

**HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)**

**TUESDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SMT JUSTICE T.MADHAVI DEVI

WRIT PETITION NO: 16223 OF 2020

Between:

Batta Satyanarayana, S/o. B.Ananthaiah, Aged about 62 years, Occ Ex. Assistant General Manager (IOR), State Bank of India, Local Head Office, Hyderabad - 500095, R/o. H.No.3-4-529/1, Flat No.401, Nath Shantiniketan Apartment, Barkatpura, Hyderabad 500027.

...PETITIONER

AND

1. State Bank of India, rep by its Chairman, Corporate Centre, State Bank Bhavan, Nariman Point, Mumbai, Maharashtra-400021
2. The Managing Director, State Bank of India, Corporate Centre, State Bank Bhavan, Nariman Point, Mumbai, Maharashtra-400021
3. The Deputy Managing Director and Corporate Development Officer, State Bank of India, Corporate Centre, State Bank Bhavan, Nariman Point, Mumbai, Maharashtra-400021
4. The Chief General Manager, State Bank of India, Local Head Office, Bank Street, Koti, Hyderabad-500095
5. The General Manager (Network), State Bank of India, Local Head Office, Bank Street, Koti, Hyderabad-500095

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue appropriate Writ or any other order or direction particularly one in the nature of Writ of Mandamus to declare the Appointing Authority order dated 08/12/2015 communicated vide the GM(NW-II) Lr.No. No.VIG/TPT/DTV/822 dated 10/12/2015 issuing the order of Dismissal, Appellate Authority order dated 26/05/2017 communicated vide DGM and CDO, SBI LHO, Hyderabad Lr.No.A&R/153 dated 31/07/2017 confirming the orders of the appointing authority and Reviewing Authority dated 15/12/2018 communicated

through the DGM and CDO, SBI LHO, Hyderabad in Lr.No.HR/AR/No.41 dated 08/02/2019 communicating the decision of the Central Human Resources Committee, Corporate Centre, rejecting the review petition of the petitioner, as illegal, arbitrary, without any evidence, violative of Article 14 and 16 of the Constitution of India, violative of principles of law of evidence and principles of natural justice and quash and set aside the same and further declare that the petitioner is entitled with all consequential benefits, viz., pay and allowances from the date of suspension till the date of retirement, continuity of service, seniority and promotions and terminal benefits including pension.

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents to release the gratuity of the petitioner pending disposal of the Writ Petition.

Counsel for the Petitioner: SRI Dr. A.RAGHU KUMAR

Counsel for the Respondents: M/s. PEARL LAW ASSOCIATES

The Court made the following: ORDER

THE HONOURABLE SMT. JUSTICE T. MADHAVI DEVI

WRIT PETITION NO.16223 OF 2020

ORDER

In this Writ Petition, the petitioner is seeking a Writ of Mandamus declaring that

- (i) the order of dismissal from service dated 08.12.2015 passed by the Appointing Authority and communicated vide GM(NW-III) Lr.No.VIG/TPT/ DTV/822 dated 10.12.2015;
- (ii) the order of the Appellate Authority dated 26.05.2017 communicated vide DGM & CDO, SBI, LHO, Hyderabad Lr.No.A&R/153 dated 31.07.2017 confirming the order of the Appointing Authority; and
- (iii) the order of the Reviewing Authority dated 15.12.2018 communicated through the DGM & CDO, SBI, LHO, Hyderabad in Lr.No.HR/AR/No.419 dated 08.02.2019 communicating the decision of the Central Human Resources Committee, Corporate Centre, rejecting the review petition of the petitioner,

as illegal, arbitrary, without any evidence, violative of Articles 14 and 16 of the Constitution of India, violative of principles of law of evidence and principles of natural justice and consequently to quash and set aside the same; and

- (iv) further declare that the petitioner is entitled to all the consequential benefits viz., pay and allowances from the date of suspension till the date of retirement, continuity of service, seniority and promotions and terminal benefits including pension, and to pass such other order or orders.

2. Brief facts leading to the filing of the present Writ Petition are that the petitioner initially joined in the respondent-Bank on 20.08.1977 as a Clerk-cum-Cashier; was promoted as Trainee Officer on 01.08.1983; as Assistant General Manager on 01.11.2002. Thereafter, he was posted as Regional Manager, Regional Business Office, Kurnool during May, 2007. The petitioner claims to have put in 36 years of service in the respondents' organization without any complaints whatsoever and submitted that he has received highest accolades and appreciations throughout his service of more than 36 years including two appreciations-cum-felicitations from the Chairman, SBI and the District Collector for his Commendable Service during devastating floods in Kurnool in 2009.

3. It is submitted that while the petitioner was working as an Assistant General Manager (IOR), SBI, LHO, Hyderabad, a charge memo dated 07.04.2014 was issued to the petitioner levelling 18 charges, the gist of which is as follows:

(1) The petitioner failed to exercise any control over charges i.e., travelling allowance / expenses.

(2) He incurred substantial amounts towards travelling expenses.

(3) He claimed inflated stationary and printing bills.

(4) He unauthorizedly passed advertisement bills.

(5) He sanctioned several loans for particular group of persons.

(6) He exceeded discretionary powers and unauthorizedly sanctioned term loan to one Sri Ramprasad.

(7) He sanctioned loans without authority for lesser margin.

(8) He exceeded the discretionary powers.

(9) He unauthorizedly sanctioned several loans which fall under the purview of Network Credit Committee (NWCC).

(10) He approved restructuring of instalments in respect of certain units.

(11) He has not cautioned and not arranged for an inquiry to know the reasons for exceeding budget.

- (12) He controlled the sanction of the additional limits in respect of one Sri R.V. Ramana.
- (13) He unauthorizedly allowed one Sri K.Ramanacharlu, CM (RCPC) to accord sanctions.
- (14) He has not referred the matter to LHO Technical Cell for conducting feasibility and liability study in respect of an industrial estate.
- (15) He has not exercised control over advances portfolio of the local Kurnool Branches.
- (16) He sanctioned the two Rural Ware-house Advances during the fag end of tenure at Regional Business Office (RBO), Kurnool.
- (17) He has not insisted for additional collateral security from the promoters of VC Heavens.
- (18) By the above actions, bank is likely to incur a loss of Rs.5789.55 lakhs.

