

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present :

THE HON'BLE JUSTICE SUJOY PAUL
&
THE HON'BLE JUSTICE SMITA DAS DE

FMA 433 of 2024
Central Bank of India and Ors.
Vs.
Jyotirmoy Sardar

For the Appellants : Mr. Bishwambhar Jha
Ms. Munmun Mishra

For the Respondent : Mr. Pratik Majumder
Mr. Snehasish Dey

Heard On : 28.08.2025

Judgment On : 02.09.2025

Sujoy Paul, J.

1. The challenge is mounted in this *Intra* Court appeal of the Bank to the order of learned Single Judge passed in **WPA No. 29678 of 2016** decided on 20.09.2023. The learned Single Judge by impugned order interfered in the disciplinary proceedings and modified/reduced the punishment originally imposed on the writ petitioner.

Factual background

2. The necessary facts for adjudication of this matter are that while working as a Branch Manager at Kalighat Branch of respondent/Bank for a period between 08.07.2004 to 12.05.2007, the petitioner was served with a memo dated 31.10.2011 whereby petitioner was asked to submit his explanation within 7 days. In turn, petitioner submitted his explanation to the Bank. The disciplinary authority was not satisfied with petitioner's explanation and, therefore, the memorandum of charge sheet dated 06.12.2013 was issued against the petitioner containing two charges. Since petitioner denied the charges and disciplinary authority was not satisfied with his explanation, an inquiry was instituted. After recording the evidence, the Enquiry Officer in his report found that both the charges have been partially proved against the petitioner.
3. The petitioner submitted his explanation to the disciplinary authority against the report of Enquiry Officer. However, the disciplinary authority was not satisfied with his explanation and, accordingly, imposed the punishment of:

“Reduction of Basic Pay by two stages in the time scale of pay for the period up to his superannuation i.e. 31.05.2015, with further direction that the officer will not earn increments of pay during the period of such reduction in terms of Regulation 4(f) of Central Bank of India Officer Employees’ (Discipline and Appeal) Regulations, 1976,”

4. After exhausting the departmental remedies, the petitioner filed **WPA No. 29678 of 2016**. The learned Single Judge partly allowed the petition and opined that charge no. 2 deserves interference and punishment imposed in relation to charge no. 1 needs to be modified. Thus, learned Single Judge itself substituted the punishment.

Contention of Bank

5. Sri Bishwambhar Jha, learned Counsel for the Bank submits that in the departmental enquiry, full, reasonable and effective opportunity of defence was afforded to the delinquent officer. The principles of natural justice were duly followed. The punishment imposed is commensurate to the misconduct. Thus, learned Single Judge was not justified in interfering with charge no. 1 and substituting the punishment based thereupon. In support of these contentions, he placed reliance in the case of ***State of U.P. and Ors. vs. Kishore Sukla & Anr.*** reported in ***AIR 1996 SCC 1561***, ***V.Ramama vs. A.P.SRTC & Ors.*** reported in ***(2005) 7 SCC 338***, ***State Bank of India & Anr. vs. Bela Bagchi & Ors.*** reported in ***(2005) 7 SCC 435***, ***State of Karnataka & Anr. vs. N. Gangaraj*** reported in ***(2020) 3 SCC 423*** and ***Union of India and Ors. vs. Constable Sunil Kumar*** reported in ***(2023) 3 SCC 622***.
6. It is submitted that the interference of learned Single Judge on charge no. 1 is solely on the ground that said charge no. 2 was in relation to sanction of cash credit limit in favour of M/s. Gobinda Stores. In the

memo dated 31.10.2011 there was no allegations in relation to M/s. Gobinda Stores and, therefore, learned Single Judge opined that this allegation in relation to said stores was illegally incorporated in charge no. 2. Criticizing the finding, learned Counsel for Bank submits that after issuance of memorandum dated 31.10.2011, the petitioner was served with the charge sheet dated 06.12.2013. In the said charge sheet there existed a specific allegation in relation to M/s. Gobinda Stores. The petitioner after inspection of documents, filed his detailed reply. Thus, he got sufficient and effective opportunity to defend himself in relation to the allegations of sanctioning of cash credit limit to M/s. Gobinda Stores. Merely because in the memorandum dated 31.10.2011 the allegation about M/s. Gobinda Stores was not mentioned, no fault can be found either in the charge sheet or in the decision making process. Learned Single Judge has gone wrong in interfering with charge no. 2 on this aspect.

