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W.P. Nos.25951/17-7787/2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 10.08.2023

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NOS.25951 OF 2017 & 7787 OF 2018

AND

W.M.P. NOS. 27510 OF 2017 & 8495 OF 2018

1. The Regional Manager
(Disciplinary Authority)
State Bank of India
Region-II, Regional Business Office
Raja Mirasdar Hospital Road
Thanjavur 613 001.

2. The Deputy General Manager
(Business Operations) (Appellate Authority)
State Bank of India
Disciplinary Proceedings Cell
Administrative Office
Tiruchirappalli Zone, McDonalds Road
Tiruchirappalli 620 001.
25951/17

.. Petitioners in WP

V.Anbumani

.. Petitioner in WP 7787/2018

- Vs -

1. The Presiding Officer
Central Government Industrial Tribunal
- cum – Labour Court

.. R-1 in WP 25951/2017 &



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Shastri Bhawan, Chennai 600 006.

.. R-3 in WP 7787/2018

2. V.Anbumani

.. R-2 in WP 25951/2017

3. The Regional Manager
(Disciplinary Authority)
State Bank of India
Region-II, Regional Business Office
Raja Mirasdar Hospital Road
Thanjavur 613 001.

4. The Deputy General Manager
(Business Operations) (Appellate Authority)
State Bank of India
Disciplinary Proceedings Cell
Administrative Office
Tiruchirappalli Zone, McDonalds Road
Tiruchirappalli 620 001.

.. RR-1 & 2 in WP 7787/18

W.P. No.25951 of 2017 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorari calling for the records of the 1st respondent in I.D. No.15 of 2015 and quash the award dated 10.01.2017.

W.P. No.7787 of 2018 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorari calling for the records from the file of the 3rd respondent in I.D. No.95 of 2013 and quash its impugned award dated 10.01.2017 insofar as the 3rd respondent has denied



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the relief of reinstatement in service with continuity of service with backwages and with all other attendant benefits.

For Petitioners : Mr. Anand Gopalan, for
M/s.T.S.Gopalan & Co. in WP 25951/17
Mr. K.M.Ramesh, SC, for
Mr. S.Apunu in WP 7787/18

For Respondents : Mr. K.M.Ramesh, SC, for
Mr. S.Apunu for R-2 in WP 25951/17
Mr. Anand Gopalan, for M/s.T.S.Gopalan &
Co. for RR-1 & 2 in WP 7787/18

COMMON ORDER

Assailing the order passed by the Labour Court and the consequential award in I.D. No.15 of 2015, while W.P. No.7787/2018 has been filed by the workman for reinstatement with all other attendant benefits, W.P. No.25951/17 has been filed by the Bank insofar as modifying the punishment imposed on the workman from dismissal to one of compulsory retirement.

2. Since both the petitions are connected resulting in the award of the Labour Court, the petitions were heard together and is disposed of by this



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common order. For the sake of convenience, the petitioners will be referred to as 'Workman' and 'Bank'.

3. The facts that revolve around the filing of the present writ petitions are as under :-

The case as projected in the claim statement by the workman is that he was appointed as Clerk-cum-Cashier in the year 1985 and, thereafter promoted as Special Assistant in the year 2008. While the workman was working at Mannargudi Branch, the workman was suspended from service w.e.f. 27.11.2009 on the allegation of gross misconduct and the workman was, thereafter, issued with a charge sheet dated 15.12.2010 levelling two charges against him. The first charge related to the handling of the ATM cards and Pin Mailers, while in the custody of the workman, which remained undelivered to the customers and the misuse of the said cards for the purpose of withdrawal of amounts aggregating to Rs.5,42,340/= from the accounts of various customers. The second charge pertained to the workman allowing one Revathi to misuse the ATM cards and Pin Mailers and helped her to



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withdraw money fraudulently from the customers account and misappropriated Rs.5,42,340/= belonging to various customers.

