



W.P. No.428/2015

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
03.03.2025	18.03.2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.428 OF 2015

B.Ramesh

.. Petitioner

- Vs -

1. The Presiding Officer
Central Government Industrial
Tribunal – cum – Labour Court
First Floor, B Wing
Shastri Bhavan, 20, Haddows Road
Chennai 600 006.

2. Bank of Baroda, rep. By
The Chairman
Head Office, Bank of Baroda
Mandvi, Baroda 390 001.

3. The Deputy General Manager
Disciplinary Authority
Bank of Baroda, 'Baroda Pride'
New No.41, 2nd Floor, Luz Church Road
Mylapore, Chennai – 4.
(RR-2 & 3 cause title amended vide order
Dated 21.09.2023 made in WMP 10134/2022)

.. Respondents



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Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus to call for the records relating to the award dated 5.5.2014 made in ID No.86/2011 passed by the 1st respondent as illegal against law and quash the same and direct the respondents to reinstate the petitioner with continuity of service and backwages.

For Petitioner : Mr. K.V.Ananthakrishnan

For Respondents : Mr. Gautham S.Raman
for RR-2 & 3

ORDER

Assailing the order dated 5.5.2014, in and by which the punishment of dismissal from service imposed on the petitioner was confirmed by the Labour Court in I.D. No.86/2011, the present writ petition has been filed.

2. The petitioner joined the services of the Bank as Clerk in the year 1996 and was posted initially at Tondiarpet Branch from where he was thereafter transferred to Venkatnarayana Road Branch, Chennai during July, 2002. The petitioner was placed under suspension on 5.9.2003 on charges of misconduct on



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the allegation that the petitioner, while working at Venkatnarayana Road Branch, had fraudulently withdrawn amounts aggregating to Rs.52,800/- by misusing the single window operating system by unauthorizedly debiting closed loan against term deposit accounts, viz., A/s Nos.62 and 152. The officer, who was granted responsibility to investigate the matter filed report holding that the fraudulent transactions of changing the name of the closed loan against term deposit by changing the limit, drawing power, etc., was done by one Udaya Kumar, a clerk, who had misappropriated about Rs.50 Lakhs on different dates.

3. The petitioner was issued with show cause notice and not being satisfied with the explanation offered by the petitioner, enquiry was initiated against him in which the enquiry officer, after hearing the petitioner and the Bank had held that the charges levelled against the petitioner stood proved. On the basis of the enquiry report, upon furnishing the same to the petitioner and upon receiving explanation from the petitioner, not being satisfied, the disciplinary authority imposed the punishment of dismissal from service on the petitioner vide order dated 5.8.2004.



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4. Not being satisfied the petitioner raised an industrial dispute contending that the enquiry was not conducted properly and that the enquiry officer did not permit the petitioner to rely on certain documents and the findings of the enquiry officer without furnishing the documents requested by the petitioner amounts to denial of opportunity and, thereby there is violation of principles of natural justice. It was further averred that the entire fraudulent transactions have been committed by one Udaya Kumar and that the petitioner has not committed any fraud, which is even evident from the investigation report and, therefore, the order of dismissal from service is perverse.

5. Before the Tribunal, though no oral evidence was adduced on behalf of the petitioner and the Bank, however, on behalf of the petitioner Exs.W-1 to W-19 were marked and on behalf of the Management, Exs.M-1 to M-6 were marked. The Tribunal, on appreciation of the documentary evidence held that the petitioner had taken advantage of the fraud perpetrated by one Udaya Kumar and had adopted the very same method and withdrew the amount, which is evident from the report and the evidence of the investigating officer before the



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enquiry and, accordingly, endorsed the punishment imposed on the petitioner.

Aggrieved by the same, the present petition has been filed.

6. Learned counsel appearing for the petitioner submitted that the Tribunal has not approached the case with free mind and on the basis of a biased view, had approved the punishment imposed on the petitioner, which is wholly erroneous. It is the further submission of the learned counsel that though the petitioner was dismissed from service, however, the materials and the enquiry proceedings did not prove that the petitioner had committed the act of misconduct.

7. It is the further submission of the learned counsel that the Tribunal failed to take into consideration that the documents filed do not support the charge of misappropriation and merely it only shows that the petitioner had made the payment, which is evident from the investigation report and no authority of the Branch was examined to speak about the investigation report.



