

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

Present:

The Hon'ble Justice Partha Sarathi Sen

**WPA 63 of 2008
With
CAN 1 of 2023**

**Goutam Kumar Sikdar
Vs.
United Bank of India & Ors.**

For the petitioner : Mr. M. R. Sarbadhikari
Mr. Soupal Chatterjee
Ms. Aparupa Bhattacharya

For the respondent no. 1 : Mr. S. M. Obaidullah
Mr. R. N. Majumder

Heard on : 20.08.2024

Judgement on : 20.08.2024

PARTHA SARATHI SEN, J.:

In Re: CAN 1 of 2023

1. This is an application for substitution of the name of the respondent Bank since the erstwhile respondent Bank that is the United Bank of India has already merged with Punjab National Bank.
2. In considered view of this Court the instant application has become infructuous in view of the liberty as given by this Court in paragraph No. 5 of the order dated 12.08.2024 and in view of correction made by the learned Advocate for the writ petitioner in the cause title of the writ petition.
3. In view of such, the interim application being CAN 1 of 2023 is disposed of as infructuous.

In Re: WPA 63 of 2008

1. The challenge in this writ petition is the charge-sheet dated 12.08.2006 as issued against the writ petitioner, the enquire report/finding of the enquiry officer dated 03.01.2007, the finding and the order of the disciplinary authority dated 09.02.2007 and the finding and the order of the appellate authority dated 11.10.2007 whereby and whereunder the petitioner who at all material time was posted as an Assistant Manager of the respondent No. 1, Bank was dismissed from service by his employer holding that such dismissal shall ordinarily be a disqualification for his future employment.

2. In course of hearing Mr. Sarbadhikari, learned Advocate for the writ petitioner in his usual fairness submits before this Court that in this writ petition he has only challenged the disproportionately of the punishment as awarded to the writ petitioner in comparison to the charges as allegedly proved against the delinquent/writ petitioner by the respondent No. 1, Bank. It is submitted by Mr. Sarbadhikari that though after conclusion of the enquiry, the enquiry authority of the respondent No. 1, Bank came to a conclusion that the alleged illegalities and/or irregularities on the part of the writ petitioner while disbursing loans to the customers of the bank have been proved, however, at the same time the enquiry authority failed to notice that on account of such alleged illegality and/or irregularity on the part of the writ petitioner the respondent No. 1, Bank has suffered practically no financial loss and, therefore, even if for the sake of argument if it is accepted that the accusations have been duly unearthed as against the present writ petitioner but the punishment as awarded to the writ petitioner must shocks the conscience of the Court for which the interference of this writ court is necessary.
3. Learned Advocate for the writ petitioner further submits that from the materials as placed before this Court it would reveal that the loans as disbursed by the writ petitioner in his official capacity was duly repaid by the borrowers and there was no non-performing

asset with regard to the aforesaid loan and, therefore, the punishment as imposed upon the writ petitioner is excessively harsh.

4. It is further submitted by Mr. Sarbadhikari that considering the entire materials the punishment as awarded by the respondent No. 1, Bank upon the writ petitioner may be altered to a minor punishment and appropriate direction may be given to the respondent No. 1, Bank to release the terminal benefits of the writ petitioner. It is further submitted by Mr. Sarbadhikari, learned Advocate for the writ petitioner for the sake of argument, even if this Court finds that the writ petitioner is not entitled to minor punishment, his punishment of dismissal from service may be converted to compulsory retirement.
5. Per contra, Mr. Obaidullah, learned Advocate for the respondents/Bank, however, submits that there is little scope to interfere with the finding of the enquiry authority, disciplinary authority as well as appellate authority in absence of any violation of principle of natural justice. It is further argued on behalf of the respondents/Bank that from the materials as placed before this Court it would reveal that on account of the illegal act on the part of the writ petitioner by violating the norms and regulation of the bank, the bank has suffered financial loss which is evident from

the finding of the disciplinary authority as well as of the appellate authority.