The petitioner submitted his defence statement on 25.04.2014 but, not being satisfied with the same, the Disciplinary Authority appointed an inquiry officer vide reference No.VIG/SGN/122 dated 28.04.2014 and thereafter, the Disciplinary Authority placed the petitioner under suspension vide reference No.(HR-16)/1776 dated 16.09.2014. It is submitted that thereafter, the Disciplinary

Authority issued a supplementary charge sheet vide proceedings in reference No.VIG/TPT/DTV/617 dated 22.09.2014, adding charge No.XIX alleging that the petitioner has sanctioned several credit facilities to one Sri K.Ramprasad and his wife during 2009-2010, and that from the account of said Sri K.Ramprasad, remittances have been sent to the accounts of the petitioner's sons at Canada. It was thus alleged that the petitioner gained pecuniary gains to his sons and had financial dealings with the borrowers. Further, the Disciplinary Authority, through his letter in Ref. No.VIG/TPT/DTV/694 dated 16.10.2014 issued a corrigendum to the additional charge sheet dated 22.09.2014 adding charges No.XIX(a) to XIX(e) alleging that several credit facilities were sanctioned by the petitioner to Sri K.Ramprasad, his wife Smt. K.Sridevi and to the firms in which they were proprietors/partners.

4. The learned counsel for the petitioner submitted that the Inquiry Officer has conducted the inquiry, initially, on charges I to XVIII and thereafter also on Charge No.XIX and submitted his report dated 07.05.2015 which was communicated to the petitioner by the Circle Vigilance Department vide their Ref.No.VIG/TPT/DTV dated Nil (received by the petitioner on 24.07.2015) and that the Inquiry Authority, after considering the oral/documentary evidence relied upon by both the sides, held Charges I to XIV and XVII and XVIII as

not proved, and two charges i.e., Charges No.XV & XVI as partly proved and Charge No.XIX as proved. However, the Disciplinary Authority has opined that the Charges I, III, VI, X, XII and XIII are also proved, Charges II, V, VIII, IX, XI and XVIII are partly proved and agreed that Charge No.XIX was proved. It is submitted that while communicating the report of the Inquiring Authority, the Disciplinary Authority has conveyed his disagreement to the findings of the Inquiring Officer by placing his reliance on the documentary evidence mentioned in the charge sheet but not on the oral/documentary evidence adduced during the course of enquiry. The learned counsel for the petitioner submitted that the petitioner has submitted his detailed representation dt.05.09.2015 against the disagreement note of the Disciplinary Authority and also against the Inquiry Officer's report, once again reiterating that he has not committed any of the irregularities alleged in the charge sheet and pointed out the deficiencies in the inquiry and also submitted another representation dated 07.10.2015 to the Disciplinary Authority in continuation of his earlier submissions.

5. It is submitted that instead of the General Manager, being the Disciplinary Authority and having issued the charge memo and conducted the proceedings up to the stage of conveying disagreement

with the Inquiry Officers' findings, deciding the issue, has handed over the matter for further decision to the CGM, the appointing authority, in absolute violation of the service rules and in violation of principles of natural justice. It is submitted that it is the general principle of disciplinary proceedings that the authority who heard the matter, alone should decide the case, but in the instant case, the CGM, the appointing authority, had come into picture after the submission of disagreement note by the disciplinary authority and the CGM, without looking into the case and without hearing the petitioner, has come to a predetermined conclusion to impose major penalty of 'Dismissal' and had thereafter called the petitioner for personal appearance before him on 18.11.2015 which was later changed to 19.11.2015 and though the petitioner submitted written submissions followed by his appearance on 19.11.2015 followed by further submissions on 20.11.2015, the appointing authority, vide his proceedings dated 08.12.2015, communicated through the GM(NW-III) Lr.No.VIG/TPT/DTV/822 dated 10.12.2015 imposed the penalty of dismissal against the petitioner, further holding that the period of suspension is to be treated as "not on duty".

6. It is submitted that the Appointing Authority, the CGM, has not looked into the evidence on record properly and therefore, the final orders passed by the CGM/appointing authority lacks the legal

sanctity and suffers from improper consideration of the case of the petitioner in imposing the punishment of dismissal from service. It is submitted that the petitioner has submitted his appeal to the Appellate Committee on 11.02.2016 and the Appellate Committee, vide their letter dt.21.04.2017, sought more information, such as proof of sale/deposit/utilisation of cash shown in the MoU, and that the petitioner has submitted the said details through his representation dt.24.04.2014, but the Appellate Committee has dismissed his appeal vide orders dt.31.07.2017 without consideration of the same. It is submitted that against the order of the Appellate Committee, the petitioner filed a Review Petition on 11.12.2017 but the reviewing authority also has not considered the case of the petitioner properly and has rejected the review petition without any basis vide orders dt.28.01.2019 and hence, the present writ petition has been filed challenging the order of removal which has merged with the order of Appellate Committee and thereafter with the order of the reviewing authority.

7. Learned counsel for the petitioner submitted that the order of the CGM/Appointing Authority is liable to be set aside on the sole ground of violation of principles of natural justice. It is submitted that though there is a reference to various documents on the basis of which, 19 charges have been framed against the petitioner, no

document in support of the said charges have been supplied to the petitioner, and in spite of a specific request by the petitioner for the same, and such documents were produced only during the enquiry and the petitioner had no opportunity to examine the said documents and contradict the same, and therefore, it is in clear violation of principles of natural justice.

8. While reiterating the above submissions, the learned counsel for the petitioner filed the following documents:

- (1) Synopsis-cum-written arguments filed on 21.12.2023,
- (2) Supplementary synopsis-cum-written arguments filed on 28.12.2023, and
- (3) List of citations filed on 12.01.2024.

9. Learned counsel for the petitioner submitted that though initially 18 charges have been framed against the petitioner, the 18th charge assumes importance as it mentions that “there is a likelihood of incurring a loss of Rs.5789.55 lakhs.” It is submitted that in the parlance of the disciplinary proceedings and the service law, a loss has to be definite and clear in terms of the numbers and it cannot be said to be likely (emphasis provided by this Court) to be incurred and that this demonstrates the fact that as on the date of issuance of charge memo dated 10.12.2015, there was no specific loss to the

bank and that the respondents were also not aware of the definite loss that was caused to the bank by the alleged acts of the petitioner.

