



2024:DHC:1546



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment reserved on: 22.02.2024
Judgment pronounced on: 28.02.2024

+ **W.P.(C) 2971/2019 & CM APPL. 47411/2023**

RAJ KUMAR

..... Petitioners

versus

UNION BANK OF INDIA

.... Respondents

Advocates who appeared in this case:

For the Petitioner : Dr. Nirmal Chopra and Mr. Rajesh Kumar, Advocates

For the Respondent : Mr. Rajat Arora, Mr. Sourabh Mahla, Ms. Sneh Vardhan and Mr. Ravi Ranjan Mishra, Advocates

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G M E N T

TUSHAR RAO GEDELA, J.

[The proceeding has been conducted through Hybrid mode]

1. This a writ petition under Article 226 of the Constitution of India, *inter alia*, seeking the following reliefs:-

“a. Issue a writ in the nature of certiorari for quashing the order of compensatory retirement of the petitioner dated 21.5.2016 (ANNEXURE P-14) passed by Deputy General Manager (Disciplinary Authority) and the subsequent orders dated 14.12.2016 (ANNEXURE P-16) passed by General Manager (Appellate Authority) dismissing the appeal of the petitioner and the order dated 7.12.2018 (ANNEXURE P-21)

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passed by the Reviewing Authority dismissing the review petition of the petitioner;

b. Issue a writ in the nature of mandamus directing the respondents to reinstate the petitioner in service with all service benefits w.e.f. 21.5.2016.

c. May be pleased to pass such further order or orders as this Hon'ble Court may be pleased to pass in the facts and circumstances of the case;"

2. The case of the petitioner as stated in the petition is as under:-

- (a) The petitioner was posted as Manager of respondent bank at its Nawada Branch in Delhi during the period from 31.12.2010 to 22.05.2013.
- (b) Sometime in the month of September 2015, disciplinary proceedings were initiated against the petitioner on the allegations of irregularities in grant of and disbursal of Commercial and Industrial Loans.
- (c) After the Inquiry proceedings were completed, the Disciplinary Authority, which was the Deputy General Manager, by the order dated 21.05.2016 imposed a major penalty of Compulsory Retirement against the petitioner under Regulation 4(h) of the Corporation Bank Officer Employees (Discipline and Appeal) Regulations, 1982.
- (d) Aggrieved thereof, the petitioner preferred a statutory appeal before the Appellate Authority which was the General Manager. *Vide* the order dated 14.12.2016, the Appellate Authority dismissed the appeal of the petitioner.



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- (e) The petitioner then filed a statutory Memorandum of Review under Regulation 18 of the said Regulations on 23.01.2017. Since the said Review was not being decided, the petitioner sent a reminder dated 30.11.2017 to the Executive Director (the Reviewing Authority) requesting early decision on such Review.
- (f) Since the decision on Memorandum of Review was getting delayed, the petitioner filed a petition bearing W.P.(C) No.9175 of 2018 seeking directions to the respondent for early disposal of the Review. By the order dated 31.08.2018, this Court disposed of the aforesaid writ petition directing the Reviewing Authority to dispose off the review petition within four months.
- (g) In pursuance to the aforesaid order dated 31.08.2018, the Reviewing Authority rejected the Review Petition of the petitioner on 07.12.2018, thereby upholding the orders of the Disciplinary Authority and the Appellate Authority.
- (h) The present writ petition has been filed assailing the aforesaid impugned orders.

CONTENTIONS OF THE PETITIONER:

3. Learned counsel appearing for the petitioner at the outset submits that the orders impugned herein are assailed primarily on the following grounds:

- (a) That the inquiry proceedings have been held without



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following the principles of Natural Justice in accordance with the principles of administrative law in respect of Charge No. 2.1; and

- (b) That the Charge No. 2.0 was satisfactorily dispelled by the petitioner during the inquiry proceedings as well as before the Disciplinary Authority on merits.