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8. It is the further submission of the learned counsel that the witnesses examined during the enquiry were not employed at the Branch at the material point of time when the act of misappropriation alleged, is said to have taken place and, therefore, their evidence could not in any way form the basis to hold adversely against the petitioner.

9. It is the further submission of the learned counsel that the for the payments effected, though voucher number is showm in the column in the log sheet, yet the vouchers have not been produced. Further it is admitted by the said Udaya Kumar, as is evident from the investigation report that all the vouchers were destroyed by Udaya Kumar. It is the further submission of the learned counsel that the original of the enquiry report was not produced before the Tribunal so as to enable the Tribunal to reappraise the evidence and exercise its power u/s 11-A of the Industrial Disputes Act. The said act of the Bank clearly defeats the rights of the petitioner to a fair hearing before the Tribunal and is an act in violation of principles of natural justice.



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10. It is the further submission of the learned counsel that the said Udaya Kumar had misused the terminals, including that of the petitioner and had done the transactions and misappropriated the sums. While the other persons have not been proceeded with and no knowledge is attributed to them, however, the petitioner alone is singled out and fastened with liability for the transactions. While all the employees who reposed confidence in Udaya Kumar, whose credentials and terminals were misused to misappropriate amounts, however, those employees have not been proceeded with and the petitioner, who had joined only in July, 2002, was held to have misappropriated amounts by indulging in fraudulent transactions, which has not been proved by the Bank through the respective vouchers. In the absence of any material to fasten any allegation, much less proof on the petitioner, the punishment inflicted on the petitioner is grossly erroneous, which has not been properly appreciated by the Tribunal and, therefore, the same deserves to be interfered with.

11. Per contra, learned counsel appearing for the Bank submitted that the enquiry was conducted fairly and the petitioner was given opportunity to defend himself. It is the further submission of the learned counsel that the unauthorised



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and fraudulent closing of long term deposit accounts, withdrawal of amounts totalling to Rs.52,800/- by misusing the single window operators's powers and failing to bring the acts of Udhaya Kumar to the notice of the higher authorities were the allegations levelled against the petitioner. The enquiry officer, considering all the materials and evidence placed before him had found the charges proved and by a reasoned order, the disciplinary authority had imposed the punishment and, therefore, the contention of the petitioner that he was wrongfully dismissed from service is incorrect.

12. It is the further submission of the learned counsel that the petitioner was granted all reasonable and adequate opportunity to defend his case and this aspect of the matter has been carefully considered by the Tribunal and on the basis of the materials, the Tribunal has held that the enquiry was conducted in a fair and proper manner adhering to the principles of natural justice. It is therefore the submission of the learned counsel that mere contentions bereft of any plausible and possible materials cannot be the basis to claim violation of principles of natural justice.



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13. It is the further submission of the learned counsel that the mere admission of Udaya Kumar would not be a ground to absolve the petitioner from involvement in the fraud when it is evidenced by the fact that the payments were duly verified by the petitioner with full knowledge of the act. It is the further submission of the learned counsel that the order was not passed on mere presumptions and assumptions and that the inference was drawn from the materials produced before the enquiry in which the petitioner failed to prove that he has not verified the transactions, as the basic proof was submitted by the Bank and the burden was cast upon the petitioner to disprove the allegations, which he miserably failed.

14. It is the further submission of the learned counsel that the petitioner admitted the fact that the transactions were verified by him and the computer verification of the transactions show that the transactions are clearly effected by the petitioner and his denial at a later point of time contradicts his earlier admission. In the backdrop of the above, it is the contention of the learned counsel that the misappropriation of amount has been done by the petitioner himself and the contention that Udaya Kumar had utilised the terminal of several



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employees, including the petitioner cannot be a ground to absolve the petitioner and is not proved through any materials.

15. It is the further submission of the learned counsel that the preliminary report was provided to the petitioner and his contention to the contra that he was not provided with a copy of the report is erroneous as he has admitted in the enquiry that he had received the preliminary report and, therefore, there is no question of violation of principles of natural justice.

