

1. In this writ petition as filed under Article 226 of the Constitution of India the writ petitioner has prayed for quashing of the charge sheets dated August 28, 2006 and September 06, 2007, the enquiry proceeding and the report of the Enquiry Authority, the order of the punishment as given by the Appointing Authority and as approved by the Appellate Authority by its order dated January 01, 2011 and affirming decision of the Reviewing Authority vide its order dated April 17, 2012.
2. For effective disposal of the instant writ petition the facts leading to filing of the writ petition is required to be dealt with in a nutshell.

3. While posted as the Chief Manager of the Lake Gardens Branch of the respondent-bank i.e. SBI for the period August 21, 2002 to November 19, 2005 it has been alleged that the present writ petitioner committed certain lapses and/or irregularities with regard to the disbursement, sanction and conduct of cash credit and term loan in favour of Shaymal Kumar Ghosh for which he was charge sheeted. It is the further allegation of the respondent-bank that during his posting at BT Road Branch as the Chief Manager (OPs) Region II Zonal Office, Kolkata during the period November 2005 to July 2007, the writ petitioner had resorted to committing serious lapses in facilitating perpetration of fraud by inducing one Shri Pradip Kumar Samanta, MMGS-III, the then Branch Manager to sanction/disburse seven loan accounts for which the bank suffered huge loss. Since the respondent-bank was not satisfied with the reply/ replies of the delinquent, a departmental enquiry was started. In the departmental enquiry following charge has been framed regarding alleged irregularities at SBI, Lake Gardens Branch namely:-

“1. Shri Kalyan Kumar Roy, SMGS-IV, while posted at Lake Gardens Branch as Chief Manager from 21.08.2002 to 19.11.2005 is alleged to have failed to take all possible steps to ensure and protect the interest of the Bank and to discharge his duties with utmost devotion and diligence in violation of Rules 50(1) and 50(4) of the State Bank of India Officers Service Rules (SBGIOSR) as per his acts detailed in the enclosed Statement of Allegations of Misconduct.”

The imputations of misconduct in respect of the aforesaid charge are as follows:-

- “i. The Loan facilities were disbursed without complying with the terms of sanction. The stipulations of extending Equitable Mortgage created at Midnapur Branch for a Dhaba at Gobru to covert the loan sanctioned was not complied with.*
- ii. No opinion reports of the Borrowers and Guarantors were prepared.*
- iii. Disbursements/Drawings were permitted beyond the sanctioned limit viz. Rs. 103.41 lacs in Term Loan A/c No.01502050209 against a sanctioned limit of Rs. 75.00 lacs and upto Rs. 39.00 lacs in Cash Credit Account No. 01600050211 against a sanctioned limit of Rs.16.50 lacs. The irregular excess drawings were not backed by the appropriate documents.*
- iv. The margin portion of the borrower was not ensured at every stage of the project financed by the Bank.*
- v. As Cash Credit Limit of Rs. 15.00 lacs was sanctioned on 10.11.2004 and no control return was submitted.*
- vi. In the proposal for sanction submitted to the Zonal Office Credit Committee, the information of existence of a Cash Credit facility was suppressed.*
- vii. Closure of the existing Cash Credit Account (sanctioned earlier) by appropriation of funds of Term loan Account of the same borrower through Savings Bank Account with about Rs.22.00 lacs.*
- viii. The disbursements from the Term Loan were mostly made by crediting the Borrower's Savings Bank A/c No.01190016877. therefore, end use of funds were not ensure.*
- ix. The irregularities in the Term Loan and Cash Credit Account were not reported to the Controller.*

x. Permitting and suppressing of irregularities and non replying Zonal Office letter No.1/104 dated 16.07.2005 and its reminder vide no.1/155 dated 31.08.2005.

xi. Loan Processing charge of Rs.1,19,870/- was not recovered from the borrowers own funds at the time of initial disbursement of loan.”

2. Owing to the above irregularities committed by Shri Kalyan Kumar Roy, SMGS –IV , Bank was exposed to a financial loss to the tune of Rs.142.41 lacs (approx.).”