10. It is submitted that where no loss has occurred, there cannot be any charges of misconduct. It is submitted that only when the loss is ascertained and made part of the charge memo, a departmental enquiry can be held on that charge and an employee can effectively defend his case. It is submitted that though the Enquiry Officer has held the charges 1 to 14 and 17 and 18 as not proved and only charges 15 and 16 as partly proved, the Disciplinary Authority, without giving any reason, has held that he did not agree with the findings of the Enquiry Officer. It is submitted that the 19th charge has been made during the course of the enquiry by way of supplementary charge dt.22.09.2014 which was further subjected to a corrigendum dt.16.10.2014 without mentioning the documentary and oral evidence as the basis for such a charge. It is submitted that no documents were added to the list of documents to the charge sheet and no further witnesses were added in support of the said charge.

11. It is submitted that the respondent Bank neither produced any written or oral complaint made by Sri K.Ram Prasad in the Vigilance Inquiry nor has brought him as prosecution witness to prove the allegation that the petitioner has gained any pecuniary benefit from

him. It is submitted that the respondent management cannot shift the burden of proof to the accused as held in **Vaidhyanathan Case¹**.

12. Learned counsel for the petitioner also placed reliance upon the judgment of the Hon'ble Supreme Court in the case of **Union of India Vs. H.C. Goyal Case²** for the proposition that mere suspicion cannot be allowed to take the place of proof in domestic enquiry.

13. It is further submitted that the money trail has not been traced by the vigilance inquiry to ascertain the sources of funds remitted to the petitioner's sons' accounts and there are no complaints either written or oral, from Sri K.Ramprasad nor has he been subjected to any enquiry and the petitioner has never been given any opportunity to submit his explanation before placing him under suspension to explain the circumstances under which the remittances have been made to his sons' accounts in Canada and that it is in clear violation of principles of natural justice. It is submitted that it is after the conclusion of the domestic inquiry that the allegation has been made and the bank has also not summoned Sri K.Ram Prasad as prosecution witness and that before the Disciplinary Authority, the petitioner has submitted a notarized sworn affidavit of one Sri

¹ 1987 SLJ (CAT) 931

² AIR 1964 SC 364

Peddireddy Venkataswamy Reddy confirming that he made the payment of sale proceeds payable to the petitioner for sale of his property, to Sri K.Ram Prasad for sending the said remittances to petitioner's sons accounts in Canada through Axis Bank as SBI, Kurnool, Main Branch, was not the authorised bank to deal in foreign exchange. It is submitted that Sri K.Ram Prasad also submitted a notarized sworn affidavit dated 07.10.2015 explaining the source of funds for sending remittances to the petitioner's sons in Canada through his Axis Bank Account. He also referred to the question No.343 answered by P.W.1 after going through the relevant exhibits, to the effect that he had not come across any evidence to prove that the remittance to petitioner's sons' accounts in Canada was made at petitioner's insistence. Therefore, according to the learned counsel for the petitioner, he was not involved in the said remittances.

14. It is further submitted that when a new charge No.xix, is made during the course of the domestic enquiry, the Disciplinary Authority was required to specify, the evidence on the basis of which, the charge is made and afford a reasonable opportunity to the delinquent officer to defend the same through the defence evidence, but, in this case, the 19th charge was raised during the course of the domestic inquiry alleging that certain credit facilities were sanctioned by the

petitioner during his tenure at RBO, Kurnool to one Sri K.Rama Prasad and his wife which has resulted in remittances to his sons' bank accounts in Canada. The said charge is denied by the petitioner by submitting that the petitioner has sold one of his properties to one Sri Peddireddy Venkataswamy Reddy, who in turn, had requested Sri K.Ram Prasad to remit the sale consideration to the petitioner's sons' bank accounts in Canada. Therefore, it is submitted that the said transaction had nothing to do with the discharge of his official duties as a Branch Manager. It is submitted that the property transactions had happened between the years 2008 and 2010 and the property transaction has been mentioned in the assets and liabilities statement of the petitioner from the year 2009-2015 and was also submitted to the Bank as is evident from the bank record. It is submitted that the petitioner's vendee, Sri Peddireddy Venkataswamy Reddy, and Sri K.Ram Prasad both resided in the flats of the same apartment and were known to each other and therefore the transaction was done through Sri K.Ramprasad.

15. Learned counsel for the petitioner further submitted that the respondent Bank has initiated action against the petitioner in respect of transactions pertaining to the contents of the charge sheet issued to the petitioner, also against 12 other officers, but all the 12

officers including those who have conducted the preliminary inquiries, per-sanction surveys into the entitlement of the loans or other transactions, those who recommended the transactions and those who ultimately approved the transitions were let-off with smaller penalties, whereas the petitioner was the only one, who was subjected to the grave penalty of 'Dismissal From service'.

16. Learned counsel for the petitioner relied upon the judgment of the Hon'ble Apex Court in the case of ***M.V.Bijlani Vs. Union of India and others***³, for the proposition that in disciplinary proceedings, which are quasi-criminal in nature, there should be some evidence to prove the charge. He also referred to the judgment of the Hon'ble Supreme Court in case of ***United Bank of India Vs. Biswanath Bhattacharjee***⁴, wherein the Hon'ble Apex Court has reconsidered the entire issue of the role of the departmental proceedings and the scope of the Court to interfere in such proceedings under Article 226 of the Constitution of India.

17. The learned counsel for the petitioner also submitted that this is a case of no evidence and hence deserves intervention of this Court. He submitted that the act of Disciplinary Authority in conveying the disagreement note dt.24.07.2015 is contrary to the law

³ Civil Appeal No.8267 of 2004 dt.05.04.2006

⁴ Civil Appeal No.8258 of 2009 dated 31.01.2022

laid down by the Apex Court in the case of **Punjab National Bank and others Vs. Sh. Kunj Behari Misra**⁵ and that it was not based on any evidence adduced during the course of enquiry.

