* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Reserved on : 12th July, 2022**
Pronounced on: 13th September, 2022

\+ W.P.(C) 14314/2005

T.D.MAKHIJA ..... Petitioner

Through: Dr. Ashwani Bharadwaj, Advocate

versus

UNION BANK OF INDIA ..... Respondent

Through: Mr. O. P. Gaggar and
Mr. Sachindra Karn, Advocates

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

JUDGMENT

CHANDRA DHARI SINGH, J.

1. The instant writ petition under Article 226 of the Constitution of India is filed by the Petitioner seeking quashing of the dismissal order dated 24th March 2001 passed by the Disciplinary Authority, Union Bank of India, and restoration of the services of the Petitioner with all benefits and full back-wages from 10th August 1999 by setting aside the suspension order dated 10th August 1999.

FACTUAL MATRIX

2. The Petitioner had joined the Respondent Bank in the year 1972. He appeared as an internal candidate for recruitment to the post of Officer

Grade-I in the Respondent Bank in the year 1977. The Petitioner qualified the said examination based on the written test and he was promoted to Officers Grade-I in December 1977.

3. The Petitioner was selected to attain the Refresher Course for System Administrator held at Staff College, Bangalore. The Petitioner was posted as a System Administrator in the Okhla Branch of the Respondent Bank.

4. The Petitioner alleges that he discovered certain serious anomalies regarding unauthorized withdrawals by the computer assistant, one Sohan Lal from Respondent Bank and discovered many manipulations in the computer system on 6th August 1999. He informed the then Chief Manager in the Respondent Bank about the aforesaid manipulations and withdrawals from the Bank. Immediately after this, the Petitioner was suspended by the then Chief Manager of the Respondent Bank with immediate effect on 10th August 1999. The Respondent Bank then lodged a First Information Report against the Petitioner and Sohan Lal.

5. Disciplinary proceedings were then initiated against the Petitioner. The Disciplinary Authorities issued a show cause notice to the Petitioner as to why appropriate action may not be taken against him for the aforesaid lapses on his part. He was also served with an Article of Charges vide communication dated 13th March 2000. The Charges are as follows:

i) Failure to perform his duties with utmost devotion, diligence, honesty, and integrity.

ii) Failure to take all possible steps to ensure and protect the interest of the bank.

iii) During acts unbecoming of a bank officer.

iv) Acting otherwise than in his best judgment in the performance of his official duties.

6. The Petitioner submitted his reply to the effect that the charges against him are wrong. He refuted all the charges emphasizing the fact that the Petitioner himself reported the matter to the then Chief Manager soon after it came to his knowledge on 6th August 2000.

7. The inquiring authority, after completion of the disciplinary proceedings, had submitted the inquiry report on 5th January 2001 to the Disciplinary Authority. A show cause notice was then issued on 16th January 2001 by the Disciplinary Authority to the Petitioner to make his submissions in respect of the inquiry report.

8. The Petitioner submitted the reply of the show cause dated 16th January 2001. After considering the reply of the Petitioner to the show cause notice as well as the inquiry report, the Disciplinary Authority rejected the reply to the show cause notice and found that there was no error in the inquiry report. The Petitioner was dismissed from his services with immediate effect vide order dated 24th March 2001.

9. The Petitioner filed an appeal against the order dated 24th March 2001, before the Appellate Authority. The Appellate Authority dismissed the appeal vide order dated 28th December 2001. The Petitioner then preferred a review of the order of the Appellate Authority on 20th March 2002 which was also rejected by the Chairman and Managing Director, Union Bank of India vide order dated 21st May 2005. Hence, the instant writ petition was filed.