16. It is the further submission of the learned counsel that reposing of confidence on Udaya Kumar by the petitioner as has been done by the other staff members as the petitioner was newly transferred to the said Branch is totally baseless and false, as the petitioner was transferred on 26.6.2002, while the transactions have been done by the petitioner on 11.1.2003, 18.1.2003, 6.2.2003 and 8.3.2003. Further, the petitioner was present on all the said days and done through the terminal of the petitioner and were verified by the petitioner himself, therefore, the contention of the petitioner that he is not aware and his terminal was misutilised is wholly erroneous. The petitioner had, with the



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intention to misappropriate, had done the transactions and misappropriated the amount, which has been duly established in the enquiry resulting in the infliction of the punishment and the Tribunal, considering all the materials in proper perspective had confirmed the view of the Disciplinary Authority and this Court, sitting in judicial review shall not interfere with the said punishment and, accordingly, prayed for dismissal of the petition.

17. In support of the aforesaid submissions, learned counsel placed reliance on the following decisions :-

- i) *Dy. Inspector General of Police & Anr. – Vs – S.Samuthiram (2013 (1) SCC 598); and*
- ii) *State Bank of India – Vs – A.G.D. Reddy (2023 SCC OnLine SC 1064)*

18. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record as also the decisions relied on by the learned counsel for the respondent.



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19. The Hon'ble Supreme Court, in ***B.C. Chaturvedi – Vs - Union of India, (1995 (6) SCC 749)***, while dealing with the issue pertaining to the power of the Court relating to judicial review of the order passed by the disciplinary authority, held as under :

“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



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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."

(Emphasis Supplied)



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20. The above view has been reiterated by the Hon'ble Supreme Court in

Principal Secy. Govt. of A.P. - Vs - M. Adinarayana, (2004 (12) SCC 579), wherein,

it has been held as under :-

“23. We have read this charge in the light of allegations in support thereof. In the instant case, it is not disputed that the respondent has neither supplied any prior information on the Government nor did he send any prior intimation to the Government. By not doing this, he has contravened the provisions of Rule 9. The Tribunal has also categorically held that the respondent has not applied for prior information before he purchased the items from the competent authority nor he intimated to the competent authority forthwith soon after the purchase of the several items. Therefore, in our view, the charged officer has violated Rule 9 of the Conduct Rules and thus is guilty of misconduct within Rule 2-H (sic) of the Andhra Pradesh Disciplinary Amendment Act, 1993. In view of the abovesaid finding we hold that respondent is guilty of both the charges framed against him within Rule 2 (b) of the Conduct Rules of 1961 framed under the Amendment Act, 1993.

* * * * *

26. In our opinion, judicial review cannot extend to the examination of the correctness of the charges as it is not an appeal but only a review of the manner in which the decision was made. We have, therefore, no hesitation in setting aside the order of the



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Andhra Pradesh Administrative Tribunal and the judgment of the Division Bench of the High Court for reasons stated (supra). The order passed by the Government removing the respondent from service is in order and, therefore, the appeal filed by the appellant State stands allowed. Further, there will be no order as to costs."

21. In **Director General of Police, RPF & Ors. - Vs – Rajendra Kumar Dubey (C.A. No.3820/2020 dated 25.11.20)**, the Hon'ble Supreme Court, advertent to the various decisions of the Apex Court relating to the interference by the High Court in exercise of its writ jurisdiction with respect to disciplinary proceedings, including the decision in *Chaturvedi's case (supra)*, held as under :-

"12.1 It is well settled that the High Court must not act as an appellate authority, and re-appreciate the evidence led before the enquiry officer.

We will advert to some of the decisions of this Court with respect to interference by the High Courts with findings in a departmental enquiry against a public servant.

*In **State of Andhra Pradesh v S.Sree Rama Rao**, a three judge bench of this Court held that the High Court under Article 226 of the Constitution is not a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant. It is not the function of the High Court under its writ jurisdiction to review the evidence, and arrive at an independent*



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finding on the evidence. The High Court may, however interfere where the departmental authority which has held the proceedings against the delinquent officer are inconsistent with the principles of natural justice, where the findings are based on no evidence, which may reasonably support the conclusion that the delinquent officer is guilty of the charge, or in violation of the statutory rules prescribing the mode of enquiry, or the authorities were actuated by some extraneous considerations and failed to reach a fair decision, or allowed 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. If however the enquiry is properly held, the departmental authority is the sole judge of facts, and if there is some legal evidence on which the 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 writ petition.