4. So far as ground (a) is concerned, Dr. Nirmal Chopra, learned counsel for the petitioner submits that the respondent bank had carried out a preliminary investigation against the petitioner through MW-3. The said MW-3 was stated to have recorded the statements of the complainants, that is, the borrowers. According to the alleged statements, the petitioner had committed misconduct by unlawfully gaining illegal gratification for grant/sanction of loans through an alleged middleman.

5. Learned counsel submits that since the entire edifice of this particular charge being based on the statements of the alleged borrowers, the said complainants/borrowers ought to have been brought as witnesses during the inquiry proceedings and the petitioner ought to necessarily have been afforded an opportunity to cross examine them, to elicit the truth. Having failed to do so, according to learned counsel, the respondent has deprived the petitioner an indefeasible right of defense and violated the principles of natural justice.

6. He also submits that the mere examination of MW-3, who was brought into the witness box and petitioner being afforded an opportunity to cross examine such witness, would not, *ipso facto*, fulfill



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the strict conditions of complying with principles of natural justice inasmuch as the statement of MW-3 would fall into the realm of hearsay evidence and is inadmissible in evidence. Though the petitioner did cross examine the witness MW-3, however that by itself would not take away the gross violation of principles of natural justice by depriving him of an opportunity to cross examine the original complainants/borrowers. According to learned counsel, if they were brought into the witness box, the petitioner would have had an opportunity to demolish their case and establish his innocence, which is the substratum of all administrative proceedings. Having violated this and depriving the petitioner of such an opportunity, the Inquiry Report as well as orders passed by the Disciplinary Authority and subsequent Superior Officers would be *non est* in law and, on this, learned counsel prays that the petitioner be directed to be discharged and held to be entitled to all consequential benefits.

7. So far as ground (b) of challenge relating to Charge 2.0 is concerned, learned Counsel submits that the petitioner at the relevant time was the Manager of the Nawada Branch of the respondent during the relevant period. He submits that the charge is false and frivolous. According to the learned counsel, the petitioner had taken all steps in accordance with the procedures of the Bank and neither there was, nor could the respondent bank place any material before the Inquiry Officer to establish that the petitioner has violated any procedure or rules regarding sanction of loans. Moreover, he submits that till such time the petitioner was heading the Nawada Branch as Manager, all the 22 Units

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which were alleged to have been sanctioned loans contrary to procedure, were paying their EMIs on time without fail, till almost 1 year of such disbursal. Learned counsel submits that once the petitioner was transferred out of the said branch on routine transfer, if the Units had defaulted in depositing regular EMIs in respect of the loans obtained by them, the petitioner cannot be faulted for the same. In other words, learned counsel submits that the non-payment of EMIs by the borrowers, that too, after the petitioner was transferred from the branch and no more responsible for such accounts on that count, cannot be fastened against the petitioner, particularly as misconduct.

8. Learned counsel had referred to the defense statement of the petitioner filed before the Inquiry Officer to submit that the petitioner had sufficiently and satisfactorily explained all the statements of imputation which were completely ignored by the Inquiry Officer as well as the Disciplinary Authority. In fact, learned counsel even referred to the questions and answers elicited during cross examination of the Management Witnesses to establish that the loans were sanctioned and disbursed to existing Units. As per the answers elicited, the witness stated that the Units had shifted to a new location and were indeed found to be in existence at their new locations. On the strength of such answers, learned counsel was at pains to submit that the charge of violation and willful lapses in sanction, grant and disbursal of loans to the borrowers falls flat and hence, no charge has been proved against the petitioner.

9. That apart, learned counsel laid great stress on the fact that the said loans which were disbursed to the borrowers were, even otherwise

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secured to the extent of 90% by the Government of India and have also been recovered in accordance with law. As such, there was no financial loss faced by the respondent bank.

10. Thus, on the basis of the above contentions, learned counsel submits that no case was made out against the petitioner and he was made a scapegoat for some other persons' lapses and resultantly, the impugned orders be quashed and set aside and as a consequence thereof, the petitioner be held entitled to all consequential benefits.