SUBMISSIONS

10. Learned counsel for the Petitioner submitted that the Disciplinary Authority has passed the order dated 24th March 2001, dismissing the Petitioner from service by relying on the inquiry report without considering the proper procedure as laid down in Union Bank of India Officer Employees' (Discipline And Appeal) Regulations, 1976 (with amendments up to December 1989) (hereinafter referred to as "Regulations"). It is vehemently submitted that the inquiring authority had no jurisdiction to act as such. The Regulations do not provide that the inquiring authority has to be from the Bank itself on the contrary it requires a public servant from outside to act if the discipline authority is not holding the inquiry itself. He emphasized and referred Regulation 6(2) which is reproduced below:

> *"…………Whenever the Disciplinary Authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against an Officer Employee, it may itself enquire into or appoint any other public servant (hereinafter referred to as the Inquiring Authority) to inquire into the truth thereof………..."*

11. Learned counsel for the Petitioner submitted that even according to Regulation 6(6) , the Presenting Officer has also to be the public servant from outside and not from the same Bank. The relevant extract is reproduced below:

> *" ………….Where the Disciplinary Authority itself enquires or appoints an Inquiring Authority for holding an inquiry, it may by an order, appoint a public servant to be known as the "Presenting Officer" to present on its behalf the case in support of the Articles of Charge………………..."*

12. Learned counsel for the Petitioner submitted that the Petitioner was prevented to have assistance of an Assistant Officer as the management had manipulated the Petitioners' Assistant Officer in a manner to encourage him to give a recusal statement in the absence of the Petitioner in the proceedings. It is further alleged that highly prejudicial atmosphere had been created by the management against the Petitioner and therefore, no bank official agreed to be the assisting officer of the Petitioner in the disciplinary inquiry.

13. It is vehemently argued on behalf of the Petitioner that the list of witnesses and documents, based on which the Presenting Officer desired to prove the case against the Petitioner, were not furnished to the Petitioner which is in contravention of Regulation 5. The Petitioner has not been provided to have a fair trial and he has referred the Regulation 5 which is reproduced as under:

> *"The Inquiring Authority, it is required to do the following:-*
> *iv) a list of documents by which and list of witnesses by whom the Articles of Charge are proposed to be substantiated;*
> *v) a copy of statement of the witnesses, if any;*
> *vi) a copy of the order appointing the Presenting Officer' in terms of Sub-regulation (6)."*

14. Learned counsel for the Petitioner vehemently submitted that the proceedings before the inquiry authority were biased as it did not conduct itself independently by not giving proper opportunity to cross-examine the witnesses. It is further alleged that the inquiry officer has not recorded the statements of the witnesses or the Petitioner word by word, but he has recorded the statements in a manner to help the management case. The findings of the inquiry authority officer are based only on conjectures.

There is no evidence against the Petitioner to establish his involvement in the whole transaction and therefore, Sohan Lal is the sole beneficiary of embezzlement, if any.

15. Learned counsel for the Petitioner submitted that the entire disciplinary proceedings were biased. The Petitioner has not been given proper opportunity for presenting his case. The statements of the witnesses as well as the cross-examinations of the said witnesses had not been written properly by the inquiry officer during the proceedings and therefore the entire disciplinary proceedings are contrary to the law as laid down by this Court as well as the highest Court of the land i.e. the Hon'ble Supreme Court.

16. Learned counsel for the Petitioner lastly contended that the Disciplinary Authority and the Appellate Authority has not considered the case of the Petitioner and, they have failed to take into consideration the objection raised by the Petitioner, and they have rejected his reply/written submissions as well as the appeal. The revision is also dismissed without considering the case of the Petitioner and without giving any reasoned order. Therefore, the order dated 24th March 2001 passed by the Disciplinary Authority as well as the suspension order dated 10th August 1999 deserve to be set aside.

17. *Per contra,* during the arguments, learned counsel for the Respondent has taken a preliminary objection based on delay and laches in the filing of the present petition. Learned counsel for the Respondent submitted that the Petitioner was dismissed from his employment on being found guilty on 24th March 2001, and his appeal was also dismissed on 28th December 2001, but the Petitioner has filed the instant petition on

16th August 2005 which is more than 3.5 years after confirmation of the penalty by the Appellate Authority. There is an explanation for delay in filing the present writ petition that the Petitioner filed a review before the reviewing authority which led to the delay in filing the present writ petition. In this regard, it is submitted by the learned counsel for the Respondent that there is no provision of filing any review by the delinquent employee. The review as provided is a *suo motu* power of the Chairman and Managing Director to call for the records and see for himself as to compliance of the procedure.