6. It is further submitted on behalf of the respondent No.1, Bank that considering the grievousness of the charges as proved against the writ petitioner there is little scope to interfere even with the quantum of punishment.
7. On perusal of the entire materials as placed before this Court and after hearing the learned Advocates for the contending parties it appears to this Court that on account of alleged misconduct the writ petitioner was charged with several articles of charges along with the statements of imputations. Thereafter enquiry proceeding was started and from the report of the enquiry officer it reveals that all the charges as against the writ petitioner have been proved. The report of the enquiry officer was placed before the disciplinary authority before whom the writ petitioner got his opportunity to file his written objection.
8. The disciplinary authority under cover of its report dated 09.02.2007 duly considered the materials available before the enquiry authority and the objections raised by the delinquent. The disciplinary authority by its order dated 09.02.2007 found several lapses on the part of the writ petitioner in disbursing loan to various borrowers. The said disciplinary authority further noticed that on account of the proved misconduct several borrowers'

accounts have turned into a NPA with outstanding balance of Rs. 61.80 lakhs as on 31.03.2006. So far as the finding of the appellate authority is concerned it reveals that while disposing the said appeal the appellate authority under cover of its order dated 11.10.2007 independently assessed the grievousness of the charges as framed against the writ petitioner the materials placed before the enquiry officer to prove those charges as well as the contentions of the delinquent that on account of such alleged misconduct the bank has suffered no financial loss. The appellate authority on appreciation of all the materials as placed before him came to a finding that on account of the alleged misconduct all the loan accounts have turned into NPA as on 31.03.2006 with aggregate outstanding debit balance of Rs. 173.84 lakhs in 14 accounts and bank had to make 100 per cent provision for the same.

9. In considered view of this Court the findings referred to above are all factual findings based on appreciation of the evidence on record and those cannot be ignored especially when no case has been made out that the aforementioned three authorities have either violated the principles of natural justice or they were persuaded by some extraneous materials which are not on record.
10. Since Mr. Sarbadhikari in course of his argument was very vocal with regard to disproportionality of the punishment this Court proposes to look to the reported decision of ***Union of India vs. P.***

Balasubrahmanyam' reported in **2021 (5) SCC 662** wherein the Hon'ble Apex Court while dealing with the scope of interference with regard to the disproportionate of punishment in disciplinary proceeding has held thus:

"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 the 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 leveled may have persuaded the authority concerned to impose punishment; losing sight of the fact that the allegations qua primary had not been found against the respondent."

11. The same view was taken by the Hon'ble Apex Court in reported decision of **'S. R. Tewari vs. Union of India'** reported in **2013 (6) SCC 602**.
12. Keeping in mind the proposition of law as enunciated in the aforesaid two reported decisions of the Hon'ble Supreme Court this Court agrees with the submission of Mr. Sarbadhikari that in

exercise of its writ jurisdiction a High Court can interfere with regard to the disproportionately of punishment provided such quantum of punishment must not commensurate with the proved charges.

13. Coming to the factual aspects of this case it reveals as against the writ petitioner the charges were not only very grave but materials have been placed before this Court that on account of the said misconduct the said bank which is a nationalized bank had to suffer huge financial loss and for his in action and/or illegal action several assets which have been pledged with the bank has become NPA.
14. Considering the entire circumstances, this Court thus holds that there is little scope to interfere with the finding of punishment as has been awarded by the disciplinary authority and as affirmed by the appellate authority.
15. In considered view of this Court the punishment as awarded upon the writ petitioner is very much commensurate with the charges as proved against him and, therefore, there cannot be any justification to interfere with such punishment order.
16. In view of the discussion as made above the instant writ petition fails.
17. Accordingly, the instant writ petition being WPA 63 of 2008 is dismissed.

18. There shall be no order as to costs.
19. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(PARTHA SARATHI SEN, J.)