18. Without prejudice to the above contentions, on the merits of the dismissal order, the learned counsel for the petitioner submitted that the petitioner is entitled to payment of gratuity even if he is dismissed from service. In support of his contentions, he placed reliance upon the judgments of the Hon'ble Apex Court in case of **Jaswant Singh Gill Vs. M/S. Bharat Cooking Coal Ltd. & Ors**⁶ and in case of **Union Bank Of India Vs. C.G. Ajay Babu**⁷, wherein it was categorically held that the gratuity cannot be denied even to an employee who is terminated from service until the termination is for one of the reasons available under Sub-Section 6(b)(ii) of the Gratuity Act. It is submitted that under Sub-Sections 5 and 6 of Section 4 of the Payment of the Gratuity Act, 1972, forfeiture of gratuity is not automatic on dismissal from service; but it is subject to the provisions of the Sub-sections thereunder. Therefore, he prayed that the authorities may be directed to reconsider the appeal of the petitioner, and relied upon the judgment of the Hon'ble Supreme Court in the case of **Lucknow Kshethreeya Gramin Bank**

⁵ (1998) 7 SCC 84

⁶ C.A.No.4770 of 2006 dt.10.11.2006

⁷ Civil Appeal No.8251 of 2018 dated 14.08.2018

Vs. Rajendra Singh⁸ in support of his above contentions. He thus prayed for setting aside of the termination order with all consequential benefits.

19. The learned Standing Counsel appearing for the respondent Bank, however supported the impugned orders and submitted that reasonable opportunity has been given to the petitioner during the course of disciplinary proceedings and merely because the Enquiry Officer has given a finding that most of the charges are not proved, the Disciplinary Authority is not bound by the same and he can differ from the findings of the Enquiry Officer and proceed with the matter in accordance with law. In support of his contentions that reasonable opportunity was given to the petitioner, the learned counsel for the bank has strenuously taken this Court through all the documents filed along with the counter affidavit. He also placed reliance upon the following judgments in support of his contentions.

1) ***Kerala Solvent Extractions Ltd. Vs. A.Unnikrishnan and another***⁹

2) ***Disciplinary Authority-cum-Regional Manager and others Vs. Nikunja Bihari Patnaik***¹⁰

⁸ LAWS (SC)-2013-7-126

⁹ (2006)13 SCC 619

3) *Union of India Vs. Parma Nanda*¹¹

4) *State Bank of India Vs. A.G.D. Reddy*¹²

As regards the orders of dismissal from service being passed by the CGM/the appellate authority, he submitted that since the disciplinary/appointing authority has differed with the findings of the enquiry officer, he could not have passed the final orders in this case as per Rules and therefore, the matter was referred to his superior officer who also happened to be the appointing authority, and after consideration of all the material on record and after giving an opportunity of personal hearing to the petitioner, the appointing authority had passed the order of dismissal from service and hence it needs no interference.

20. Having regard to the rival contentions and the material on record, this Court finds that the following points arise in this Writ Petition for adjudication.

(1) Whether the authority, who issued the charge memo, conducted the enquiry and heard the delinquent employee,

¹⁰ (1996) 9 SCC 69

¹¹ (1989) 2 SCC 177

¹² 2023 SCC online SC 1064

alone should pass the final order in the disciplinary proceedings?

(2) Whether the Disagreement Note of the Disciplinary authority was on the basis of any evidence recorded during the course of enquiry?

(3) Whether any charges can be framed without the assessment of loss?

(4) Whether charge No.XIX can be framed without giving the basis for such a charge and without the list of documents and witnesses for such charge?

(5) Whether there is violation of principles of natural justice?

(6) Whether the petitioner was solely responsible for the acts of alleged misconduct?

(7) What is the relief the petitioner is entitled to?

21. As regards Point No.1, this Court finds that in this case, the Disciplinary Authority has issued the charge memo, appointed the enquiry officer, but differed with the enquiry report and submitted a Disagreement Note. It is the cardinal principle and settled law that the officer who has issued the charge sheet and heard the petitioner, should alone pass the final order as he would be the person who is aware of all the facts and therefore, would be able to take an informed and well considered decision. He would be able to reflect

the reasons for coming to any conclusion in his order on the basis of the material on record. If the said task is entrusted to another officer who is not aware of the facts of the case and is only partly involved in the judicial process, his decision may be fractured and inconsistent with the facts of the case. However, where the Disciplinary Authority differs from the enquiry officer and issues a Disagreement Note, it would not be either proper or within his powers to pass final orders without any prejudice or bias. Therefore, in such circumstances, it is incumbent upon the Disciplinary Authority to refer the matter to other competent authority to pass orders. In such circumstances, it would become necessary that the competent authority permits the delinquent employee to personally appear and submit his explanation. This is only to ensure that all the facts and circumstances of the case are made known to the competent authority to pass an order. Therefore, the contention of the petitioner that the Disciplinary Authority who issued the charge memo and conducted enquiry ought to have passed the order, is not sustainable. Therefore, Point No.1 is answered against the petitioner.

22. As regards Point No.2, this Court finds that against the enquiry report, the Disciplinary Authority has issued a Disagreement Note and having gone through the Disagreement Note, it is seen that the Disciplinary Authority is referring to the material referred to in

the charge memo for coming to the conclusion that the charges against the petitioner are proved. His findings or observations against the findings of the enquiry officer are not on the basis of any evidence produced during the course of enquiry or the witnesses examined during the course of enquiry. The documents or witnesses referred to in the charge memo are only for coming to a *prima facie* opinion for framing of the charges against the delinquent employee, but the findings of the enquiry officer are on the basis of the witnesses and the documents examined during the course of enquiry. If the Disciplinary Authority were to differ with the findings of the enquiry officer, he would have to base the same on the evidence recorded during the course of enquiry and not on the basis of preliminary information used for framing of charges against the employee. The learned Standing Counsel for the respondent Bank has not been able to bring on record any independent evidence supporting the stand of the Disciplinary Authority on his Disagreement Note. Therefore, Point No.2 is answered in favour of the petitioner. For coming to this conclusion, this Court relies upon the observations of the Hon'ble Apex Court in the following case:

23. In the case of **State of Andhra Pradesh and others Vs. Chitra Venkata Rao**¹³, it was held that

"The Court is concerned to determine whether the enquiry is held by an authority competent in that behalf and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Second, where there is some evidence which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court to review the evidence and to arrive at an independent finding on the evidence. The High Court may interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant 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. The departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there is some legal evidence on which their 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 proceeding for a writ under Article 226."