18. Learned counsel for the Respondent Bank vehemently submitted that the present writ petition is devoid of merits as the Petitioner has failed to demonstrate any breach of the principles of natural justice or the violation of material rules. It is an established law that findings of the disciplinary inquiry and the proceedings can be challenged only on the grounds of the breach of principles of natural justice or of any rules. The Petitioner has failed to demonstrate any error apparent on the face of record or breach of the principles of natural justice.

19. It is further submitted that in the absence of breach of rules of natural justice or any other applicable rules the findings of the domestic inquiry, cannot be assailed by any court of law. It is further submitted that the findings of the domestic inquiry under the Officer Employees' (Discipline And Appeal) Regulations, 1976 cannot be challenged unless the inquiry itself is assailed.

20. Learned counsel for the Respondent vehemently submitted that from the nature of the transaction it is implicit that the embezzlement could not have been done alone by Sohan Lal unless there was collusion

and connivance of the Petitioner. The Petitioner has authorized and authenticated the entries in the computer system which were entered by the computer operator and himself. Some of authorizations given by the Petitioner for the withdrawal and the manner in which the cheques meant to be sent for local clearing for immediate realization were retained for the alleged inter branch clearly and providing the credit on the said cheques without getting the proceeds of the same prove clear and unambiguous conspiracy and the participation of the Petitioner in the alleged transactions.

21. It is further submitted that the Petitioner as System Administrator has concealed the detection of his fraud by not generating the required daily statements and producing them before the Branch Manager. It is pertinent to mention that any transaction in the branch which is against the general banking practices has to be reported to the Branch Manager and his sanction has to be obtained for the same. The unambiguous findings are that the Petitioner was involved in the chain of transactions involving of the manipulation of the computerized accounts which was going on for a long time.

22. It is submitted that the Regulation 6(2) provides that if the Disciplinary Authority wants to inquire into the truth, then it can either inquire by itself or appoint any person who is or has been a public servant to act as inquiring authority. It was neither the requirement of the rule nor a practice prevalent at that time to entrust the inquiry to an outside inquiry authority. Only after January 2002, some of the inquiries are being entrusted to outside inquiry authorities though still it is not mandatory to do so.

23. Learned counsel for the Respondent submitted that there is no illegality or error in the orders impugned passed by the Appellate Authority and the Disciplinary Authority. The inquiry has been conducted in accordance with due process of law and there is no violation of any rule of principle of natural justice. The Petitioner has been given full opportunity to defend himself. Therefore, there is no force in the arguments advanced on behalf of the Petitioner that he has not been given opportunity to defend himself during the disciplinary proceedings. It is further submitted that the instant petition is devoid of any merit and is liable to be dismissed.

<u>FINDINGS AND ANALYSIS</u>

24. On 13th March 2000, the copy of Article of charges issued by the Disciplinary Authority has been served upon the Petitioner. The relevant portion of the Article of charges is reproduced as under:

> *"Shri T.D. Makhija while working as System Administrator, SSI, Okhla Branch, has committed certain acts of omission and commission:*
> *Shri Makhija, in association with Shri Sohan Lai and Shri Umesh Garg, manipulated the Computer System, with a motive to do the fraud. Due to their fraudulent acts, they were able to withdraw unauthorisedly cash to the tune of Rs. 23.38 lacs, from SSI Okhla Branch, New Delhi.*
> *Shri Makhija also indulged in die following acts:*
> *He authorized the Local-branch Debit Advices for which he is not competent;*
> *He authorized Local-branch Credit Advice of Rs. 4.45 lacs, against uncleared effect without the permission of Competent Authority;*

He credited Clearing on 30.3.98, lodged to Service Branch on 30.3.98 to be credited in the respective account on 30.3.98;
He debited Inward Clearing return in Suspense A/c D.N.R. instead of party a/c and manipulated this head to hide out the misdeed.
Shri Makhija is informed the above acts of omission and commission on his part constitute the following misconducts and he is hereby charged of the same:-
1. Failure to perform his duties with utmost, devotion, diligence, honesty and integrity.
2. Failure to take all possible steps to ensure and protect the interest of the Bank.
3. Doing acts unbecoming of a Bank Officer.
4. Acting otherwise than in his best judgment in the performance of his official duties."