CONTENTIONS OF THE RESPONDENT-BANK:

11. *Per contra*, Mr. Rajat Arora, learned Counsel for the respondent-Bank, refutes the submissions made on behalf of the petitioner. Learned counsel referred to the relevant dates of the present dispute and submits that the challenge to the Disciplinary Authority's order has already been tested by the Appellate Authority as well as the Reviewing Authority and as such, need not be interfered with by this Court under Article 226 of the Constitution of India. Even otherwise, Mr. Arora submits that it is trite that High Courts under Article 226 of the Constitution of India are not acting as appellate courts and are only to judicially review whether the procedure prescribed have been followed and that the principles of natural justice have broadly been complied with. He further submits that re-appreciation of evidence is neither permitted nor warranted in the present case.

12. Learned counsel further submits that the petitioner, during the inquiry proceedings was given ample opportunity to cross examine three



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witnesses of the management, viz., MW-1, MW-2 and MW-3. All the three witnesses were officials of the bank who were also working in the same branch at a later date. The petitioner was furnished all the relevant documents which were relied upon by the respondent. He was also afforded an opportunity to not only cross examine the aforesaid witnesses but also to confront the said witnesses with the documents on record. Except for being provided an opportunity to cross examine the borrowers, the petitioner was afforded an opportunity of cross examining MW-3 who was the Investigating Officer and had recorded the statements of the borrowers. Learned counsel relied upon the judgment of the Supreme Court in *State Bank of India Vs. Tarun Kumar Banerjee & Ors.* reported in AIR 2000 SC 3028 to submit that the customers/ borrowers of the bank need not be involved in a domestic inquiry conducted as such a course would not be conducive to the proper banker –customer relationship and consequently would not be in the interest of the bank. He submits that since MW-3 was put on trial, the petitioner cannot legally be permitted to raise this issue in a writ petition, the same not being an appeal.

13. That apart, Mr. Arora emphasized that the petitioner also was issued a show cause notice to which he gave a detailed reply and as such, the procedure prescribed was followed in letter and spirit of the administrative law. He submits that the Inquiry Officer in his report commencing at page 167 to 220 had meticulously examined the Articles of Charge, the submissions of the P.O., the submissions of the petitioner, as also the documents on record and after examining all these issues,

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which included the appreciation of evidence had given an Inquiry Report holding the charges having been proved except on certain charges as under:-

- *“There is no middleman by the name Shri Sanjeev.*
- *Due Diligence Report in respect of CLUCC 120023 is available.*
- *The aspect of recommending the loan to M/s. Vinayak Enterprises without conducting pre-sanction inspection of the borrower unit is not substantiated.*
- *In respect of Deepak Packages, since the loan was processed and sanctioned by RLC/ZO, CSO cannot be primarily held responsible. They should have called for pre-sanction visit report, confidential opinion from Bank of Baroda, and HDFC Bank, VAT returns, etc, in case the branch had not sent.”*

14. Subsequent thereto, the petitioner was afforded an opportunity to submit a Written Brief of Defense, which was considered by the Disciplinary Authority *vide* the letter dated 21.05.2016 whereby major penalty of Compulsory Retirement from the services of the respondent bank under Regulation 4(h) of the Corporation Bank Officer Employees’ (Discipline and Appeal) Regulations, 1982, was imposed. Learned counsel also submits that thereafter, the petitioner had filed a statutory appeal which was considered and disposed by the Appellate Authority *vide* the order dated 14.12.2016 dismissing the said appeal. According to learned counsel, the petitioner also filed a review petition which was rejected *vide* the order 07.12.2018.

15. On the basis of the aforesaid undisputed and admitted facts, Mr. Arora submits that the petitioner has been unable to show any irregularity or lapse in providing ample opportunity, that too, in



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accordance with the procedural rules or administrative law violating the principles of natural justice, as contended by the petitioner. Learned counsel strenuously argued that having regard to the aforesaid and following the catena of judgments of the Supreme Court, particularly the case of ***Union of India & Ors. Vs. P. Gunasekaran*** reported in **(2015) 2 SCC 610**, the High Court in exercise of its power under Article 226 and 227 of the Constitution of India cannot venture into reappreciation of evidence or interfere with the conclusions in the inquiry proceedings, in case the same has been conducted in accordance with law or go into reliability/adequacy of evidence, or interfere if there is some legal evidence on which findings are based, or correct the error of fact however grave it may appear to be, or go into proportionality of punishment unless it shocks the conscience of the Court. He submits that the departmental inquiry held against the petitioner is falling within the four corners of the aforesaid judgment, thus, the present writ petition should be dismissed.

