

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:
The Hon'ble Justice Debangsu Basak
And
The Hon'ble Justice Md. Shabbar Rashidi

F.M.A. 510 of 2024

Sri Ranjan Bandyopadhyay @ Ranjan Banerjee

vs.

The Bank of Baroda & Ors.

With

CAN 2 of 2025

For the Appellant : Mr. Susanta Pal
Ms. Ananya Neogi

For the Bank : Mr. Apurba Kumar Bandyopadhyay
Mr. Vivekananda Bose
Ms. Shagufta Yasmin

Heard & Judgment on : **May 1, 2025**

DEBANGSU BASAK, J.:-

1. Appeal is by the writ petitioner and directed against a judgment and order dated August 10, 2023 passed in W.P.A. 29790 of 2016.

2. Report in the form of an affidavit called for by us filed in Court be taken on record.
3. Learned advocate appearing for the appellant submits that, the appellant was not served with the documents along with the charge sheet. He submits that, the Enquiry Officer acted as a prosecutor. Enquiry Officer proceeded to disbelieve and believe the same witnesses of the prosecution. Enquiry Officer acted beyond the changes of the charge sheet. He points out that prosecution could not prove the charges leveled as against the appellant.
4. Learned advocate appearing for the appellant took us through a portion of the deposition of one of the prosecution witnesses and submitted that such prosecution witness was a Credit Officer. He also drew our attention to the findings returned by the Enquiry Officer. He submits that, since the disciplinary authority imposed a punishment of removal from service which shall not be a disqualification for future employment, the appellant should be considered for future employment.
5. Learned advocate appearing for the appellant submits that order of the appellate authority is cryptic, without dealing with the grounds raised in the appeal by the appellant.

6. Learned advocate appearing for the appellant submits that since no quantification of any amount was made either by the Enquiry Officer or by the disciplinary authority with regard to alleged loss and damages allegedly suffered by the employer withholding of gratuity under Section 4(6) of the Payment of Gratuity Act, 1972 does not arise.
7. Bank is represented.
8. Appellant before us was an employee of the bank. Appellant was working as a Senior Manager at that material point of time.
9. A charge sheet as against the appellant was issued on September 11, 2023. Appellant was allowed to file written statement with regard to the charges leveled against him.
10. Subsequent to the receipt of the charge sheet along with the articles of charges, the appellant wrote to the Enquiry Officer claiming that documents of the prosecution were not supplied to him. Such complaints appear from the writing dated February 16/17, 2014.
11. There is an order sheet of the Enquiry Officer dated February 6, 2014 which directs the documents to be supplied to the appellant. No subsequent correspondence at the behest of the appellant state that the documents directed to be supplied were not supplied to the appellant.

12. Appellant participated in the enquiry proceeding. In order to bring home the charges as against the appellant, prosecution examined various prosecution witnesses as also relied upon various documents. At the enquiry stage additional charges were leveled as against the appellant. The Enquiry Officer thereafter submitted a detailed report dated June 9, 2014. Enquiry Officer concluded that some of the allegations leveled as against the appellant were proved. He took into consideration the evidence led in the enquiry both on account of the articles of charges initially framed and thereafter the added articles of charges. Enquiry Officer in his report stated that the allegations with regard to the added articles of charges dated December 13, 2013 is likely to the result in a potential loss of Rs.31.84 lakhs to the bank. The Enquiry Officer also stated that out of 17 allegations, 5 allegations were partially proved. 12 were proved and allegations by added article of charges dated October 19, 2023 were partially proved, and the allegation by added article of charges dated December 13, 2013 was not proved.
13. Enquiry Officer in his report dated June 9, 2014 opined that the appellant did not discharge his duties with devotion, diligence and committed such omission which showed lack of care, caution and reasonable judgment.

Gross negligence stood proved. He was also of the opinion that the performance of the official duties of the appellant was derogatory, prejudicial, detrimental and injurious to the interest of the bank. Appellant knowingly and willfully violated bank rules and established procedures. Appellant was guilty of breach of trust and misuse of office. Actions of the appellant were unbecoming of officer.

14. Disciplinary authority considered the enquiry report and by an order dated November 14, 2014 was pleased to pass an order of removal from bank service. It provided that such order shall not be a disqualification for future employment. Essentially, the disciplinary authority concurred with the view taken by the Enquiry Officer after discussing the nature of the allegations, the evidence found by the Enquiry Officer and the conclusions arrived at.
15. Appellant being aggrieved by the decision of the disciplinary authority dated November 14, 2014 preferred an appeal therefrom to the appellate authority as provided under the Service Rules governing the appellant.
16. Appellate Authority by a decision dated August 8, 2015 was pleased to dismiss the appeal. In doing so, the appellate authority dealt with the

grounds of the appeal including the nature of allegations, the evidence led before the Enquiry Officer and the decision of the disciplinary authority.

17. Enquiry report, order of the disciplinary authority as well as of the appellate authority are detailed. They discuss every aspect raised both by the employer and the employee.

18. In the facts and circumstances of the present case, we are not in a position to subscribe to the view that the Enquiry Officer acted as a prosecutor. Enquiry Officer conducted the proceedings in accordance with law. He allowed the parties to lead evidence as desired. Enquiry Officer proceeded to evaluate the evidence placed before him. He came to a finding, as noted above, that some of the article of charges were either proved or partially proved and few not proved at all. In doing so, as noted above, he evaluated evidence of the witnesses he chose to believe or disbelieve such portion of the evidence of the prosecution witnesses and gave reasons for the same.

19. A Writ Court is not called upon to re-evaluate the evidence and substitute its finding with that of the Enquiry Officer or of the disciplinary authority or of the appellate authority. In the facts of the present case, three of the

authorities prior to the approach to the Writ Court assessed the materials on record and arrived at cogent findings giving reasons for the same.

20. So far as the payment of gratuities is concerned, we find that the Enquiry Officer in his report quantified the loss that the employer faced due to the delinquency of the appellate. Disciplinary authority also proceeded to quantify such loss suffered at the behest of the appellant. The appellate authority concurred with such view.

21. In such circumstances, the appellant forfeited his right to claim gratuity in view of the provisions of Payment of Gratuity Act, particularly Section 4 thereof.

22. Learned Single Judge did not find any merits in the writ petition filed against the order of the disciplinary authority as well as of the appellate authority.

23. We find no ground to interfere with the impugned judgment and order.

24. **F.M.A. 510 of 2024** and the connected application being **CAN 2 of 2025** are **dismissed** without any order as to costs.

(Debangsu Basak, J.)

25. I agree

S.D.

(Md. Shabbar Rashidi, J.)