These principles were further reiterated in the **State of Andhra Pradesh v Chitra Venkata Rao**. The jurisdiction to issue a writ of certiorari under Article 226 is a supervisory jurisdiction. The court exercises the power not as an appellate court. The findings of fact reached by an inferior court or tribunal on the appreciation of evidence, are not re-opened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ court, but not an error of fact, however grave it may be. A writ can be issued if it is shown that in



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recording the finding of fact, the tribunal has erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence. A finding of fact recorded by the tribunal cannot be challenged on the ground that the material evidence adduced before the tribunal is insufficient or inadequate to sustain a finding. The adequacy or sufficiency of evidence led on a point, and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the tribunal.

In subsequent decisions of this Court, including **Union of India v. G. Ganayutham, Director General RPF v. Ch. Sai Babu, Chennai Metropolitan Water Supply and Sewerage Board v T.T. Murali, Union of India v. Manab Kumar Guha**, these principles have been consistently followed.

In a recent judgment delivered by this Court in the **State of Rajasthan & Ors. v. Heem Singh** this Court has summed up the law in following words :

“33. In exercising judicial review in disciplinary matters, there are two ends of the spectrum. The first embodies a rule of restraint. The second defines when interference is permissible. The rule of restraint constricts the ambit of judicial review. This is for a valid reason. The determination of whether a misconduct has been committed lies primarily within the domain of the disciplinary authority. The judge does not assume the mantle of the disciplinary authority. Nor does the judge wear the hat of an employer. Deference to a finding of fact by the disciplinary authority is a recognition of the idea that it is the employer who is



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responsible for the efficient conduct of their service. Disciplinary enquiries have to abide by the rules of natural justice. But they are not governed by strict rules of evidence which apply to judicial proceedings. The standard of proof is hence not the strict standard which governs a criminal trial, of proof beyond reasonable doubt, but a civil standard governed by a preponderance of probabilities. Within the rule of preponderance, there are varying approaches based on context and subject. The first end of the spectrum is founded on deference and autonomy – deference to the position of the disciplinary authority as a fact finding authority and autonomy of the employer in maintaining discipline and efficiency of the service. At the other end of the spectrum is the principle that the court has the jurisdiction to interfere when the findings in the enquiry are based on no evidence or when they suffer from perversity. A failure to consider vital evidence is an incident of what the law regards as a perverse determination of fact. Proportionality is an entrenched feature of our jurisprudence. Service jurisprudence has recognized it for long years in allowing for the authority of the court to interfere when the finding or the penalty are disproportionate to the weight of the evidence or misconduct. Judicial craft lies in maintaining a steady sail between the banks of these two shores which have been termed as the two ends of the spectrum. Judges do not rest with a mere recitation of the hands-off mantra when they exercise judicial review. To determine whether the finding in a disciplinary enquiry is based on some evidence an initial or



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threshold level of scrutiny is undertaken. That is to satisfy the conscience of the court that there is some evidence to support the charge of misconduct and to guard against perversity. But this does not allow the court to re-appreciate evidentiary findings in a disciplinary enquiry or to substitute a view which appears to the judge to be more appropriate. To do so would offend the first principle which has been outlined above. The ultimate guide is the exercise of robust common sense without which the judges' craft is in vain."

*In **Union of India v. P. Gunasekaran**, this Court held that the High Court in exercise of its power under Articles 226 and 227 of the Constitution of India shall not venture into re-appreciation of the evidence. The High Court would determine whether : (a) the enquiry is held by the 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 which are 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*



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had erroneously admitted inadmissible evidence which influenced the finding; (i) the finding of fact is based on no evidence.

In paragraph 13 of the judgment, the Court held that :

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

- (i) re-appreciate the evidence;*
- (ii) interfere with the conclusions in the enquiry, in the 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;*
- (vii) go into the proportionality of punishment unless it shocks its conscience.”*

(Emphasis Supplied)

22. From the ratio laid down above, it is implicitly clear that the Courts, in exercise of its power of judicial review, cannot extend the examination to the correctness of the act of the disciplinary authority, but only limit itself to the manner in which the decision has been arrived at by the authority and whether



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the same is in accordance with law. This Court is to test only the correctness of the decision arrived at by the authority on the basis of the evidence before it, which has since been confirmed by the Tribunal and not proceed with the case as if it is an appeal against the order of punishment.