In respect of the irregularities at SBI, B.T Road Branch, the following charges have been framed in enquiry proceedings, viz.:-

“I. Shri Kalyan Kumar Roy had misused his official position and influence as Chief Manager (Ops) and induced the then Branch Manager of B.T. Road Branch, Sri Pradip Kumar Samanta, MMGS III (under suspension) to sanction and disburse seven loans out of which four are in fictitious names not backed by any supporting documents. Two of these seven loans namely; a personal loan and a Housing Loan were sanctioned to Sri Shyamal Kumar Ghosh, owner of a petrol pump at Midnapur, financed by Sri Kalyan Kumar Roy during his tenure as Chief Manager at Lake Gardens branch from 21.08.2002 to 19.11.2005, and who has been known to Sri Kalyan Kumar Roy since 1999 when he was Chief Manager at Midnapur Brach. Another of these loans was granted to Smt. Sandhya Bhattacharya, Sri Roy’s Sister-in-law.

II. Out of the above mentioned accounts an aggregate sum of Rs.38.84 lacs has gone to the benefit of Sri Shaymal Kumar Ghosh and Reliance Petrol Pump owned by him financed by Sri Kalyan Kumar Roy at Lake Gardens Branch for the irregularities in which account, Shri Roy is already being proceeded against.

III. Sri Kalyan Kumar Roy had arranged Rs.9.00 lacs from his son's account for reducing the outstandings in two accounts, namely, Sri H. Chakraborty and Smt. Sandhya Bhattacharya to cover up the case.

IV. Sri Roy had failed to discharge his responsibilities as Chief Manager (Ops) of Region II in not bringing to notice of Controller of the region, the irregularities at B.T Road Branch.

V. As a result of all the above acts of Sri Kalyan Kumar Roy, the bank is likely to incur a loss of Rs.57.76 lacs."

4. In the enquiry proceedings all the charges excluding Charge no.(ii) in respect of irregularities at Lake Gardens Branch and Charge no.v in respect of irregularities at BT Road Branch have been proved in full and the remaining aforesaid two charges have been proved in part. From the materials as placed before this Court it reveals that the Disciplinary Authority concurs with the finding of the Enquiry Authority and since the Disciplinary Authority was not empowered to impose a major penalty, matter was transmitted to the Appointing Authority who after being satisfied on perusal of the entire materials awarded a penalty of dismissal of the present writ petitioner which was successively affirmed by the Appellate Authority as well as by the Reviewing Authority.

5. In course of his argument Mr. Kushal Chatterjee, learned advocate for the writ petitioner agitates the following points:-

Regarding Lake Gardens Branch:-

- a. The Disciplinary Authority in course of disciplinary proceedings did not consider the evidence of PW-1 and PW-2 though those are in favour of the delinquent/writ petitioner.
- b. The Disciplinary Authority has failed to visualize that the conditions of disbursement of loan has been sanctioned by the Zonal Office Credit Committee which is evident from the copy of P.Exbt.No.18 and thus the fault, if there be any cannot be attributed to the petitioner since he was merely disbursing authority which is also evident from 'D' Exbt. No.6 as well as from the oral evidence of DW-1.
- c. While passing its order the Appointing Authority has not assigned any reason as to why he is in agreement with the findings of Disciplinary Authority.
- d. The writ petitioner was not afforded with proper opportunity to tender his documents before the enquiry authority.
- e. Disciplinary Authority ought to have sent back the proceeding to the Enquiry Authority so as to enable the delinquent to tender the documents in his favour and by not sending the same he lost his chance to adduce evidence in his defence before the Enquiry Authority.

f. Finding of the Enquiry Authority is erroneous since the Enquiry Authority did not consider the defence of the delinquent that because of non-cooperation of Midnapur Branch creation of equitable mortgage of collateral security cannot be done.

g. From 'D' exhibit no. 27 it would reveal that restructuring of the proposal of Reliance Petrol Pump has been approved by Zonal Credit Committee wherein unwillingness of Midnapur Branch has been duly dealt with by the said committee vide page 332.

h. Disciplinary Authority failed to consider the 'P' Exhibit no 18 vide page no.146 and 'P' Exhibit no.34 are contradictory.

i. the decision of the Appellate Authority bears no reasoning vide page and accordingly the same be termed as nonspeaking order.

j. The Reviewing Authority has failed to consider that Appointing Authority's findings have been influenced by the CVO's recommendation who has no role either in the enquiry proceeding or in the disciplinary proceeding. Delinquent was not served with the copy of the internal investigation as conducted by CVC.