4. To the charge memo, the workman submitted his explanation, which was not accepted and enquiry was conducted against him. Upon completion of the departmental enquiry, the enquiry officer held the charges leveled against the workman as proved and after providing the enquiry report to the workman and further asking the workman to show cause as to the punishment to be imposed on him, and upon receipt of explanation and being not satisfied with the explanation, the disciplinary authority imposing the punishment of dismissal from service and the appeal against the said order was dismissed by the appellate authority. Aggrieved against the said order, the workman raised an industrial dispute, which was referred to the Labour Court.

5. The Labour Court, after hearing either side and after perusing the materials available on record, while concurred with the findings of the



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enquiry officer, however, modified the punishment from dismissal to one of compulsory retirement with all retiral benefits.

6. The claim petition was contested by the Bank by filing counter statement, in which it is averred that the workman was incharge of the ATM cards and the PIN mailers and while the said cards were in his custody, the same was misused and exhibits were marked to show that the workman was entrusted with the custody of ATM Cards and PIN mailers. On the basis of the complaints received from the customers, investigation caused by the Bank revealed the complicity of the workman along with one casual employee, Revathi, and indulged in unauthorised cash withdrawal to the tune of Rs.5,42,340/-. It is the further case of the Bank that the investigation resulted in the recovery of 7 covers containing undelivered ATM cards and related PIN mailers from the custody of the workman.

7. 2 charges were framed against the workman and in the enquiry, which was conducted in a fair and proper manner, after affording opportunity, the enquiry officer held the charge proved. Therefore, the



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disciplinary authority, considering the gravity of the charges and the findings rendered thereon, inflicted the punishment of dismissal from service based on the Memorandum of Settlement on Disciplinary action procedure. Therefore, no interference was warranted with the said order of punishment.

8. Before the Labour Court, on the side of the workman, the workman examined himself as W.W.1 and Exs.W-1 to W-25 were marked. On the side of the Bank, Exs.M-1 to M-8 were marked, but no oral evidence was adduced. Framing the necessary questions for consideration, analyzing the documentary materials available on record, the Tribunal finding that all the charges stood proved, however, on account of the fact that responsibility also stood shared with the others in the Bank, as negligence is on the other members of the bank as well, who were not diligent enough and had not taken any prompt action, and also considering the fact that the workman had already suffered punishments with regard to dereliction of duty and negligence, and considering the length of service of the workman, modified the punishment from dismissal to one of compulsory retirement with



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superannuation benefits. Aggrieved by the said order, the writ petitions have been preferred by the workman and the Bank.

9. Learned senior counsel appearing for the workman submitted that though the Tribunal has held that charges have been proved, however, the Tribunal has also fastened the negligence on the other officers of the bank, who have been negligent in not acting diligently and, therefore, thought it fit to modify the punishment. When there is a categorical finding arrived at by the Tribunal that the workman alone cannot be fastened with the liability though others are also equally responsible, the Tribunal ought to have reinstated the workman in service with all consequential benefits.

10. In fine, it is the submission of the learned senior counsel for the workman that the other members of the Bank also being equally responsible, as has been held by the Tribunal, fastening the liability only on the workman and compulsorily retiring him from service is a wholly disproportional punishment, which requires interference at the hands of this Court.



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11. Per contra, learned counsel appearing for the bank submitted that the charges framed against the workman, which are two in number not only stood proved, but the workman had not raised any finger at the manner in which the enquiry was conducted, which has also been recorded by the Tribunal in its order. The gravity of the charges and the delinquencies imputed against the workman are so grave in nature the disciplinary authority, properly appreciating the materials has imposed the punishment of dismissal, which has been duly concurred by the appellate authority. The finding of the Tribunal that the other officers of the Bank have also been negligent is wholly misconceived, as it is the categorical finding of the Tribunal that the entrustment of the ATM cards and the PIN mailers were with the workman and the workman cannot absolve himself by merely transferring the blame on the other members of the staff, who were in no way concerned with the task entrusted to the workman.