16. So far as the facts of the case are concerned, Mr. Arora, learned counsel submits that all the circumstances and allegations against the petitioner were put to the petitioner during the entire course of inquiry and disciplinary proceedings and as such, the Inquiry Officer or the Disciplinary Authority took into consideration the entire evidence available on record before coming to the conclusion. No extraneous material was at all considered by any of the authorities. The conclusion reached by the disciplinary authority were in tune with the law laid down in that regard and thus, the petition of the petitioner is without any merit



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and ought to be dismissed.

FINDINGS AND CONCLUSIONS

17. This Court has heard the submissions of Dr. Nirmal Chopra, learned counsel for the petitioner and Mr. Rajat Arora, learned counsel for the respondent-bank, meticulously perused the entire material of the inquiry proceedings on record and also considered the judgments relied upon by the parties.

18. At the outset, since the present petition is in relation to the disciplinary proceedings against an employee of the respondent-bank, the principles that are to be followed by the High Court while exercising its power of judicial review under Article 226 of the Constitution of India, 1950 have to be examined in view of the law as settled by the Supreme Court. Two judgments of the Supreme Court which have held the field for almost three decades and have been consistently followed till date are that of ***B.C. Chaturvedi Vs. Union of India & Ors.*** reported in (1995) 6 SCC 749, (03 Judges Bench) and ***Union of India & Ors. Vs. P. Gunasekaran*** reported in (2015) 2 SCC 610. It would be apposite to cull out the relevant paragraphs of the two judgments which are as under:-

(a) B.C. Chaturvedi Vs. Union of India & Ors.

“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 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 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.”

(b) Union of India & Ors. Vs. P. Gunasekaran

“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a



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second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

- (a) the enquiry is held by a 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 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.*

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

- (i) reappreciate the evidence;*
- (ii) interfere with the conclusions in the enquiry, in 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;*



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

It is clear from the ratio laid down by the Supreme Court in the aforesaid judgments that the power of the High Court while exercising its jurisdiction of judicial review under Article 226 of the Constitution of India in matters pertaining to disciplinary proceedings is highly circumscribed and limited to a very narrow compass. In fact, the High Courts have been prohibited from reappreciating the evidence or interfere with the conclusions in the inquiry, in case the same has been conducted in accordance with law or going into the adequacy of the evidence or go into the reliability of the evidence or interfere if there be some legal evidence on which findings can be based or correct the error of fact, however grave it may appear to be or go into the proportionality of punishment unless it shocks its conscience. With this circumscription and restricted jurisdiction, this Court would examine the present case.

19. Before examining the matter on merits, it would be appropriate to extract the main two articles of charge which are as under:-

“ARTICLE OF CHARGE

2.0 That during your tenure at Nawada Branch in abuse of your official position and in blatant violation of the respective scheme guidelines and laid down procedures of the Bank, you sanctioned and disbursed at the Branch, 22 CLUCC loans for amount aggregating Rs. 209.00 lakh as detailed in Annexure -A to the Statement of Imputations of Misconduct annexed herein. That further you recommended and disbursed CVPOD 120002 in the name of M/s. Vinayak Enterprise with a limit of Rs. 100.00 lakh and CC. 120004 in the name of M/s. Deepak Packaging Industries with a limit of Rs. 40.00 lakh as detailed in the Statement of Imputations of misconduct

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annexed herein, without conducting pre sanction and post sanction exercise, without obtaining confidential opinion from the existing bankers; that you failed to ensure end use of the funds lent and thereby enabled the borrowers to siphon off the funds. That in respect of CC. 120004, you failed to insure the hypothecated stocks, thereby deprived the Bank to prefer insurance claim for the reported fire at the factory of the borrower firm; that you entertained the said proposal through middleman who has taken illegal gratification from the borrower for sourcing the proposal.