Regarding charges in respect of the BT Road Branch :-

a. The Enquiry Authority has wrongly interpreted the provisions of law with regard to the circumstantial evidence and principles of preponderance of probability in absence of documentary evidence of the delinquent's direct involvement

in sanctioning seven fake loan accounts in a disciplinary proceeding.

b. Appreciation of evidence by the disciplinary authority in respect of charge no.1 of BT Road Branch is not correct since PW4 categorically deposed that the irregularities /illegalities have been committed as per verbal instruction of the delinquent though there is no documentary evidence of the direct involvement of the delinquent in sanctioning seven fake loans.

On the principle of denial of natural justice :-

Delinquent was not heard prior to imposition of penalty which is against the principle of natural justice.”

In course of his argument Mr. Chatterjee placed his reliance upon the following reported decisions namely:-

- i. ***Union of India vs. P.S Balasubrahmanayam*** reported in ***(2021) 5 SCC 662***;
- ii. ***Allahabad Bank and Ors. Vs. Krishna Narayan Tewari*** reported in ***(2017) 2 SCC 308***;
- iii. ***State Bank of India and ors. Vs. D.C Aggarwal and Another*** reported in ***(1993) 1 SCC 13***; and
- iv. ***State Bank of India and Ors. Vs. Ranjit Kumar Chakraborty and Another*** reported in ***(2018) 12 SCC 807***.

Mr. Chatterjee, learned advocate for the writ petitioner thus submits before this court that it is a fit case for allowing the instant writ

petition quashing the punishment as awarded by the respondent-bank upon the present writ petitioner.

6. Per contra Mr. Sudip Pal Choudhuri, learned advocate for the respondent-bank raised the following points in course of his argument namely :

- i. The enquiry proceeding was conducted by the respondent-bank in accordance with the provisions of the rule by observing the principles of natural justice.
- ii. Since in a departmental proceeding the strict rule of evidence is not applicable the respondent bank relying on the principle of preponderance of probability came to a finding that the charges as framed against the delinquent have been proved and, therefore, there is hardly any scope to interfere with such finding by a Writ Court.
- iii. During the enquiry proceeding it reveals that though the loan was sanctioned by the Zonal Credit Committee but the loan proposal was initiated from the Lake Gardens Branch and it has been observed that the delinquent while disbursing the loan did not comply with the terms of the sanction.
- iv. The writ petitioner is not entitled to any further notice before imposing a penalty since in every steps of the enquiry proceeding, the proceeding before the Disciplinary Authority, the Appointing Authority, the Appellate

Authority and the Reviewing Authority the delinquent was given opportunity to substantiate his plea of defence.

v. Since in the case in hand the Disciplinary Authority as well as the Appointing Authority concur with the findings of the Enquiry Authority, those two authorities are not duty bound to reassign reasons while concurring with the findings of the Enquiry Authority.

vi. In absence of any positive material it cannot be said that the finding of the Appointing Authority was influenced by the recommendation of CVO.

vii. Since liberty was given to the writ petitioner to submit the documents in support of his defence before the Disciplinary Authority it cannot be said that the required documents were not supplied to the writ petitioner causing prejudice to his interest in course of enquiry proceeding.

viii. It is settled principle of law that the High Court exercising jurisdiction under Article 226 of the Constitution of India does not act as an Appellate Authority and, therefore, re-appreciation of the evidence on the basis of which punishment was imposed upon the petitioner is not permissible.

ix. Considering the proved charges as against the delinquent it cannot be said that the punishment imposed

upon the writ petitioner is disproportionate to the misconduct as committed by him.

7. In course of his argument Mr. Pal Choudhuri placed his reliance upon the following reported decisions:-

- i. K. Vinod Kumar vs. Palanisamy and Ors. reported in (2003) 10 SCC 681;*
- ii. Union of India and Ors. vs. P. Gunasekaran reported in AIR 2015 SC 545;*
- iii. Apparel Export Promotion Council vs. A.K Chopra reported in AIR 1999 SC 625;*
- iv. Deputy General Manager (Appellate Authority) and Ors. vs. Ajai Kumar Srivastava reported in (2021) 2 SCC 612;*
- v. State Bank of Patiala vs. S.K Sharma reported in AIR 1996 SC 1669;*
- vi. Lalit Popli vs. Canara Bank and Ors. reported in (2003) 3 SCC 583;*
- vii. State Bank of India and Ors. Vs. B.R. Saini reported in (2018) 11 SCC 83;*
- viii. National Fertilizers Ltd. and Anr. vs. P.K Khanna reported in (2005) 7 SCC 597;*
- ix. R.P. Bhatt vs. Union of India and Ors. reported in (1986) 2 SCC 651;*
- x. State Bank of India and Ors. Vs. Bidyut Kumar Mitra and Ors. reported in (2011) 2 SCC 316;*