25. On 31st May 2000, the Respondent Bank had appointed one Shri. R. Venkatramaya, Senior Manager (P) Nodal Regional Office, New Delhi to conduct inquiry into the charges against the Petitioner.

26. On 5th January 2001, the report was submitted by the inquiry officer to the Disciplinary Authority. A show cause notice was issued to the Petitioner on 16th January 2001, for reply in respect of the inquiry report. The Petitioner has submitted his reply to the show cause notice to the Disciplinary Authority and the Disciplinary Authority has rejected the submissions/reply of the inquiry report. The Disciplinary Authority while imposing the punishment in dismissal order dated 24th March 2001 has recorded the following findings:

"….He extended undue favours to M/s. Jorgy International and group accounts. As on 06.08.1999, he allowed an excess of Rs.3,14,694.62 in the account of M/s. Computer Components (I) Pvt. Ltd., a group account of M/s. Jorgy International. Shri Makhija had debited the account for

retirement of import documents. Shri Makhija had some signed loose cheques of M/s. Jorgy International and group accounts which he misutilised to withdraw cash from these accounts and to manipulate the computer system to delete the unauthorised transactions. He withdrew cash to the tune of Rs.12.10 lacs fraudulently in the account of M/s. Jorgy International. He tampered with evidence and removed cash payment cheque dated 13.11.98 for Rs.60,000/- pertaining to CD account no: 20010 and a torn piece of cheque was found in his possession.

He abused his position as System Administrator by utilising the pass word/TBA prompt lo delete debit entries in current accounts after day end so that the balances would remain unaffected. He did not generate daily statements to hide his misdeeds. In collusion with Shri Sohan LaL, he cancelled withdrawal forms/cheques for huge amounts in the S.B. Account of Shri Sohan Lai and perpetrated fraud of Rs.23.38 lacs over a period of time.

It is evident that Shri Makhija exploited the mutual trust and confidence reposed in him by his colleagues and indulged in fraudulent transactions with malafide intentions and for pecuniary gains.

I concur with the views of the Inquiring Authority and hold Shri Makhija guilty of the following charges levelled against him"

Failure to perform his duties with utmost, devotion, diligence, honesty and integrity.

Failure to take all possible steps to ensure and protect the interest of the Bank.

Doing acts unbecoming of a Bank Officer.

Acting otherwise than in his best judgment in the performance of his official duties.

Looking to the nature and gravity of the misconduct proved against Shri Makhija, I am of the opinion that the ends of justice will be met by imposing upon him the penalty of dismissal from the services of the Bank.

Accordingly by virtue of powers vested in me in terms of Regulation 7 of the Union Bank of India Employees'

(Discipline & Appeal) Regulations 1976, I hereby pass the following order:

Order

"The major penalty of dismissal from the services of the Bank with immediate effect is hereby imposed on Shri T. D. Makhija"

27. The Disciplinary Authority, on scanning the inquiry report accepted it after discussing the available and admissible evidence on the charge and the Appellate Authority having endorsed the view of the Disciplinary Authority rejected the appeal vide order dated 28th December 2001. The review was also sought against the order of appeal and the same was also rejected by the Reviewing Authority.

28. Indubitably, the well-ingrained principle of law is that it is the Disciplinary Authority, or the Appellate Authority in appeal, which is to decide the nature of punishment to be given to a delinquent employee keeping in view the seriousness of the misconduct committed by such an employee. It is also settled law that Courts cannot assume and usurp the function of the Disciplinary Authority. In the case of ***Apparel Export Promotion Council v. A.K. Chopra,*** **1999 1 SCC 759**, it is explained as under:

"22. ... The High Court in our opinion fell in error in interfering with the punishment, which could be lawfully imposed by the departmental authorities on the respondent for his proven misconduct. ... The High Court should not have substituted its own discretion for that of the authority. What punishment was required to be imposed, in the facts and circumstances of the case, was a matter which fell exclusively within the jurisdiction of the competent authority

and did not warrant any interference by the High Court. The entire approach of the High Court has been faulty. The impugned order of the High Court cannot be sustained on this ground alone."