24. As regards Point No.3, this Court finds that Charge No. XVIII in this case is that the bank is likely to incur loss on account of the alleged act of misconduct by the petitioner. Even later, in the counter affidavit filed by the respondents before this Court, they have not

¹³ (1975) 2 SCC 557

been able to assess the loss caused to the bank, leave alone the assessment at the time of issuance of the charge memo, charge sheet or even the final orders of termination from service. Without arriving at any conclusion about the quantum of loss which was caused due to the alleged acts of misconduct by the petitioner, the gravity or otherwise of the offence could not be gauged and the severity of the punishment to be imposed cannot be decided. If the loss is quantified, the respondent bank would be in a position to not only recover the loss so incurred and quantify the compensation to be recovered from the petitioner, but also decide on the severity of the punishment to be imposed. Therefore, Point No.3 is answered in favour of the petitioner.

25. In the case of **Union of India Vs. H.C. Goel** (2 supra), it was held that

"Though we fully appreciate the anxiety of the appellant to root out corruption from public service, we cannot ignore the fact that in carrying out the said purpose, mere suspicion should not be allowed to take the place of proof even in domestic enquiries. It may be that the technical rules which govern criminal trials in courts may not necessarily apply to disciplinary proceedings, but nevertheless, the principle that in punishing the guilty scrupulous care must be taken to see that the innocent are not punished, applies as much to regular criminal trials as to disciplinary enquiries held under the statutory rules."

26. As regards Point No.4, this Court finds that Charge No.XIX was issued during the course of the enquiry and by way of issuing a supplementary charge sheet and it did not contain the list of witnesses or documents, on the basis of which such a charge is issued. As observed by the Hon'ble Supreme Court in a catena of cases, a charge has to be on the basis of the facts and circumstances of the case and the documents or evidence relied upon by the management for framing such a charge have to be made known to the delinquent employee who should also be supplied with such documents to enable the delinquent employee to go through the same to submit his or her defence. These are settled principles of natural justice which have to be followed not only in judicial but also in quasi-judicial proceedings. It is an admitted fact that the disciplinary proceedings are quasi-judicial and quasi-criminal and therefore, principles of natural justice have to be followed and therefore, Question No.4 is answered in favour of the petitioner.

27. Further, as regards merits of the case, it is an admitted fact that there was transfer of some money from one of the borrowers i.e., Sri K.Ram Prasad to the bank accounts of the petitioner's sons in Canada. The respondents, therefore, ought to have required the petitioner to submit his explanation for the same and should have

brought the said person as a witness and examined him as to the source of the fund and also the circumstances under which the transfer has been made. The petitioner has relied upon the notarised affidavit of one Sri Peddireddy Venkataswamy Reddy who submitted that due to sale of property to him and since both Sri Peddireddy Venkataswamy Reddy and the borrower lived in the same apartment, they were known to each other and that the transaction has been done through Sri K.Ram Prasad and the said contention has not been disproved by the respondent Bank. The respondents ought to have brought the said person on record and tried to elicit the truth. Further, though several allegations have been made against the petitioner, unless until, such misconduct has been found to have caused loss to the bank in any way, the respondent Bank could not have initiated action against the petitioner. The respondent has not computed the loss caused by the alleged acts of misconduct by the petitioner and therefore, the charges are apparently vague and could not be substantiated with any evidence and the petitioner has not been afforded an opportunity to counter such allegations. For coming to this conclusion, this Court relies on the following judgments:

28. In the case of **State Bank of Bikaner and Jaipur Vs. Nemi Chand Nalways**¹⁴, the Hon'ble Supreme Court observed that:

" If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record."

29. In the case of **J. Venkatamani Vs. Principal Secretary, Vigilance iv Hyderabad and others**¹⁵, it was held that

"15. Coming to the case on hand — As observed in the preceding paragraphs, this Court finds a lot of contradictions in the evidence of P.Ws.1 and 2, whose evidence was strongly relied upon by the Tribunal for Disciplinary Proceedings for arriving at the conclusions. In the considered opinion of this Court, the Tribunal for Disciplinary Proceedings thoroughly failed in appreciating the evidence available on record from proper perspective and came to the conclusions without there being any foundation and basis. While dealing with the career and future of an individual, the Inquiring and Disciplinary Authorities are required to conduct the proceedings with care, caution and circumspection and cannot jump into conclusions on the basis of assumptions and presumptions."

30. In the case of **Moni Shankar Vs. Union of India and another**¹⁶, it was held that

¹⁴ (2011) 4 SCC 584

¹⁵ 2022 0 Supreme(AP) 274 : 2022 4 ALD 612 : 2022 3 ALT 730

"17. The departmental proceeding is a quasi-judicial one. Although the provisions of the Evidence Act are not applicable in the said proceeding, principles of natural justice are required to be complied with. The courts exercising power of judicial review are entitled to consider as to whether while inferring commission of misconduct on the part of a delinquent officer relevant piece of evidence has been taken into consideration and irrelevant facts have been excluded therefrom. Inference on facts must be based on evidence which meet the requirements of legal principles. The Tribunal was, thus, entitled to arrive at its own conclusion on the premise that the evidence adduced by the Department, even if it is taken on its face value to be correct in its entirety, meet the requirements of burden of proof, namely, preponderance of probability. If on such evidences, the test of the doctrine of proportionality has not been satisfied, the Tribunal was within its domain to interfere. We must place on record that the doctrine of unreasonableness is giving way to the doctrine of proportionality. (See State of U.P. v. Sheo Shanker Lal Srivastava [(2006) 3 SCC 276 : 2006 SCC (L&S) 521] and Coimbatore District Central Coop. Bank v. Employees Assn. [(2007) 4 SCC 669 : (2007) 2 SCC (L&S) 68])."

31. In the case of **M.V. Bijlani Vs. Union of India and others** (3 supra), it was held that

"25. It is true that the jurisdiction of the court in judicial review is limited. Disciplinary proceedings, however, being quasi-criminal in nature, there should be some evidence to prove the charge. Although the charges in a departmental proceeding are not required to be proved like a criminal trial i.e. beyond all reasonable doubt, we cannot lose sight of the fact that the enquiry officer performs a quasi-judicial function, who upon analysing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record. While doing so, he cannot take into consideration any irrelevant fact. He cannot refuse to

consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witnesses only on the basis of surmises and conjectures. He cannot enquire into the allegations with which the delinquent officer had not been charged with."