- xi. Disciplinary Authority-cum- Regional Manager and Ors. Vs. Nikunja Bihari Patnaik** reported in **(1996)9 SCC 69**
- xii. Sub-Divisional Officer , Konch vs. Maharaj Singh** reported in **(2003) 9 SCC 191;**
- xiii. Pravin Kumar vs. Union of India and Ors.** reported in **(2020) 9 SCC 471;**
- xiv. United Bank of India vs. Bachan Prasad Lall** reported in **AIR 2022 SC 943: AIR Online 2022 SC 151;**
- xv. State Bank of India Vs. T.J Paul** reported in **AIR 1999 SC 1994;**
- xvi. Damoh Panna Sagar Rural Regional Bank and Anr vs. Munna Lal Jain** reported in **(2005) 10 SCC 84; and**
- xvii. State Bank of India and Ors. Vs. Ramesh Dinkar Punde** reported in **(2006) 7 SCC 212.**

8. Before entering into the facts and circumstances as involved in the present *lis* this Court proposes to look to some of the reported decisions of the Hon'ble Supreme Court of India with regard to the scope of interference in the departmental enquiry in a proceeding under Article 226 of the Constitution of India. In the reported decision of **High Court of Judicature at Bombay vs. Shaskikant S. Patil and Anr.** reported in **(2000)1 SCC 416** the Hon'ble Apex Court expressed the following view:-

“16.....

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 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.”

In the reported decision of **Pravin Kumar vs. Union of India and Ors.** reported in **(2020) 9 SCC 471** the Hon’ble Supreme Court held thus:-

“25.....

The power of judicial review discharged by Constitutional Courts under Article 226 or 32, or when sitting in appeal under Article 136, is distinct from the appellate power exercised by a departmental appellate authority. It would be gainsaid that judicial review is an evaluation of the decision making process, and not the merits of the decision itself. Judicial Review seeks to ensure fairness in treatment and not fairness of conclusion. It ought to be used to correct manifest errors of law or procedure, which might result in significant injustice; or in case of bias or gross unreasonableness of outcome.

*26. These principles are succinctly elucidated by a three judge Bench of this Court in *BC Chaturvedi v. Union of India*⁴ in the following extract (SCC pp. 759-60, paras 12-13*

.....:

13. 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/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.

27.....

28. *It is thus well settled that the Constitutional Courts while exercising their powers of judicial review would not assume the role of an appellate authority. Their jurisdiction is circumscribed by limits of correcting errors of law, procedural errors leading to manifest injustice or violation of principles of natural justice. Put differently, judicial review is not analogous to venturing into the merits of a case like an appellate authority.”*

9. Keeping in mind the propositions of law as enunciated by the Hon’ble Supreme Court of India in the aforesaid reported decisions, I shall make an endeavour to reach at a logical conclusion as to whether there lies any scope on the part of this Writ Court to interfere with the findings as arrived by the respondent-bank in its enquiry proceeding, discipline proceeding and the proceedings before the Appointing Authority, Appellate Authority and the Reviewing Authority.