23. It has been further held in the said decisions that so long as the enquiry is not defective the Court has to only see whether there was a *prima facie* case for dismissal and whether the employer had come to the *bona fide* conclusion that the employee was guilty of misconduct. What is further to be seen is that the conclusion arrived at by the employer is *bona fide* as to the guilt of the employee and that there was no unfair labour practice or victimization involved and to satisfy itself with regard to the punishment imposed. However, if the enquiry is found to be defective for any reason, the Labour Court would also have to consider for itself on the evidence adduced before it whether the dismissal was justified.

24. The Hon'ble Supreme Court, in *Rajendra Kumar Dubey's case (supra)*, following the ratio laid down in *Gunasekaran's case* has held that the High Court,



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sitting under Article 226 of the Constitution, while determining its scope of interference in a departmental proceedings is only bound to determine whether

(a) the enquiry is held by the 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 which are 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.

25. It is to be stressed that the Court 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 disciplinary authority is the sole



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judge of facts. Where appeal is presented, the appellate authority has coextensive power to reappraise 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. It has been the consistent view of the Courts that the nature of evidence required in a disciplinary proceeding is not on the same level as required in a criminal trial, as in the disciplinary proceedings, the finding is arrived at on the basis of preponderance of probabilities. In such a scenario, it is not the function of the High Court under its writ jurisdiction to review the evidence, and arrive at an independent finding on the evidence. If the enquiry is properly held within the four boundaries of legal necessities, then the departmental authority is the sole judge of facts, and if there is some legal evidence on which the 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 writ petition. An error of law which is apparent on the face of the record can be corrected by a writ court, but not an error of fact, however grave it may be. High Court in exercise of its power under Articles 226 and 227 of the Constitution of India shall not venture into re-



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appreciation of the evidence and further the Supreme Court has also codified the circumstances under which re-appreciation of evidence is permissible.

26. The words of eminent jurist V.R.Krishna Iyer, J., resonates loud, where His Lordship (as he then was), had stated that *“The simple point is, was there some evidence or was there no evidence not in the sense of the technical rules governing regular court proceedings but in a fair common-sense way as men of understanding and wordly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny”*.

27. Bearing the first test principles in mind, this Court, before embarking upon analysing the materials on record in the light of the ratio laid down above, is bound to point out that the contention on behalf of the petitioner that the act of misappropriation and bribery should be proved through direct evidence, is wholly erroneous, as it has been the consistent view of the courts that insofar as domestic enquiry is concerned, the degree of proof relating to the allegation in a domestic enquiry is not akin to the degree of evidence, which is required in a criminal trial, as in a criminal trial, the standard of proof is proof beyond



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reasonable doubt, whereas in a domestic enquiry, the standard of proof is on preponderance of probability and, therefore, there arises no necessity for direct evidence to be placed, so long as the documentary evidence probabilises the allegation. In the case on hand, act of misappropriation on the part of the delinquent is sought to be proved through documentary evidence, which cannot be said to be sufficient as no ocular testimony is necessary when the whole case is premised on documents. Therefore, the aforesaid contention does not merit acceptance.

28. Further, the contention of the petitioner that the persons, who were working at the Branch at the relevant point of time were not examined and, therefore, it vitiates the enquiry cannot be accepted for the reason that it is within the purview of the Bank to examine the witnesses and if at all the petitioner wants to establish anything, the petitioner ought to have summoned the witnesses and calling upon the Bank to produce witnesses is not within the choice of the petitioner. Therefore, the said contention is also liable to be dismissed.



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29. Further, a careful perusal of the order of dismissal passed by the disciplinary authority, which has, hitherto been approved by the Tribunal reveals that the preliminary investigation officer was examined as M.W.2, who has clearly spoken about the acts of the petitioner. On the crucial dates, when the alleged transactions had taken place, the petitioner was not only in attendance, but was also operating his terminal at the single window and the transactions have been authorised by the petitioner. The above facts have been revealed through the relevant materials and also discussed in the enquiry and the Tribunal, properly appreciating the above, had confirmed the punishment imposed on the petitioner. A careful perusal of the above therefore reveals that there are enough materials to establish the act of misappropriation on the part of the petitioner.