29. In the case of ***State of Meghalaya v. Mecken Singh N. Marak*, 2008 7 SCC 580**, the Hon'ble Supreme Court held as under:

"14. In the matter of imposition of sentence, the scope of interference is very limited and restricted to exceptional cases. The jurisdiction of the High Court, to interfere with the quantum of punishment is limited and cannot be exercised without sufficient reasons. The High Court, although has jurisdiction in appropriate case, to consider the question in regard to the quantum of punishment, but it has a limited role to play. It is now well settled that the High Courts, in exercise of powers under Article 226, do not interfere with the quantum of punishment unless there exist sufficient reasons therefor. The punishment imposed by the disciplinary authority or the appellate authority unless shocking to the conscience of the court, cannot be subjected to judicial review. In the impugned order of the High Court no reasons whatsoever have been indicated as to why the punishment was considered disproportionate. Failure to given reasons amounts to denial of justice. The mere statement that it is disproportionate would not suffice.

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17. Even in cases where the punishment imposed by the disciplinary authority is found to be shocking to the conscience of the court, normally the disciplinary authority or the appellate authority should be directed to reconsider the question of imposition of penalty. The High Court in this case, has not only interfered with the punishment imposed by the disciplinary authority in a routine manner but overstepped its jurisdiction by directing the appellate authority to impose any other punishment short of removal.

By fettering the discretion of the appellate authority to impose appropriate punishment for serious misconducts committed by the respondent, the High Court totally misdirected itself while exercising jurisdiction under Article 226. Judged in this background, the conclusion of the Division Bench of the High Court cannot be regarded as proper at competent authority in a casual manner and, therefore, the appeal will have to be accepted."

30. In the present case, the inquiry officer has conducted the inquiry in detail and submitted its report to the Disciplinary Authority and the said Authority after taking into the entire material on record and findings of the inquiry report, after giving show cause notice to the Petitioner and after considering the reply submitted to the show cause notice has agreed with the view taken by the inquiry officer. The Appellate Authority while passing the rejection order on appeal filed by the Petitioner has also agreed with the view taken by the Disciplinary Authority. The review has also been dismissed by the reviewing authority. Therefore, the Petitioner's case has been examined and dealt by at least three authorities and found that there are sufficient materials and evidence available on record to establish the Article of charges against the Petitioner. It is a settled law that the Disciplinary Authority is a sole judge of facts. Where appeal is presented, the Appellate Authority has co-extensive power to re-appreciate 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 and Tribunal.

31. In the instant case, the Disciplinary Authority has taken a view that all the charges leveled against the Petitioner are proved and Appellate

Authority has also agreed with the view taken by the Disciplinary Authority on the inquiry report. Therefore, this Court has limited power for judicial review. In the case of ***Union of India v H. C. Goel***, **AIR 1964 SC 364,** the Hon'ble Supreme Court held 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 record or based on no evidence at all, a writ of certiorari could be issued.

32. The Disciplinary Authority and on appeal the Appellate Authority, being fact finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the Disciplinary Authority or the Appellate Authority shocks the conscience of the High Court, it would appropriately mould the relief, either directing the Disciplinary/Appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof.

33. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into re-appreciation of the evidence. The High Court can only see whether:

(a) the enquiry is held by a 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 consideration 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 fact 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.

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

(i) reappreciate the evidence;

(ii) interfere with the conclusions in the enquiry, in 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.