12. It is the submission of the learned counsel that when the conduct of the enquiry has not been challenged by the workman resulting in the imposition of punishment by the disciplinary authority, the Tribunal has



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wholly misdirected itself on sympathy to modify the punishment, which is wholly arbitrary, illegal and without any probable material and the same deserves to be interfered with by restoring the punishment imposed by the disciplinary authority.

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

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

“12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a



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public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.

13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has



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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."

(Emphasis Supplied)

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

"23. We have read this charge in the light of allegations in support thereof. In the instant case, it is not disputed that the respondent has neither supplied any prior information on the Government nor did he send any prior intimation to the Government. By not doing this, he has contravened the provisions of Rule 9. The Tribunal has also categorically held that the respondent has not applied for prior information before



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he purchased the items from the competent authority nor he intimated to the competent authority forthwith soon after the purchase of the several items. Therefore, in our view, the charged officer has violated Rule 9 of the Conduct Rules and thus is guilty of misconduct within Rule 2-H (sic) of the Andhra Pradesh Disciplinary Amendment Act, 1993. In view of the abovesaid finding we hold that respondent is guilty of both the charges framed against him within Rule 2 (b) of the Conduct Rules of 1961 framed under the Amendment Act, 1993.

* * * * *

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

16. In **Director General of Police, RPF & Ors. - Vs – Rajendra Kumar Dubey (C.A. No.3820/2020 dated 25.11.20)**, the Hon'ble Supreme Court, advertent to the various decisions of the Apex Court relating to the



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interference by the High Court in exercise of its writ jurisdiction with respect to disciplinary proceedings, including the decision in *Chaturvedi's case* (*supra*), held as under:-

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

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

*In **State of Andhra Pradesh v S.Sree Rama Rao**, a three judge bench of this Court held that the High Court under Article 226 of the Constitution is not a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant. It is not the function of the High Court under its writ jurisdiction to review the evidence, and arrive at an independent finding on the evidence. The High Court may, however interfere where the departmental authority which has held the proceedings against the delinquent officer are inconsistent with the principles of natural justice, where the findings are based on no evidence, which may reasonably support the conclusion that the delinquent officer is guilty of the charge, or in violation of the statutory rules prescribing the mode of enquiry, or the authorities were actuated by some extraneous considerations and failed to reach a fair decision, or allowed themselves to be influenced by irrelevant*



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considerations, or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion. If however the enquiry is properly held, the departmental authority is the sole judge of facts, and if there is some legal evidence on which the findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a writ petition.

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



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

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

“33. In exercising judicial review in disciplinary matters, there are two ends of the spectrum. The first embodies a rule of restraint. The second defines when interference is permissible. The rule of restraint constricts the ambit of judicial review. This is for a valid reason. The determination of whether a misconduct has been committed lies primarily within the domain of the disciplinary authority. The judge does not assume the mantle of the disciplinary authority. Nor does the judge wear the hat of an employer. Deference to a finding of fact by the disciplinary authority is a recognition of the idea that it is the employer who is responsible for the efficient conduct of their service. Disciplinary enquiries have to abide by the rules of natural justice. But they are not governed by strict rules of evidence which apply to judicial proceedings. The standard of proof is hence not the strict standard which governs a criminal trial, of proof beyond reasonable doubt, but a civil standard governed by a preponderance of probabilities. Within the rule of preponderance, there are varying approaches



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based on context and subject. The first end of the spectrum is founded on deference and autonomy – deference to the position of the disciplinary authority as a fact finding authority and autonomy of the employer in maintaining discipline and efficiency of the service. At the other end of the spectrum is the principle that the court has the jurisdiction to interfere when the findings in the enquiry are based on no evidence or when they suffer from perversity. A failure to consider vital evidence is an incident of what the law regards as a perverse determination of fact. Proportionality is an entrenched feature of our jurisprudence. Service jurisprudence has recognized it for long years in allowing for the authority of the court to interfere when the finding or the penalty are disproportionate to the weight of the evidence or misconduct. Judicial craft lies in maintaining a steady sail between the banks of these two shores which have been termed as the two ends of the spectrum. Judges do not rest with a mere recitation of the hands-off mantra when they exercise judicial review. To determine whether the finding in a disciplinary enquiry is based on some evidence an initial or threshold level of scrutiny is undertaken. That is to satisfy the conscience of the court that there is some evidence to support the charge of misconduct and to guard against perversity. But this does not allow the court to re-appreciate evidentiary findings in a disciplinary enquiry or to substitute a view which appears to the judge to be more appropriate. To do so would offend the first principle