32. In the case of **K.Sitaram Vs. The Vice Chancellor, S.V. University, Tirupati and another**¹⁷, it was held that:

"A conclusion even of the disciplinary authority as to the evidence considered would be vitiated if it is one which would be arrived at by no reasonable person or on no evidence, is irrational or based on conjectures, surmises or suspicions-vide Union of India vs. G.Ganayutham (3) AIR 1997 SC 3387; R.S.Saini vs. State of Punjab & Ors. (4) 1999 (5) Scale 427."

33. In the case of **S.Nanjundeswar Vs. State of Mysore**¹⁸, the Karnataka High Court held as under:

"In this connection, I would refer to a decision of the Bombay high Court reported in State of Bombay Vs. Gajanan Mahadev Badley. In this case, Chief Justice Chagla, sitting with Mr. Justice Dixit held that the State should not countenance a departmental enquiry in which action is proposed to be taken against the servant where a witness is produced only for being cross-examined by the servant without the servant being given an opportunity of hearing what evidence the witness is going to give. Their Lordships further held that even assuming that a statement of such a witness is furnished to the servant, it is a sound rule that courts of law should follow and which even domestic tribunals should follow that all evidence must be given in the presence of an accused person and in the presence of the

¹⁷ 2000 (2) APLJ 473 (HC)

¹⁸ (1959) 01 KAR CK 0003

person against whom action is proposed to be taken. "It is one thing", their Lordships observed, "to make a statement behind the back of a person and it is entirely a different thing to make a statement in the presence of a person against whom you are going to make serious charges."

I am in full agreement with the view expressed by their Lordships of the Bombay High Court in the said case. In my opinion, it would make a great difference if the statement of the witness concerned is taken in the presence of the tribunal and in the presence of the person charged rather than to have it behind the back of the said person. I therefore hold that the principles of natural justice also required that such statements should be taken in the presence of the persons charged and, as I have already indicated, Rule 245 of the General circulars and Standing Orders also makes a provision to that effect. This contention of the petitioner must therefore succeed."

34. In the case of **State of Tamil Nadu Vs. Thiru K.V.Perumal and others**¹⁹, it was held that

"The Tribunal seems to be under the impression that the enquiry officer/disciplinary authority is bound to supply each and every document that may be asked for by the delinquent Officer/employee. It is wrong there. Their duty is only to supply relevant documents and not each and every document asked for by the delinquent officer/employee. In this case the respondent had asked for certain documents. The Registrar to whom the request was made called upon him to specify the relevance of each and every document asked for by him. It is not brought to our notice that the respondent did so. The Tribunal too has not gone into the question nor has it expressed any opinion whether the documents asked for were indeed relevant and whether their non-supply has prejudiced the respondent case. The test to be applied in this behalf has been set out by this Court in

¹⁹ 1996 SCALE (5) 379 : JT 1996 (6), 604

State Bank of Patiala v. S.K.Sharma [1996 (3) SCALE 202]. It was the duty of the respondent to point out how each and every document was relevant to the charges or to the enquiry being held against him and whether and how their non-supply has prejudiced his case. Equally it is the duty of the Tribunal to record a finding whether any relevant documents were not supplied and whether such non-supply has prejudiced the defendant's case. Since this has not been done the Tribunal in this matter it has to go back for a rehearing."

35. As regards Point No.5, it is noticed that initially, a charge memo was issued to the petitioner with 18 charges and during the course of the departmental enquiry, 19th charge was added and it was also enquired into. However, when the petitioner has asked for relevant documents on the basis of which the said charge has been framed against him, no such documents have been furnished to the petitioner and the same is in clear violation of the principles of natural justice. The petitioner should have been given an opportunity to go through the documents and make his own submissions about the relevance and admissibility of such documents. For coming to this conclusion, this Court relies on the rationale laid down in the following case.

36. In the case of **State of Andhra Pradesh and others Vs. S. Sree Rama Rao**²⁰, it was held that

²⁰ 1963 SCC OnLine SC 6 : AIR 1963 SC 1723

"The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant 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, or on similar grounds."

37. As regards Point No.6, it is noticed that along with the petitioner, 12 other officials of the bank have also been issued charge memos and enquiry was conducted and the punishment imposed on the petitioner is quite disproportionate as compared to the punishment imposed on other employees. Even if the petitioner has not questioned the findings of the enquiry officer with regard to the charges which are held as partly proved or proved, the punishment imposed would be excessive, particularly when it is compared with the punishment imposed by the respondent bank on other officials. The Hon'ble Courts have time and again held that the punishment has to be commensurate with the severity of the offence and has to be uniform in respect of all the employees who are involved in the same or similar misconduct. Though the petitioner has raised a specific ground in this Writ Petition about the discrimination against him in awarding the punishment as compared to other employees,

the respondents have not been able to rebut the same with any evidence to the contrary except to state that the petitioner was involved in the said transactions and it required strictest punishment and therefore they were justified in imposing the punishment of dismissal from service. Therefore, this Court is inclined to hold that since the petitioner could not be solely responsible for the acts of alleged misconduct, the punishment of dismissal from service is excessive as compared to the misconducts which have been held to be proved by the enquiry officer.

38. As regard Point No.7, this Court has already held that the only charge which has been held to be proved by the enquiry officer as well as the Disciplinary Authority is not maintainable as it did not contain the list of documents and witnesses on the basis of which such a charge has been framed. Therefore, the impugned order of punishment is set aside and the petitioner is directed to be reinstated into service with liberty to the respondent bank to re-initiate the proceedings in respect of Charge No.XIX in accordance with the settled principles of law and as regards the charges which have been held as proved by the enquiry officer, the respondents are at liberty to impose punishment commensurate with the alleged acts of misconduct and also to impose a lesser punishment than the punishment of dismissal from service. As regards the entitlement of

the petitioner for back wages for the period between termination and reinstatement into service consequent to this order, the respondents are directed to take a decision on the same after conclusion of the proceedings, if any, on Charge No.XIX. Further, as regards the claim of the petitioner for payment of gratuity, irrespective of the pendency of the proceedings/punishment against the petitioner, this Court finds that the learned counsel for the petitioner relied upon the following judgments:

39. In the case of **Balbir Kaur and another Vs. Steel Authority of India Ltd., and others**²¹, the Hon'ble Supreme Court held as under:

"As regards the provisions of the Payment of Gratuity Act, 1972 (as amended from time to time) it is no longer in the realm of charity but a statutory right provided in favour of the employee. Section 4 of the Act is of some significance and as such the same is set out herein below:

4. Payment of gratuity. (1) Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years, -

(a) on his superannuation, or (b) on his retirement or resignation, or (c) on his death or disablement due to accident or disease;

Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement."