7. The second contention is that the punishment imposed on the petitioner was in consonance with the misconduct. Without holding that said punishment was extremely disproportionate, it was not open to learned Single Judge to substitute the punishment on its own. At best, learned Single Judge could have recorded a finding that punishment is extremely harsh in nature and could have remitted the matter back to the disciplinary authority for imposition of adequate punishment. The substitution of punishment by learned Single Judge is unjustifiable.

The stand of the writ petitioner

8. Learned Counsel for the writ petitioner supported the impugned order.

He submits that the allegations in relation to sanctioning of cash credit limit to M/s. Gobinda Stores were inserted for the first time in the charge sheet dated 12.06.2013. Since, this factual aspect was not mentioned in the memo dated 31.10.2011 which was duly replied by the petitioner, disciplinary authority was not justified in issuing the charge sheet containing this allegation relating to M/s. Gobinda Stores on 06.02.2013. In the charge sheet, he has not assigned any reason for insertion of a new charge in relation to M/s. Gobinda Stores which was not there in the memo dated 31.10.2011.

9. Lastly, learned Counsel for the writ petitioner submits that there were other procedural flaws in the departmental proceeding which learned Single Judge has not examined and, therefore, the matter may be remitted back to the learned Single Judge to enable the Court to examine all the facets raised by the parties.

10. No other point is pressed by the learned Counsel for the parties. We have heard the parties at length and perused the record.

11. At the outset, in consonance with the judgments cited by learned Counsel for the Bank we are inclined to observe that the scope of interference in the disciplinary proceedings and punishment by this Court is very limited. If the decision making process in the departmental

enquiry runs contrary to principles of natural justice and such breach caused serious prejudice to the delinquent employee, interference can be made. Interference can also be made if findings of Enquiry Officer are perverse in nature and hit by *wednesbury principles*. The punishment order can be interfered with if it is shockingly disproportionate/harsh in nature. This Court cannot sit appeal to reweigh or reappreciate the evidence.

12. The learned Single Judge interfered with charge no. 2 and gave following finding:

“In the said memo there is however no whisper about any alleged irregularity with regard to sanction of cash credit facility in favour of ‘M/S. Gobinda Stores’. This Court considers that since in the memo dated 31.10.2011 there is no whisper about the alleged irregularity with regard to the sanction of cash credit facility of ‘M/S Gobindo Stores’ the charge no. 2 under the cover of memorandum dated 06.12.2013 regarding ‘C/C A/C-Gobinda Stores (Prop. Dilip Banik)’ is not permissible since the same is violative of principle of natural justice and therefore charge no. 2 in respect of memorandum dated 06.12.2013 as issued by respondent no. 2- bank is hereby quashed.”

(Emphasis Supplied)

13. A cursory reading of this Paragraph leaves no room for any doubt that singular reason for interference in charge no. 2 is that the allegations in relation to sanction of cash credit facility of M/s. Gobinda Stores was not subject matter of the memo dated 31.10.2011 but it was inserted in the memorandum dated 06.12.2013. For this solitary reason, charge no. 2 was quashed. We are unable to countenance these finding

for the simple reason that the disciplinary proceeding begins with initiation of charge sheet. Before that if a memo was issued , which did not contain any such allegation which became subject matter of charge sheet, no prejudice is caused to the employee. After receiving the charge sheet, petitioner got full, reasonable and effective opportunity to defend himself. He filed reply to charge sheet. The Bank is not “estopped” in relation to allegations mentioned in memo dated 31.10.2011 and it was open to the Bank to issue a charge sheet as per the relevant Discipline and Appeal Regulations of 1976. Putting it differently, merely because the allegations in relation to M/s. Gobinda Stores were not there in the memo dated 31.10.2011, charge no. 2 cannot be interfered with.