which has been outlined above. The ultimate guide is the exercise of robust common sense without which the judges' craft is in vain."

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

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

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

(i) re-appreciate the evidence;



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(ii) interfere with the conclusions in the enquiry, in the case the same has been conducted in accordance with law;

(iii) go into the adequacy of the evidence;

(iv) go into the reliability of the evidence;

(v) interfere, if there be some legal evidence on which findings can be based;

(vi) correct the error of fact however grave it may appear to be;

(vii) go into the proportionality of punishment unless it shocks its conscience.”

(Emphasis Supplied)

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



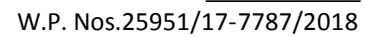
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18. In the case on hand, the punishment that has been imposed by the disciplinary authority, as confirmed by the appellate authority has been modified by the Tribunal by invoking its powers u/s 11-A of the ID Act. Incidentally, this Court has to address whether the invocation of powers by the Tribunal is just and reasonable as the order of the Tribunal is assailed both by the workman as well as the Bank.

19. Keeping the ratio laid down in mind, this Court would now analyze the contentions, which branch on the following two heads, to find out the just and reasonableness of the impugned order and whether interference is warranted with the same :-

- i) Infliction of major punishment, in tune with the Memorandum of Settlement; and*
- ii) Disproportionality of punishment with reference to the delinquency alleged against the petitioner.*

20. In the case on hand, it is not the case of the workman that he has not been provided with adequate opportunity to represent his case; rather, the workman had accepted the fairness of the enquiry in the claim settlement



21. The Tribunal has rendered a definitive finding that the ATM Cards and PIN mailers were under the custody of the workman and it is the duty of the workman to keep the same in safe custody. The fact that other persons were able to gain access and use the cards freely would show not only the negligent and callous manner in which the workman had functioned, but also the act of the workman to shift the blame on the other staff members with regard to their negligence cannot be accepted as the workman cannot be allowed to absolve himself of the responsibility, which has been entrusted to him.

22. All through the Tribunal has held that the offence stood proved as against the workman. In fact, the Tribunal has rendered a finding that the



negligent act of the workman had resulted in the access to the cards by other persons to withdraw cards and to that extent the workman is guilty of the misconduct.

23. The Tribunal had further gone on to hold that this is not the first time that the workman had been found negligent in his duty as Exs.M-1 to M-6 stares against the negligent attitude of the workman. In fact twice the workman was visited with charge memo and enquiry and had also been inflicted with punishment, which the workman had also not disputed. Therefore, the Tribunal had come to the definitive conclusion that the workman deserves to be punished and on that score, this Court is in agreement with the findings recorded by the Tribunal.

24. On the above findings, this Court holds that there is no infirmity or error in the disciplinary authority deciding to impose punishment on the workman and this Court is in agreement with the view taken by the disciplinary authority to impose punishment. However, the Bank attacks the impugned award on the question of disproportionality of the punishment,



which has since been modified by the Tribunal from dismissal to one of compulsory retirement by exercising its powers under Section 11-A of the ID Act.

25. To appreciate the contention and also to find out whether the interference with the punishment by the Tribunal is justified or not, it is but necessary to advert to Section 11-A of the ID Act to find out whether the power has been properly exercised by the Tribunal.

26. Section 11-A of the ID Act, for better appreciation is quoted hereunder:-

“11A. Powers of Labour Courts, Tribunals and National Tribunals to give appropriate relief in case of discharge or dismissal of workmen.-

Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal



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and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require:

Provided that in any proceeding under this section the Labour Court, Tribunal or National Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter.”