²¹ Appeal (Civil) Nos.11881 and 11882 of 1996 dt.05.05.2000

40. In the case of **Union Bank of India and others Vs. C.G. Ajay Babu and another** (7 supra), it was held that

"20. In the present case, there is no conviction of the respondent for the misconduct which according to the Bank is an offence involving moral turpitude. Hence, there is no justification for the forfeiture of gratuity on the ground stated in the order dated 20.04.2004 that the "misconduct proved against you amounts to acts involving moral turpitude". At the risk of redundancy, we may state that the requirement of the statute is not the proof of misconduct of acts involving moral turpitude but the acts should constitute an offence involving moral turpitude and such offence should be duly established in a court of law."

41. In the case of **Jaswant Singh Gill Vs. M/s. Bharat Coking Coal Ltd., and others** (6 supra), it was held that

"A statutory right accrued, thus, cannot be impaired by reason of a rule which does not have the force of a statute. It will bear repetition to state that the Rules framed by Respondent No. 1 or its holding company are not statutory in nature. The Rules in any event do not provide for withholding of retrial benefits or gratuity."

The Act provides for a closely neat scheme providing for payment of gratuity. It is a complete code containing detailed provisions covering the essential provisions of a scheme for a gratuity. It not only creates a right to payment of gratuity but also lays down the principles for quantification thereof as also the conditions on which he may be denied therefrom. As noticed hereinbefore, sub-section (6) of Section 4 of the Act contains a non- obstante clause vis-à-vis sub-section (1) thereof. As by reason thereof, an accrued or vested right is sought to be taken away, the conditions laid down thereunder must be fulfilled. The provisions contained therein must, therefore, be scrupulously observed. Clause (a) of Sub-section (6) of Section 4 of the Act speaks of

termination of service of an employee for any act, willful omission or negligence causing any damage. However, the amount liable to be forfeited would be only to the extent of damage or loss caused."

In view of the above findings of the Hon'ble Apex Court, it is held that the petitioner is entitled to payment of gratuity on the basis of length of his service. It is allowed accordingly.

DECISIONS RELIED UPON BY THE RESPONDENTS:

42. In the case of **State Bank of India Vs. A.G.D. Reddy²²**, the Hon'ble Supreme Court referred to its earlier Judgments and held thus:

"41. Shri Sanjay Kapur, learned counsel for the Bank relies on SBI v. Ram Lal Bhaskar [SBI v. Ram Lal Bhaskar, (2011) 10 SCC 249 : (2012) 1 SCC (L&S) 402] . In that judgment the scope of judicial review of departmental proceedings was set out and the principle laid down in State of A.P. v. S. Sree Rama Rao [State of A.P. v. S. Sree Rama Rao, 1963 SCC OnLine SC 6 : AIR 1963 SC 1723] , was reiterated, which reads as follows : -

" This Court has held in State of A.P. v. S. Sree Rama Rao [State of A.P. v. S. Sree Rama Rao, 1963 SCC OnLine SC 6 : AIR 1963 SC 1723] : (SCC OnLine SC para 7):

"7. ... The High Court is not constituted in a proceeding under Article 226 of the Constitution a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant : it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and

²² 2023 SCC OnLine SC 1064 : (2023) 14 SCC 391.

whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence.'

13. Thus, in a proceeding under Article 226 of the Constitution, the High Court does not sit as an appellate authority over the findings of the disciplinary authority and so long as the findings of the disciplinary authority are supported by some evidence the High Court does not reappreciate the evidence and come to a different and independent finding on the evidence. This position of law has been reiterated in several decisions by this Court which we need not refer to, and yet by the impugned judgment the High Court has reappreciated the evidence and arrived at the conclusion that the findings recorded by the enquiry officer are not substantiated by any material on record and the allegations levelled against Respondent 1 do not constitute any misconduct and that Respondent 1 was not guilty of any misconduct."

42. It is now well settled that the scope of judicial review against a departmental enquiry proceeding is very limited. It is not in the nature of an appeal and a review on merits of the decision is not permissible. The scope of the enquiry is to examine whether the decision-making process is legitimate and to ensure that the findings are not bereft of any evidence. If the records reveal that the findings are based on some evidence, it is not the function of the court in a judicial review to reappreciate the same and arrive at an independent finding on the evidence. This lakshman rekha has been recognised and reiterated in a long line of judgments of this Court."

43. In the case of **Union of India Vs. Parma Nanda** (11 supra), the Hon'ble Supreme Court held as under:

"27. We must unequivocally state that the jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the inquiry officer or competent authority where they are not arbitrary or utterly perverse. It is appropriate to remember that the power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislature or rules made under the proviso to Article 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is mala fide is certainly not a matter for the Tribunal to concern itself with. The Tribunal also cannot interfere with the penalty if the conclusion of the inquiry officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter.

31. In the light of the principles to which we have called attention and in view of the aforesaid discussion, the order of the Tribunal imposing a lesser penalty on the respondent cannot, therefore, be sustained. He was found guilty of the charge framed against him. He was a party to the fraudulent act for self-aggrandisement. He prepared bogus documents for withdrawal of salary in the name of Ashok Kumar who was not working in his division. He has thus proved himself unbecoming and unworthy to hold any post. Any sympathy or charitable view on such officials will not be conducive to keep the streams of administration pure which is so vital for the success of our democracy."

44. In the case of **Kerala Solvent Extractions Ltd. Vs. A.Unnikrishnan and another** (9 supra), the Hon'ble Supreme Court held as follows:

"9. Shri Vaidyanathan, learned Senior Counsel for the appellant, submitted, in our opinion not without justification, that the Labour Court's reasoning bordered on perversity and such unreasoned, undue liberalism and misplaced sympathy would subvert all discipline in the administration. He stated that the management will have no answer to the claims of similarly disqualified candidates which might have come to be rejected. Those who stated the truth would be said to be at a disadvantage and those who suppressed it stood to gain. He further submitted that this laxity of judicial reasoning will imperceptibly introduce slackness and unpredictability in the legal process and, in the final analysis, corrode legitimacy of the judicial process.