2.1 That furthermore, as detailed in the Statement of Imputations of Misconduct, annexure -A and B annexed herein, in violation of the instructions issued by the Bank, you entertained the aforesaid loan proposals through middlemen namely Sri Ashok Karan and Sri Sanjeev. That you sanctioned and/or disbursed the loans without conducting pre-sanction inspection and without obtaining the confidential opinions from the existing Bankers. That in many cases units are not existing and the financial papers submitted to the Branch are fabricated indicating loans are accommodative. That you enabled the borrowers to submit the fabricated Balance sheets which were within your knowledge as those Balance Sheets/financial papers were prepared and sent to the Branch uniformly by selected Chartered Accountants. That you failed to ensure end use of the funds lent as in most of the loan accounts, part of the loan proceeds were released in cash. That a few releases were made into certain unrelated accounts of the middlemen, thereby you allowed siphoning off the funds lent. That thus in collusion with the middleman, you resorted to reckless lending with total disregard to the system and laid down guidelines of the bank and thereby indulged in corrupt practice while discharging your official duties.

2.2 That by your acts and omissions, you have exposed the Bank to huge financial risk and consequences.

3.0 The acts of omissions alleged to your part, more fully described in the statement of imputations of misconduct, annexed herein, if proved, would tantamount to failure on your part to discharge your duties with utmost integrity, honesty, devotion and diligence and thus acting in a manner unbecoming of an Officer employee, thereby violating



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Regulation 3(1) Regulation 24 of the Corporation Bank Officer Employees' (Conduct) Regulations 1982."

20. Learned counsel for the petitioner had strenuously argued that the principles of natural justice has been grossly violated in the present case and as such, the ratio laid down in the judgments of ***B.C. Chaturvedi (supra)*** and ***P. Gunasekaran (supra)*** have to be read in favour of the petitioner. His entire case on this issue was on the denial of an opportunity to cross examine the borrowers/complainants who are examined by the MW-3 who was the Investigating Officer conducting the preliminary inquiry. Learned counsel had vehemently also argued that the entire case of the respondent was predicated on the statement of those witnesses who are not produced during the inquiry proceedings. Despite this, the petitioner was not afforded an opportunity to cross examine those borrowers/complainants. According to the learned counsel, the deprivation of a right to cross examine these witnesses deprived the petitioner from a fair opportunity to defend himself in the inquiry proceedings. Such deprivation, submits the learned counsel, would be a gross case of violation of principles of natural justice. On that basis, he submitted that the entire inquiry proceedings including the subsequent impugned orders would be vitiated and the present petition ought to be allowed on that score alone.

21. The aforesaid argument of the learned counsel appears to be very attractive at the first blush. However, on a close scrutiny of the Inquiry Officer's report, it is revealed that the guilt of the petitioner was held to be proved on the basis of evidence other than that of the borrowers/



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complainants. In fact, the allegation of the respondent-bank that the petitioner had unlawfully gained financial benefits through a middleman has been categorically found to be '*not proved*'. Moreover, the Inquiry Officer had also concluded that there is no middleman by the name of Sh. Sanjeev. This part of the finding of the Inquiry Officer was not disputed or disagreed by the Disciplinary Authority. No disagreement note to this part of the findings of the Inquiry Officer's report was ever issued by the Disciplinary Authority to the petitioner. Even the petitioner does not dispute this fact. From a perusal of the Inquiry Officer's report, it is clear that the charges which have been held to be proved are on different documents or oral evidence. As such, the non-examination of the various customers/borrowers and not affording an opportunity to the petitioner to cross examine such persons would not be a violation of the principles of natural justice.