14. The punishment order is interfered with solely on the ground that charge no.2 was not proved and, therefore, for charge no. 1 a substituted and lesser punishment was inserted by learned Single Judge.
15. We are unable to give our stamp of approval to this aspect also for twin reasons. *Firstly*, as discussed above, we have held that interference on charge no. 2 was unwarranted and, therefore, it cannot be said that petitioner deserves punishment only for one charge.
16. Secondly, the learned Single Judge considered judgments of Supreme Court in Para 23 of impugned order wherein it was poignantly held that punishment can be interfered with when it shocks the

conscience of the Court. Thus, it is condition precedent for the Court to give a specific finding that punishment so imposed is shockingly disproportionate. Then only Court can interfere with the punishment based on the doctrine of proportionality. And in that case, ordinarily, the matter should be remitted back to the disciplinary authority for imposition of proper punishment. In the instance case learned Single Judge has not recorded any specific finding that punishment so imposed by the disciplinary authority was shockingly disproportionate. Thus, learned Single Judge was not justified in substituting the punishment by:

“reduction of basic pay by on stage in the time scale of pay for a period of one year from the date of imposition of penalty by the Disciplinary Authority i.e. with effect from 11.04.2014 with a further direction that the writ petitioner will not earn increment of pay during the period of such reduction in terms of Regulation 4(f) and Central Bank of India Officer Employees’ (Discipline and Appeal) Regulations, 1976.”

17. The matter may be viewed from another angle. A Constitution Bench of Supreme Court in **State of Orissa vs. Bidyabhusan Mohapatra**, (1962 SCC OnLine SC 106) held that as under:

“if the order of dismissal was based on the findings on Charges 1(a) and 1(e) alone the Court would have jurisdiction to declare the order of dismissal illegal but when the findings of the Tribunal relating to the two out of five heads of the first charge and the second charge was found not liable to be interfered with by the High Court and those findings established that the respondent was prima facie guilty of grave delinquency, in our view the High Court had no power to direct the Governor of Orissa to reconsider the order of dismissal. But the Court in a case in which an order of dismissal of public servant is impugned is not concerned to

*decide whether the sentence imposed, provided it is justified by the rules, is appropriate having regard to **the gravity of the misdemeanor established**. If the High Court is satisfied if some but not all the findings of the Tribunal were “unassailable”, the order of Governor on whose powers by the rules no restrictions in determining the appropriate punishment are placed, was final, and the High Court had no jurisdiction to direct the Governor to review the penalty for as we have already observed the order of dismissal passed by a competent authority on a public servant, if the conditions of the constitutional protection have been complied with, is not justiciable. Therefore if the order may be supported on any finding as to substantial misdemeanor for which the punishment can lawfully be imposed, it is not for the Court to consider whether that ground alone would have weighed with the authority in dismissing the public servant.”*

(Emphasis Supplied)

18. This principle was followed by Supreme Court in the case of **SBI vs. Ajai Kumar Srivastava (2021) 2 SCC 612** and **SBI vs. A.G.D. Reddy, (2023) 14 SCC 391**. In view of the judgment of the Constitution Bench in **Bidyabhushan Mohapatra (supra)**, in our view, if one charge was not found to be proved, the learned Single Judge ought to have examined whether the punishment originally imposed is commensurate to the remaining one i.e. charge no. 1 or not. Only after examine this aspect on the doctrine of severability, punishment could have been interfered with.
19. As analyzed above, learned Single Judge erred in interfering with charge no. 2. Against charge no. 1 and other findings of learned Single Judge, the employee has not chosen to prefer any *intra* Court appeal. Hence we are not inclined to examine the correctness of charge sheet and

disciplinary proceedings from the point of view of the employee in an *intra* Court appeal filed by the employer. Since interference in charge no. 2 cannot be countenanced, the employee is treated to be guilty of both the charges. The punishment so imposed based on both the charges cannot be said to be shockingly disproportionate. Resultantly, the impugned order of learned Single Judge is **set aside**. The *intra* Court appeal is **allowed**.

20. Urgent Photostat certified copies of this judgment, if applied for, be made available to the parties subject to compliance with the requisites formalities.

(Sujoy Paul, J.)

I agree.

(Smita Das De, J.)