10. On perusal of the charge and the imputations of misconduct as mentioned in serial no.(i) to no. (xi) ,(ii) in respect of irregularities at Lake Gardens Branch, it reveals to this Court that the said charge and the imputations are more or less with regard to the alleged misconduct on the part of the delinquent/writ petitioner herein while disbursing loan as has

been approved by the Zonal Office Credit Committee. As discussed above Mr. Chatterjee, learned advocate for the writ petitioner made a pen sticking argument before this Court contending that sufficient materials have been placed before the respondent- bank that while disbursing the alleged loan collateral security cannot be extended due to unwillingness of Mindapur Branch. However it appears that sufficient materials have been placed before the Enquiry Authority that the irregularities as committed by the delinquent/writ petitioner in terms of loan and cash credit account was not reported to the Zonal Office through returns and on the contrary a feeble defence was taken that those irregularities were informed to Zonal Office over phone apart from the reflected figures in weekly abstract and CIS data. The affirmative finding of the aforementioned irregularity on the part of the present writ petitioner while he was posted in Lake Gardens Branch was duly affirmed before the Disciplinary Authority, Appointing Authority, Appellate Authority and Reviewing Authority. In view of such there is hardly any scope on the part of this Writ Court to interfere with the factual findings of the aforesaid authorities. In absence of any appropriate materials or regarding violation of principles of natural justice or violation of statutory regulations, regarding the mode of enquiry or any arbitrariness on the part of the respondent-bank in reaching to its conclusion, there is hardly any scope to hold that the enquiry as conducted against the delinquent/writ petitioner is defective.

11. So far as the charges as against the writ petitioner while he was posted at Lake Gardens Branch are concerned, the argument of Mr. Chatterjee that in

its decision the Appellate Authority has assigned no reasons as to why he agrees with the view taken by the Enquiry Authority, Disciplinary Authority and Appointing Authority, in considered view of this Court, is not much convincing in view of the fact that it is settled principle of rules of natural justice that in every case the Appellate Authority who is not bound to restate its own reasons except where the Appellate Authority disagrees with the findings of the Disciplinary Authority. The same view was taken in the reported decision of ***R.P. Bhatt vs. Union of India and Ors.*** reported in ***(1986) 2 SCC 651*** and in the reported decision of ***National Fertilizers Ltd. and Anr. vs. P.K Khanna*** reported in ***(2005) 7 SCC 597***.

12. In view of the discussion made hereinabove this court considers that the writ petitioner has miserably failed to make out a case for interfering with the decisions as taken by the respondent-bank in respect of the charges as against the writ petitioner while he was posted at Lake Gardens Branch.

13. So far as the charge(s) as against the present writ petitioner while he was posted in the B.T Road Branch are concerned the position is a little bit otherwise. In respect of the charges as framed against the present writ petitioner it reveals that during the enquiry proceeding no documentary evidence was found as against the present writ petitioner to establish his direct involvement in respect of the charges as framed against him but the enquiry officer after considering the circumstantial evidence, chain of events and movement of funds came to a finding that based upon the principles of preponderance of probability those charges have been proved against the delinquents. Admittedly in a disciplinary proceeding adherence to the strict

proof as per the Evidence Act is not required. It is settled principle of law that the degree of proof in departmental enquiry need not be of the same standard as the degree of proof required for establishing the guilt of an accused in a criminal case. However, where the departmental proceeding is vitiated by total dearth of evidence interference by a Writ Court is permitted.

14. On perusal of the evidence of the witnesses of the respondent-bank before the Enquiry Authority in respect of the charges against the writ petitioner while he was posted at B.T Road Branch it appears that the Enquiry Authority practically relied upon the evidence of PW4 who in course of his deposition stated that as per the verbal instruction of his superior, who is the writ petitioner herein, he opened seven fake loan accounts but to substantiate his contention he failed to prove any documentary evidence. It appears that the Enquiry Authority, Disciplinary Authority, Appointing Authority, Appellate Authority and the Reviewing Authority consistently held that the oral deposition of PW4 is sacrosanct and in absence of any documentary evidence, the said authority applied the principles of preponderance of probability and found the charges as against the present writ petitioner while he was posted in the B.T Road Branch, have been proved.

15. It appears to this Court that so far as the charges as against the writ petitioner are concerned in respect of B.T Road Branch the findings of the respondent/bank is based on no evidence at all either direct or circumstantial. In further considered view of this Court since before the respondent bank authorities no circumstances could be proved even based

on preponderance of probability in respect of the charges of irregularities at B.T Road Branch, this Court considers that this court is sufficiently empowered to interfere with the findings of the respondent-bank authorities in respect of the charges as against the writ petitioner while he was posted at B.T Road Branch since manifest injustice and/or violation of principle of natural justice occurred at the instance of the respondent-bank. It further appears to this Court that in absence of any evidence either direct or circumstantial the decision of the respondent/bank with regard to the charges in respect of the B.T Road Branch have been vitiated by circumstances extraneous to the evidence which is apparent on the face of its record and the same is wholly arbitrary and/or capricious so that no reasonable person could have arrived at such a conclusion.