27. Even a bare reading of Section 11-A, supra, reveals that where in the course of adjudication the Tribunal feels that the punishment of dismissal or discharge imposed was not justified, it may direct reinstatement of the workman or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal.

28. In the case on hand, the Tribunal has gone on to render a finding that the charges stood proved and the fairness of the enquiry is also accepted by the workman. The Tribunal has also further noted that there have been instances of negligence on the part of the workman on earlier occasions, which has resulted in imposition of punishments. However, the Tribunal,



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taking note of the length of service of the workman and also taking into account the fact that the other officers have not been diligent enough in administering the activities at the bank, exercising its powers u/s 11-A, had thought it fit to modify the punishment from one of dismissal to that of compulsory retirement.

29. The precedents on the issue of interference with the punishment imposed has been oft considered by the Courts and it has been the consistent view of the Courts that it is always within the domain of the disciplinary authority to decide on the punishment to be imposed on the delinquent, which should be proportionate to the act of the delinquent. Only when the punishment is disproportionate and shocking to the conscience, should the courts interfere in the same in exercise of powers under Article 226. In ***Prem Nath Bali – Vs - High Court of Delhi (2015 (16) SCC 415)***, the Supreme Court held as under :-

“20. It is a settled principle of law that once the charges leveled against the delinquent employee are proved then it is for the appointing authority to decide as to what punishment should be imposed on the delinquent employee as per the



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Rules. The appointing authority, keeping in view the nature and gravity of the charges, findings of the inquiry officer, entire service record of the delinquent employee and all relevant factors relating to the delinquent, exercised its discretion and then imposed the punishment as provided in the Rules.

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

(Emphasis Supplied)

30. From the ratio laid down by the Apex Court above, it is crystal clear that the power to interfere with the punishment should be exercised only if the delinquent employee is able to prove that the punishment inflicted on him



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is wholly unreasonable, arbitrary and disproportionate to the gravity of the proved charges and, thereby, shocking the conscience of the Court or if it is in contravention of the Rules.

31. Considering the length of service of the workman and other factors, which have been discussed above, Tribunal had mulcted fault both on the workman as also the other officers at the Bank, had come to a conclusion to exercise its powers u/s 11-A and modify the punishment from one of dismissal to one of compulsory retirement, which cannot be said to be erroneous. However, the gravity of the offence committed by the workman, this Court cannot allow the workman to go unscathed by giving all the superannuation benefits from the date of his discharge from service on compulsory retirement. The proportionality of the punishment should be in tune with the gravity of the delinquency committed by the workman.

32. In the present case, the delinquency relates to misappropriation and negligence in the discharge of the work and the workman, being a bank employee, which is the custodian of the funds of the general public, high



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standards of probity and integrity is required of the employee and the delinquency of the workman is nothing but an act of calculated breach of integrity. In the aforesaid circumstances, this Court is of the considered view that the proportionality of the punishment inflicted on the workman is not suffice and the case on hand warrants a much stringent punishment on the workman. Therefore, to render substantial justice to either party, this Court while confirms the compulsory retirement imposed on the workman by the Labour Court, however, insofar as the consequential superannuation benefits are concerned, the workman would be entitled to the benefit of pension only from August, 2023, which would alone subserve the ends of justice.

33. For the reasons aforesaid, while both the writ petitions stand dismissed and the award passed by the Labour Court in I.D. No.15/2015 insofar as imposing compulsory retirement on the workman stands confirmed. However, while the workman would be entitled to other superannuation benefits, insofar as pensionary benefits is concerned, the workman would be entitled to the said pensionary benefits only from August,



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2023. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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2. The Deputy General Manager
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State Bank of India
Disciplinary Proceedings Cell
Administrative Office
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Tiruchirappalli 620 001.
3. The Presiding Officer
Central Government Industrial Tribunak
- cum – Labour Court
1st Floor, 'B' Wing, 26, Haddows Road
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