22. This Court is fortified in the aforesaid view by the judgment of the Supreme Court in ***Tarun Kumar Banerjee (Supra)*** wherein on similar argument raised in that case, the Court in para 6 held that a customer of the bank need not be involved in a domestic inquiry conducted, as such a course would not be conducive to proper banker-customer relationship and therefore, it would not be in the interest of the bank. Following the said ratio, it is held that the non-examination of the customers/ borrowers in the present case, particularly when MW-3, the Investigating Officer was in fact brought into the witness box and extensively cross examined by the petitioner, is not a violation of principles of natural justice. Resultantly, this argument of the learned counsel for the petitioner stands



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rejected.

23. In respect of other Articles of Charge, learned counsel for the petitioner had meticulously taken this Court through the Articles of Charge, the cross examination of the witnesses as also the Inquiry Officer's report and the Statement of Defence of the petitioner to submit that the Inquiry Officer did not appreciate the answers elicited from the witnesses, MW-1, MW-2 and MW-3 and arrived at a finding and conclusion which no reasonable or prudent man would arrive at. Learned counsel had extensively argued on the nature of the loan which were taken and the fact that so long as the petitioner was posted as Manager at Nawada Branch of the respondent bank, the EMIs of the said loans by the very same borrowers were not only being paid on time but continued till such time he headed the branch. Learned counsel had also submitted that it was only after the petitioner left the branch, that some of the customers had defaulted in their payments. According to learned counsel, those defaults cannot be attributable to the petitioner. He had also submitted that apart from a bald allegation of having approved loan without following due procedure, no evidence as to what was the due procedure was ever brought before the Inquiry Officer. Learned counsel had also submitted that the initial allegations were that the Units / Factories in respect of which loans were obtained, were found to be closed by the MW-3, Investigating Officer. Whereas during cross examination, it was elicited that many of such units were found to be existing on the correct addresses and many of them were found to be existing in different locations. On that basis, learned counsel insisted that



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the very substratum of the allegations against the petitioner was successfully disproved or demolished and the findings of the Inquiry Officer that those allegations were found to be proved, cannot be sustained in law. Learned counsel also argued that these loans were special loans secured to the extent of 90% of the loan amount by the Government of India and as such, in most of the cases the bank did not suffer any loss. He has further submitted that every charge against the petitioner was met by the petitioner by effective cross examination of the witnesses of the bank despite which the Inquiry Officer concluded as guilt having been proved. According to learned counsel, no reasonable or prudent man could have reached such a conclusion and as such, the entire disciplinary proceedings along with the orders of the Disciplinary Authority right up till the Reviewing Authority are vitiated and as such, they ought to be quashed and set aside.

24. Though this Court is conscious and aware of the restrictions and prohibition on it while judicially reviewing the inquiry proceedings, yet to satisfy itself as to whether the Inquiry Officer could or could not have concluded the findings of guilt against the petitioner, this Court examined the records.

25. The examination of the records does reveal that the witnesses were extensively cross examined by the petitioner and certain material questions were answered in favour of the petitioner. However, in order to consider the conclusions reached by the Inquiry Officer regarding the guilt of the petitioner having been proved is concerned, this Court would need to re-appreciate the entire evidence led before the Inquiry Officer.

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In order to do so, this Court has to don the uniform of an Appellate Court and minutely scrutinize the documents of the parties, the statements and the cross examination of the witnesses and thereafter come to a finding one way or the other. This exercise is not only restricted but also prohibited by the Supreme Court in the aforesaid two landmark judgments. Even if this Court were to agree with the contentions of the learned counsel for the petitioner, the issue as to what material was considered by the Inquiry Officer apart from the aforesaid issues on which learned counsel has thrown light, to conclude guilt, cannot be ascertained by this Court, at this stage. As such, if this Court were to venture into such exercise, it would be in direct violation of the ratio laid down by the Supreme Court in *B.C. Chaturvedi (supra)* and *P. Gunasekaran (supra)*. The ratio in the aforesaid judgements is being followed till date, and has been reiterated in a recent judgment of the Supreme Court in *Union of India & Ors. Vs. Subrata Nath* reported in 2022 SCC OnLine SC 1617.

26. In that view of the matter, the writ petition alongwith pending application is dismissed with no order as to costs.

TUSHAR RAO GEDELA, J.

FEBRUARY 28, 2024/ms