30. Further, the contention of the petitioner that only Xerox copy of the investigation report was filed before the Tribunal cannot be a ground to discredit the finding recorded by the Tribunal. The authenticity of the investigation report is not questioned and such being the case, merely because copy of the report is submitted would not be a ground to doubt the veracity of the report.



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31. Further, it is to be noted that the petitioner was provided with sufficient opportunity to establish his case which is due compliance of principles of natural justice and such being the case, the claim of the petitioner that he was denied opportunity cannot be accepted as no material to evidence the same has been placed to substantiate the said contention.

32. It is to be noted that the allegation levelled against the petitioner is of a very grave nature. The petitioner, who is entrusted with the task of handling public money, highest standards of probity is expected of the said individual. However, without adhering and maintaining the highest standards of probity, the petitioner had indulged in acts, which were prejudicial to the interest of the customers and had brought down the reputation of the bank in the face of the general public. Persons employed in institutions, which handle public money, should exhibit highest standards of probity and purity and should maintain themselves with utmost integrity and honesty, else the trust reposed on the said individuals as well as the institution would diminish in the eyes of the general public and its customers.



33. In the case on hand, the petitioner had acted prejudicial to the interest of the institution, which had given him his livelihood, but without the scantiest regard for the said act, the petitioner had indulged in acts, which had not only brought down the reputation of the institution, but had brought disrepute to him as well and such an act had resulted in the act of dismissal of the petitioner from service.

34. In **Boloram Bordoloi – Vs – Lakhimi Gaolia Bank & Ors. (2021 (3) SCC 806)**, the Supreme Court had occasion to consider a similar issue relating to procedural lapses in the discharge of duty by the appellant therein, as Manager of the bank and in the said context held as under :-

“13. The manager of a bank plays a vital role in managing the affairs of the bank. A bank officer/employee deals with the public money. The nature of his work demands vigilance with the inbuilt requirement to act carefully. If an officer/employee of the bank is allowed to act beyond his authority, the discipline of the bank will disappear. When the procedural guidelines are issued for grant of loans, officers/employees are required to follow the same meticulously and any deviation will lead to erosion of public trust on the banks. If the manager of a bank indulges in such misconduct, which is evident from



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the charge memo dated 18.06.2004 and the findings of the enquiry officer, it indicates that such charges are grave and serious. In spite of proved misconduct on such serious charges, disciplinary authority itself was liberal in imposing the punishment of compulsory retirement. In that view of the matter, it cannot be said that the punishment imposed in the disciplinary proceedings on the appellant, is disproportionate to the gravity of charges. As such, this submission of the learned counsel for the appellant also cannot be accepted.”

35. In the said case, the nature of the work discharged by the workman therein required maintenance of the highest standards of probity and integrity and is bound to follow the procedures prescribed, which are in the interest of the employer. In the case on hand, the charge specifically relates to misappropriation, which is following the footsteps of one other person, who was also proceeded with. Merely because the said individual had accepted his involvement would not in any manner absolve the petitioner as on the crucial dates the petitioner was very well in attendance and was operating his terminal, which fact has not been disputed and such being the case, the finger of guilt points on the petitioner and it is the duty of the petitioner to place relevant materials to extricate himself from the said allegation, which the petitioner has



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failed to do. Therefore, the finding of guilt by the disciplinary authority, as confirmed by the Tribunal cannot be said to be perverse or erroneous.

36. The proportionality of the punishment inflicted on the delinquent had been considered by the Apex Court in **V.S.P. – Vs - Goparaju Sri Prabhakara Hari Babu (2008 (5) SCC 569)**, and it was held as under:-

“12. While answering the aforesaid question/issue, the decision of this Court in the case of Goparaju Sri Prabhakara Hari Babu (supra), on the judicial review and the limited jurisdiction of the High Court on the proportionality of the order of departmental authority is required to be referred to. In the said decision, after referring to a catena of judgments of this Court, it is observed and held by this Court that the jurisdiction of the High Court on the proportionality of the order of departmental authority is limited. It is observed that it cannot set aside a well-reasoned order only on grounds of sympathy and sentiments. It is further observed and held that once it is found that all the procedural requirements had been complied with, courts would not ordinarily interfere with the quantum of punishment imposed upon a delinquent employee. It is further observed that the superior courts, only in some cases may invoke the doctrine of proportionality, however if the decision of an employer is found to



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be within the legal parameters, the doctrine would ordinarily not be invoked when the misconduct stands proved.”