35. In the case of ***State of Haryana v. Rattan Singh*** **1977 2 SCC 491,** the Hon'ble Supreme Court held as under:

> *"4. ... in a domestic enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. It is true that departmental authorities and administrative tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Indian Evidence Act. For this proposition it is not necessary to cite decisions nor textbooks, although we have been taken through case law and other authorities by counsel on both sides. The essence of a judicial approach is objectively, exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fair play is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding, even though of a domestic tribunal, cannot be held good."*

36. The Disciplinary Authority on the findings based on evidence has come to the conclusion that from the nature of the transactions it is implicit that the same could not have been done alone by the said computer operator unless there was collusion and connivance of the Petitioner. The Petitioner is absolving himself of the charges by thrusting whole of the responsibility on the computer operator. Mere fact that all the vouchers pertaining to the day's transactions are supervised by the Chief Manager the very next day and the Chief manager did not point out any irregularity will not aid the Petitioner in his case as on the basis of the

findings by the Authorities below, it is highly improbable that the manipulations would have been carried under the eyes of the Petitioner without his involvement.

37. The Disciplinary Authority has reached the above conclusion after giving the Petitioner detailed hearing on the merits and based on evidence recorded. It cannot be said that the Disciplinary Authority has acted arbitrarily and based on extraneous considerations.

38. The Petitioner has merely claimed that no list of duties or job profile was provided to him on joining as System Administrator in response to the findings of the Disciplinary Authority that he had purchased cheques drawn on local branch without the approval of competent authority though he was not entrusted with the duties of Bills Department and he signed paying-in slips, local branch debit advises, credit advises related to the fraud though he was not competent to do so and without ascertaining the genuineness of the transactions. Moreover, the Petitioner has failed to rebut the finding that he failed to ensure that local branch cheques were sent in clearing and not by way of sending local branch debit advises.

39. According to the findings of the Disciplinary Authority, the Petitioner has purchased cheques drawn on local branch without the approval of competent authority though he was not entrusted with the duties of Bills Department. He signed paying-in slips, local branch debit advises, credit advises related to the fraud though he was not competent to do so and without ascertaining the genuineness of the transactions. He has failed to ensure whether the competent authority had permitted purchase of cheques drawn on SDA Branch, that too involving

staff/relatives of staff. He did not ascertain from SDA branch whether sufficient funds were available to cover the cheques purchased. Petitioner has merely relied on the confession statement of Mr. Sohanlal to wash away his complicity in the manipulations which have been carried. As already discussed above, this court's power to interfere in the findings of the Disciplinary Authority is limited and in the present facts and circumstances of the case, the Petitioner has wholly failed to bring his case within the parameters which allow the court to exercise its jurisdiction under Article 226 of the Constitution of India. In so far as such serious manipulations are concerned, the conclusion so reached by the Disciplinary as well as the Appellate Authority is based on evidence recorded and cannot be said to be perverse and suffering from any error apparent on the face of the record. Even assuming that the Respondent Bank has not suffered any pecuniary loss, it will not help the case of the Petitioner as non-suffering of monetary loss will not wash away the very transactions of manipulations as have been recorded by the Disciplinary Authority as well as the Appellate Authority.

40. The submission of the Petitioner that the Disciplinary proceedings are vitiated because as per Regulation 6(2) read with Regulation 6(6), the Presenting Officer must be a Public Servant from outside the Respondent Bank is misconceived and misplaced. The amended rule is wrongly quoted as the rule provides that if the Disciplinary Authority wants to inquire into the truth, then it can either inquire by itself or appoint any person who is or has been a Public Servant to act as Inquiring Authority. Therefore, this argument of the Petitioner is not sustainable and will not help the Petitioner to bring his case within the exceptions as discussed

above to allow this court to exercise its jurisdiction under Article 226 of the Constitution of India.

CONCLUSION

41. Applying the above principles to the facts of the present case, this Court has observed that there can be no doubt that the charges in respect of the Petitioner are proved which were confirmed by the Disciplinary Authority as well as the Appellate Authority of the Respondent.

42. Taking into consideration the aforesaid decisions on the law as well as to the facts of this case, this Court does not find any illegality and error in order dated 24th March 2001, passed by the Disciplinary Authority as well as the suspension order dated 10th August 1999.

43. Accordingly, the instant writ petition fails being devoid of any merits and is dismissed along with the pending applications, if any.

44. The judgment be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

SEPTEMBER 13, 2022
gs/mg