said to be on the basis of "No Evidence".

11. Above all, this Court may not be empowered to exercise judicial review of the domestic enquiry findings, by assuming the role of an Appellate Authority. The scope of judicial review to such departmental actions by the High Court exercising its power under Article 226 of the Constitution of India is very limited and this ratio has been reiterated in humpty number of decisions by the Hon'ble Supreme Court. For the sake of convenience, three such decisions are referred to below.

12. In B.C.Chaturvedi V. Union of India and others reported in 1995 (6) SCC 749, it was held as follows:-

"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 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



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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 re- appreciate 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. In the case of High Court of Judicature at Bombay through its Registrar V. Shashikant S. Patil and another reported in 2000 (1) SCC 416, wherein the scope of Article 226 of the Constitution of India was dealt with in the following manner:-

"16.The Division Bench of the High Court seems to have approached the case as though it was an appeal against the order of the administrative/ disciplinary authority of the High Court. Interference with the decision of departmental authorities can be permitted, while exercising jurisdiction under Article 226 of the Constitution if such authority had held proceedings in violation of the principles of natural justice or in violation of statutory regulations prescribing the mode of such inquiry or if the decision of the authority is vitiated by considerations extraneous to the evidence and merits of the case, or if the conclusion made by the authority, on the very face of it, is wholly arbitrary or capricious that no reasonable person could have arrived at such a conclusion, or grounds very similar to the above. But we cannot overlook that the departmental authority (in this case the Disciplinary Committee of the High



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Court) is the sole judge of the facts, if the inquiry has been properly conducted. The settled legal position is that if there is some legal evidence on which the findings can be based, then adequacy or even reliability of that evidence is not a matter for canvassing before the High Court in a writ petition filed under Article 226 of the Constitution."

14. A similar view was taken in the case of Director General of Police, Railway Protection Force and Others Vs. Rajendra Kumar Dubey reported in 2020 SCC On-line 954, which reads as follows:-

"31. We will first discuss the scope of interference by the High Court in exercise of its writ jurisdiction with respect to disciplinary proceedings. 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.

32. 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.

33. In State of Andhra Pradesh v S.Sree Rama Rao, 1 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



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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.

34. These principles were further reiterated in the State of Andhra Pradesh v Chitra Venkata Rao. 2 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.

35. 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.

36. 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



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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



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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."

37. 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.

38. 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."



15. As held in the aforesaid decisions, the limited areas in which the High Court could exercise its power under Article 226 of the Constitution of India, with respect of disciplinary proceedings are not the grounds raised by the petitioner in the instant case. On the other hand, if the submissions of the learned counsel for the petitioner were to be taken at its face value, this Court would be venturing into the restricted territories of re-appreciating the evidences in the domestic enquiry. On this aspect also, the petitioner's second ground deserves to be rejected.

16. For all the foregoing reasons, I do not find any merits on the grounds raised in the present Writ Petition. Consequently, the Writ Petition stands dismissed. Connected Miscellaneous Petition is closed. There shall be no orders as to costs.

Sd/-

Assistant Registrar(CS VII)

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Sub Assistant Registrar

DP

To

1. The Deputy General Manager (B & O),
Appellate Authority,
State Bank of India,
Zonal Office, Coimbatore.

2. The Regional Manager (Region IV),
Disciplinary Authority,
State Bank of India,
Region IV, Network-2, Coimbatore,
Kurunji Complex,
State Bank Road,
Coimbatore-641 018.

+1CC to Mr.T.Padmanabhan, Advocate, Sr.No.47103

+1CC to M/s.King & Partridge, Advocate, Sr.No.46663

W.P.No.10081 of 2017
and

WMP.No.11068 of 2017

PA (CO)

K.RK. (20.09.2021)