

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Before:

The Hon'ble Justice Hiranmay Bhattacharyya

**WPA 29790 of 2016
Ranjan Bandyopadhyay @ Ranjan Banerjee
versus
The Bank of Baroda & Ors.**

For the petitioner : Mr. Aniket Mitra
Mr. Ananda Dulal Sarkaradvocates

For the respondent bank : Mr. Apurba Kumar Bandopadhyay
Ms. Shagufta Yasmin ... advocates

Reserved on : 27.03.2023

Judgment on : 10.08.2023

Hiranmay Bhattacharyya, J.:-

1. Petitioner challenged the Enquiry Report dated 09.06.2014, the order of the disciplinary authority dated 14.11.2014 and the order of the appellate authority dated 08.08.2015 and has prayed for setting aside the same in this writ petition.
2. The petitioner was served with a Memorandum of charges dated 11.09.2013 while he was performing the duties as a Senior Manager at Berhampore branch of Bank of Baroda (for short "the Bank"). The articles of charge contained the list of irregularities alleged to have been committed by the petitioner while he was working as Senior Manager at Durgapur branch. Thereafter, addendum with statement of allegations dated 19.10.2013 and 13.12.2013 were issued setting out the list of lapses allegedly committed by the petitioner at Durgapur branch.

Petitioner submitted the written statements of Defence and the Inquiry Authority (for short "IA"), after completion of enquiry submitted his findings contained in the report dated 09.06.2014. The Disciplinary Authority (for short "DA") on 14.11.2014 passed an order imposing punishment of removal from Bank's service which shall not be a disqualification for future employment. Petitioner preferred an appeal against the order dated 14.11.2014 and the Appellate Authority (for short "AA") dismissed the appeal by an order dated 08.08.2015.

3. Mr. Mitra, learned advocate appearing for the writ petitioner contended that the petitioner/ delinquent was denied the access to the relevant documents produced by the management. He further contended that the delinquent was neither afforded any opportunity to defend himself nor any opportunity was given to him to cross-examine the management witnesses. He further contended that the DA did not supply reasons as to why the contention of the petitioner was not accepted. The AA, according to Mr. Mitra, mechanically affirmed the findings of the DA without arriving at its independent findings on the grounds raised in the appeal petition particularly on the issue of actual assessment of loss. Mr. Mitra submitted that since the principles of natural justice has been violated in the instant case, this Court should interfere in exercise of its powers of judicial review. He also contended that the pension of the petitioner cannot be forfeited as he had rendered more than ten years of continuous service and submitted that the direction be passed upon the authorities to release pension and gratuity.
4. Mr. Bandyopadhyay, learned advocate representing the Bank seriously disputed the submissions made by Mr. Mitra. By referring to the materials on record, he submitted that the delinquent was given adequate opportunity to defend himself and also that he cross-examined the management witnesses. Mr. Bandopadhyay further contended that

the IA after considering the evidences before him and the submissions contained in the written arguments submitted by the Presenting Officer (for short “PO”) and the Defence Representatives (for short “DR”) observed that the charges leveled against the petitioner has been proved. He further submitted that the disciplinary authority after considering the evidences and documents placed before the IA, deposition of witnesses and the submissions made by the delinquent as well as the management imposed the punishment of removal from bank’s service which shall not be a disqualification for future employment. The AA after considering the grounds raised in the appeal petition dismissed the appeal by a reasoned order. He, thus, concluded by submitting that this Court in exercise of its powers under judicial review cannot sit in appeal over the order passed by the DA and AA.

5. Heard the learned advocates for the parties and perused the materials placed. The petitioner by an e-mail dated 31st December, 2012/ 3rd January, 2013 addressed to the Deputy General Manager of the bank tendered resignation by giving three month’s notice in terms of the Bank of Baroda (Officers’) Service Regulations, 1979. Since the bank refused to grant permission to the petitioner to resign from the services of the bank, the writ petitioner approached this Hon’ble Court by filing a writ petition being WP No. 24793(W) of 2013. The said writ petition was, however, dismissed by an order dated 02.09.2013. It was observed in the said order that since there is no time frame given in Regulation 20(3) for the competent authority to make his order and till such time an order is made by the competent authority accepting resignation, the petitioner cannot claim that his resignation has taken effect and, therefore, is not liable to attend to his duties on and from 14.04.2013. Mr. Mitra, in course of his argument, contended that the authorities acted illegally and *mala fide* by not allowing the request for voluntary resignation which was

made prior to the issuance of the chargesheet. In view of the order dated 02.09.2013 passed in WP No. 24793(W) of 2013 having attained finality, this Court is not inclined to accept such contention of Mr. Mitra.