37. The precedents on the issue of interference with the punishment imposed has been oft considered by the Courts and it has been the consistent view of the Courts that it is always within the domain of the disciplinary authority to decide on the punishment to be imposed on the delinquent, which should be proportionate to the act of the delinquent. Only when the punishment is disproportionate and shocking to the conscience, should the courts interfere in the same in exercise of powers under Article 226. In ***Prem Nath Bali – Vs - High Court of Delhi (2015 (16) SCC 415)***, the Supreme Court held as under :-

“20. It is a settled principle of law that once the charges leveled against the delinquent employee are proved then it is for the appointing authority to decide as to what punishment should be imposed on the delinquent employee as per the Rules. The appointing authority, keeping in view the nature and gravity of the charges, findings of the inquiry officer, entire service record of the delinquent employee and all relevant factors relating to the delinquent, exercised its discretion and then imposed the punishment as provided in the Rules.



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21. Once such discretion is exercised by the appointing authority in inflicting the punishment (whether minor or major) then the courts are slow to interfere in the quantum of punishment and only in rare and appropriate case substitutes the punishment. Such power is exercised when the court finds that the delinquent employee is able to prove that the punishment inflicted on him is wholly unreasonable, arbitrary and disproportionate to the gravity of the proved charges thereby shocking the conscience of the court or when it is found to be in contravention of the Rules. The Court may, in such cases, remit the case to the appointing authority for imposing any other punishment as against what was originally awarded to the delinquent employee by the appointing authority as per the Rules or may substitute the punishment by itself instead of remitting to the appointing authority."

(Emphasis Supplied)

38. From the ratio laid down by the Apex Court above, it is crystal clear that the power to interfere with the punishment should be exercised only if the delinquent employee is able to prove that the punishment inflicted on him is wholly unreasonable, arbitrary and disproportionate to the gravity of the proved charges and, thereby, shocking the conscience of the Court or if it is in contravention of the Rules.



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39. In the case on hand, there is neither contravention of rules nor there is violation of principles of natural justice. The domestic enquiry being on preponderance of probability, the Bank had probalised its case which has resulted in the said punishment and the allegation, which has been proved, being so very grave, the punishment of dismissal from service imposed on the punishment cannot be said to be a punishment which shocks the conscience of this Court. Therefore, this Court is of the considered view that no interference is warranted with the confirmation of punishment imposed on the petitioner.

40. For the reasons aforesaid, this writ petition lacks merit and, accordingly, the same is dismissed confirming the order impugned herein dated 5.5.2014 made in ID No.86/2011 passed by the 1st respondent. In the circumstances of the case, there shall be no order as to costs.

18.03.2025

Index : Yes / No

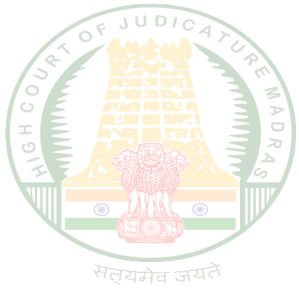
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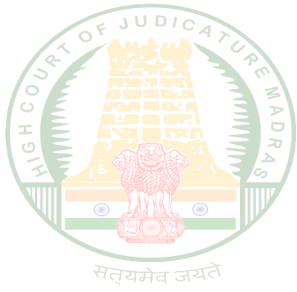


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To

The Presiding Officer
Central Government Industrial Tribunal
Cum Labour Court
I Floor, 'B' Wing, No.26, Haddows Road
Shastri Bhavan, Chennai 600 006.



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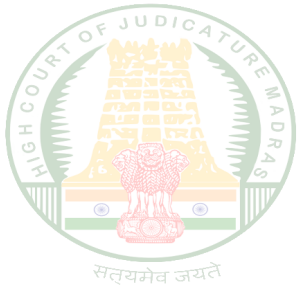
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M.DHANDAPANI, J.

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**PRE-DELIVERY ORDER IN
W.P. NO. 428 OF 2015**

Pronounced on



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