10. We are inclined to agree with these submissions. In recent times, there is an increasing evidence of this, perhaps well meant but wholly unsustainable tendency towards a denudation of the legitimacy of judicial reasoning and process. The reliefs granted by the courts must be seen to be logical and tenable within the framework of the law and should not incur and justify the criticism that the jurisdiction of the courts tends to degenerate into misplaced sympathy, generosity and private benevolence. It is essential to maintain the integrity of legal reasoning and the legitimacy of the conclusions. They must emanate logically from the legal findings and the judicial results must be seen to be principled and supportable on those findings. Expansive judicial mood of mistaken and misplaced compassion at the expense of the legitimacy of the process will eventually lead to mutually irreconcilable situations and denude the judicial process of its dignity, authority, predictability and respectability."

45. In the case of **Lucknow Kshethreeya Gramin Bank Vs. Rajendra Singh** (8 supra), the Hon'ble Supreme Court held as follows:

"13. 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. Courts cannot assume and usurp the function of the disciplinary authority. In Apparel Export Promotion Council v. A.K. Chopra [(1999) 1 SCC 759 : 1999 SCC (L&S) 405] this principle was explained in the following manner: (SCC p. 773, para 22)

"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."

15. As is clear from the above that the judicial review of the quantum of punishment is available with a very limited scope. It is only when the penalty imposed appears to be shockingly disproportionate to the nature of misconduct that the courts would frown upon. Even in such a case, after setting aside the penalty order, it is to be left to the disciplinary/appellate authority to take a decision afresh and it is not for the court to substitute its decision by prescribing the quantum of punishment."

46. In the case of **Disciplinary Authority-cum-Regional Manager and others Vs. Nikunja Bihari Patnaik** (10 supra), the Hon'ble Supreme Court held as follows:

"7. It may be mentioned that in the memorandum of charges, the aforesaid two regulations are said to have been violated by the respondent. Regulation 3 requires every officer/employee of the bank to take all possible steps to protect the interests of the bank and to discharge his duties with utmost integrity, honesty, devotion and

diligence and to do nothing which is unbecoming of a bank officer. It requires the officer/employee to maintain good conduct and discipline and to act to the best of his judgment in performance of his official duties or in exercise of the powers conferred upon him. Breach of Regulation 3 is 'misconduct' within the meaning of Regulation 24. The findings of the Inquiry Officer which have been accepted by the disciplinary authority, and which have not been disturbed by the High Court, clearly show that in a number of instances the respondent allowed overdrafts or passed cheques involving substantial amounts beyond his authority. True, it is that in some cases, no loss has resulted from such acts. It is also true that in some other instances such acts have yielded profit to the Bank but it is equally true that in some other instances, the funds of the Bank have been placed in jeopardy; the advances have become sticky and irrecoverable. It is not a single act; it is a course of action spreading over a sufficiently long period and involving a large number of transactions. In the case of a bank — for that matter, in the case of any other organisation — every officer/employee is supposed to act within the limits of his authority. If each officer/employee is allowed to act beyond his authority, the discipline of the organisation/bank will disappear; the functioning of the bank would become chaotic and unmanageable.....

As mentioned hereinbefore, the very discipline of an organisation and more particularly, a bank is dependent upon each of its employees and officers acting and operating within their allotted sphere. Acting beyond one's authority is by itself a breach of discipline and a breach of Regulation 3. It constitutes misconduct within the meaning of Regulation 24. No further proof of loss is really necessary though as a matter of fact, in this case there are findings that several advances and overdrawals allowed by the respondent beyond his authority have become sticky and irrecoverable....."

However, these decisions are distinguishable on facts. It has been brought out that there is no evidence on record to prove the alleged

misconduct of the petitioner and therefore, this Court under Article 226 of the Constitution of India can exercise the power of judicial review.

47. With these observations, the Writ Petition is disposed of. No order as to costs.

48. Pending miscellaneous petitions, if any, in this Writ Petition shall stand closed.

SD/-P. PADMANABHA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Chairman, State Bank of India, Corporate Centre, State Bank Bhavan, Nariman Point, Mumbai, Maharashtra-400021
2. The Managing Director, State Bank of India, Corporate Centre, State Bank Bhavan, Nariman Point, Mumbai, Maharashtra-400021
3. The Deputy Managing Director and Corporate Development Officer, State Bank of India, Corporate Centre, State Bank Bhavan, Nariman Point, Mumbai, Maharashtra-400021
4. The Chief General Manager, State Bank of India, Local Head Office, Bank Street, Koti, Hyderabad-500095
5. The General Manager (Network), State Bank of India, Local Head Office, Bank Street, Koti, Hyderabad-500095
6. One CC to SRI Dr. A.RAGHU KUMAR, Advocate [OPUC]
7. One CC to M/s. PEARL LAW ASSOCIATES, Advocate [OPUC]
8. Two CD Copies

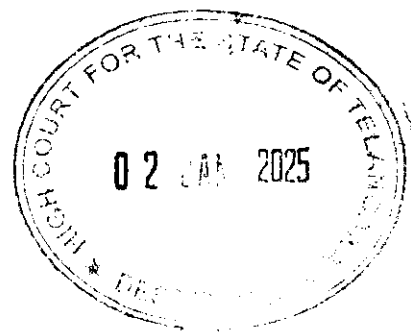
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CC TODAY

HIGH COURT

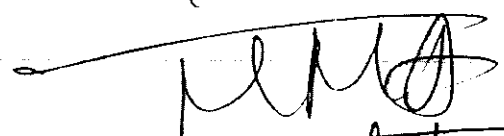
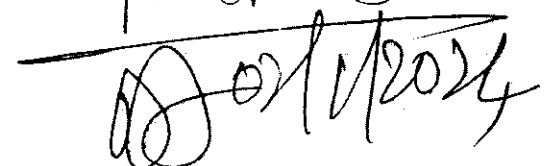
DATED: 31/12/2024



ORDER

WP.No.16223 of 2020

DISPOSING OF THE WRIT PETITION,
WITHOUT COSTS

10


02/1/2025