6. It appears from the order of the Inquiry Officer dated 06.02.2014 that the Chargesheet Officer (CSO) / Defence Representative (DR) has given certificate to the effect that all the documents presented by the PO have been verified. In view of such certificate being issued by the CSO/DR it cannot be said that the CSO was denied access to relevant documents presented by the PO. It further appears from the order dated 12.04.2014 that the cross-examination of management witness (MW) no. 1 was done by the DR and was completed. Thereafter, the Examination-in-Chief of MW-2 was held but the DR did not cross examine the said witnesses. The Examination-in-Chief of defence witness was conducted on 15.02.2014 but since the same could not be completed on that date due to paucity of time, Defence Witness (DW) was examined on 12.04.2014. Thereafter, cross examination of DW was done by PO and re-examination was done by DR. Record reveals that hearing of the inquiry was concluded and the parties were directed to submit their written arguments within the specified time frame.
7. There were altogether 17 number of allegations against the petitioner as per the original articles of charge. The Inquiry Officer held that the allegation nos. 2, 6, 8, 10, 11, 12, 13, 14, 15, 16 and 17 as proved and the allegation nos. 1, 3, 4, 5, 7 and 9 as partially proved. The Inquiry Officer further observed that the allegations as per the addendum dated 19.10.2013 as partially proved and that as per the addendum dated 13.12.2013 has not been proved. After arriving at the aforesaid findings the Inquiry Officer observed that on the basis of the proved and partially proved allegations, the five co-related charges have been found to be conclusively proved. The said five charges are as follows- (i) The petitioner

did not discharge his duties with devotion, diligence and committed such omissions which showed lack of care, caution and reasonable judgment and was grossly negligent (ii) In the performance of his official duties and/or in exercise of powers conferred on him, he adopted such steps and took such actions which were derogatory, prejudicial, detrimental or injurious to the interest of the Bank. (iii) He knowingly and willfully violated the Bank's rules and established procedures. (iv) He committed serious violation of duty, breach of trust, reposed in him by the Bank and/or misuse of office. (v) His actions are unbecoming of an officer.

8. The DA after considering the written evidences/ documents placed before the enquiry, deposition of witnesses as well as the arguments of the prosecution and the defence observed that some of the allegations found proved on the part of the CSO are procedural in nature while other lapses/ allegations found proved on the part of the CSO and serious in nature. After considering the lapses on the part of the CSO, the DA observed that such lapses are serious in nature. It was further observed that the CSO in performance of his official duties and/ or in exercise of powers conferred on him, unauthorisedly exceeded his authority/ powers and did not report them and/ or obtain approval/ confirmation from higher authority. DA further observed that the CSO has sanctioned/ disbursed the advances exceeding the limits in violation of bank's rules and established procedures. It was further observed that the approach of CSO was casual and there was gross negligence on his part in discharging his duties at each stage namely pre-sanctioned, sanctioned, disbursement or monitoring level. The DA further observed that his action has resulted in fraud being perpetrated in the advance account and also that his irregular actions resulted in causing potential loss to bank.

9. The DA after considering the nature and gravity and lapses and seriousness of the charges found proved against the CSO imposed the punishment of

removal of the petitioner from bank's service which shall not be a disqualification for future employment.

10. After going through the order of the DA, this Court finds that DA considered the matter in its entirety and assigned cogent reasons for imposing the punishment upon the petitioner.
11. Petitioner preferred an appeal against the order of the DA. After going through the order of the AA this Court finds that the AA after going through the report of the IA, the evidences on record of the enquiry, the order of the DA and the grounds raised by the petitioner in his appeal petition dealt with each of the grounds raised in the appeal petition and returned specific findings on all such grounds. On the issue of assessment of loss as raised by Mr. Mitra in his written submissions this Court finds that the AA has considered such grounds and have returned specific findings thereon. After going through the order passed by the AA it does not appear to this Court that the AA mechanically affirmed the findings of the DA. It appears that the AA returned its independent findings qua the grounds raised in the appeal petition.
12. It is well settled that while exercising the powers of judicial review the High Court cannot act as an appellate court. High Court cannot reappreciate the evidences for the purpose of arriving at a different conclusion. The High Court also cannot substitute its findings with that of the authorities in the departmental proceedings. For all the reasons as aforesaid this court is not inclined to accept the submission of Mr. Mitra that there has been a failure of natural justice. That apart this court does not find any infirmity in the decision making process.
13. The writ petition lacks merit and the same accordingly stands dismissed. The dismissal of the writ petition shall not preclude the petitioner from approaching the authorities for release of any benefits which the petitioner

may be entitled to in accordance with law. There shall be, however, no order as to costs.

14. Urgent Photostat certified copies, if applied for, be supplied to the parties upon compliance of all formalities.

(Hiranmay Bhattacharyya, J.)