16. In view of such, the findings of the respondent/bank authorities in respect of charge no. I to V with regard to the alleged irregularities at B.T Road Branch are hereby quashed.

17. At this juncture a question arises as to whether the penalty as imposed upon the writ petitioner by the respondent bank is at all justified or not. In this regard reliance can be placed upon the reported decision of **S.R Tewari vs. Union of India and Anr.** reported in **(2013) 6 SCC 602** and **Union of India vs. P.S Balasubrahmanayam** reported in **(2021) 5 SCC 662**. In the reported decision of **S.R Tewari (supra)** the Hon'ble Supreme Court expressed the following view:-

“24. The question of interference on the quantum of punishment, has been considered by this Court in a catena of judgments, and it was

held that if the punishment awarded is disproportionate to the gravity of the misconduct, it would be arbitrary, and thus, would violate the mandate of Article 14 of the Constitution.....

25. In B.C. Chaturvedi v. Union of India & Ors., AIR 1996 SC 484, this Court after examining various its earlier decisions observed that in exercise of the powers of judicial review, the court cannot “normally” substitute its own conclusion or penalty. However, if the penalty imposed by an authority “shocks the conscience” of the court, it would appropriately mould the relief either directing the authority to reconsider the penalty imposed and in exceptional and rare cases, in order to shorten the litigation, itself, impose appropriate punishment with cogent reasons in support thereof. While examining the issue of proportionality, court can also consider the circumstances under which the misconduct was committed. In a given case, the prevailing circumstances might have forced the accused to act in a certain manner though he had not intended to do so. The court may further examine the effect, if the order is set aside or substituted by some other penalty. However, it is only in very rare cases that the court might, to shorten the litigation, think of substituting its own view as to the quantum of punishment in place of punishment awarded by the Competent Authority.”

In the reported decision of ***Union of India vs. P.S Balasubrahmanayam*** the Hon’ble Apex Court held the following:-

“21.It is correct to say that judicial forums do not sit as an appellate authority to substitute their mind with the mind of the disciplinary authority insofar as the finding is concerned. However, disproportionality of punishment is a concept certainly not unknown to service jurisprudence and has received consideration inter alia of this Court. This is what the Tribunal proposed to do.

We may examine the finding of the Tribunal on the issue of disproportionality of punishment and are in complete agreement with the view that the punishment of compulsory retirement was completely disproportionate and harsh, keeping in mind the finding arrived at by the disciplinary authority. It, thus, seems to appear that the charges originally levelled may have persuaded the concerned authority to impose punishment; losing sight of the fact that the allegations qua bribery had not been found against the respondent.

22. The question is whether the Tribunal proceeded correctly in passing the final direction to impose appropriate minor penalty. The Tribunal itself did not impose the punishment but left it to the authority concerned (for appropriate course of action). It was of the view that considering the findings of procedural lapses against the respondent, the appropriate punishment could only be a minor penalty and not a major penalty. With this again, we are in agreement with the course of action adopted. The nature of charges found against the respondent can hardly be one to call for a major penalty, keeping in mind that there was no bribery charge. Anyone can make mistakes. The consequences of mistakes should not be unduly harsh. We are, thus, of the view that the direction of the Tribunal is what is liable to be sustained”

18. Keeping in mind the principles of law as enunciated in the aforesaid two reported decisions namely; **S.R Tewari (supra)** and **Union of India vs. P.S Balasubrahmanayam (supra)** it appears to this Court since in this writ petition the charge no.I to charge no.V in respect of irregularities

at B.T. Road Branch have been quashed by this Court in exercise of its plenary power under Article 226 of the Constitution of India, the Appointing Authority of the respondent bank is hereby directed to revisit the quantum of punishment to be imposed upon the present writ petitioner within three months from the date of communication of this judgement after giving an opportunity of hearing to the writ petitioner with the help of his learned advocate.

19. In view of the discussion the instant writ petition is thus, allowed in part and is disposed of.

20. Urgent Photostat certified copy of this judgement, if applied for, be given to the parties on completion of usual formalities.

(Partha Sarathi Sen, J.)