



WP.No.13729 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2025

CORAM

**THE HONOURABLE MS. JUSTICE R.N.MANJULA**

W.P No.13729 of 2018

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Mr. Lionel A.R. Samuel,  
Aged about 61 years,  
S/o Late Sri J.P. Samuel,  
R/o. H.No.4/381,  
Ram Gardens, Anna Salai,  
Palavakkam,  
Chennai-600 041.

...

Petitioner

/vs/

R1-THE GENERAL MANAGER (HR)  
And Disciplinary Authority,  
Union Bank of India,  
Human Resources Department (IR),  
'Head Office' Dr. Pattabhi Bhavan,  
5-9-11 Saifabad,  
Hyderabad - 500 004.

R-2 THE EXECUTIVE DIRECTOR  
And Appellate Authority,  
Union Bank of India,  
'Head Office' Dr. Pattabhi Bhavan,  
5-9-11, Saifabad,  
Hyderabad - 500 004.

....

Respondents

[CAUSE TITLE for R1 AND R2 AMENDED AS PER  
ORDER DATED 19.02.2025 IN WMP.6595/2025  
IN WP.13729/2018 made BY RNMJ.]

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India to issue a WRIT of CERTIORARIFIED MANDAMUS calling for the records of the



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order dated 10.3.2016 in L.R.No.666/20/V/T-1590/829 on the also the 2nd Respondent file of the Respondent. 1 and also the 2nd respondent order dated 12.09.2017 and to quash the same as arbitrary, illegal and not sustainable in law and direct the Respondents bank to pay the petitioner with all his consequential of his entire service benefits till his superannuation dated 31.03.2017 including pension payable to the petitioner by the Respondent's bank.

For Petitioner : Mr. B.Kumarasamy  
for M/S.V.R.Karthikeyan.

For Respondents : Ms.Rita Chandrasekar for  
M/S.Aiyer & Dolia for R1 & R2

### **ORDER**

The petitioner has filed a petition seeking a Writ of Certiorarified Mandamus to call for the records of the order dated 10.03.2016 in L.R.No.666/20/V/T-1590/829 on the file of the first respondent and also the second respondent's order dated 12.09.2017 and to quash the same as arbitrary, illegal, and not sustainable in law and direct the respondents bank to pay the petitioner with all his consequential entire service benefits till his superannuation dated 31.03.2017 including pension payable to the petitioner by the respondents bank.

2. Heard Mr. B.Kumarasamy, learned counsel for the petitioner and



Ms.Rita Chandrasekar, learned counsel for the respondents and perused the materials available on record.

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3. The petitioner, who was removed from service due to proven charges of irregularities, has filed this writ petition challenging the order of dismissal dated 10.03.2016 and the order of the appellate authority confirming the punishment, dated 12.05.2017. The petitioner has been given a charge memo dated 08.05.2015, on the allegations that,

"(i) The petitioner had sanctioned 51 house loans during the period from 15.10.2011 to 31.01.2014 without following the extant guidelines, and the disbursement of loans was carried out without ensuring the stage-wise completion of construction;

(ii) He disbursed loans directly to the credit of vendors, contrary to the accepted procedure of making payments through demand drafts at the time of registration, with payment particulars duly incorporated in the sale deeds. This resulted in sellers denying payment and borrowers refusing to repay the bank loans.

(iii) Some of the loans, listed as 1 to 35, were released without collecting the borrowers' margin money, in violation of the extant guidelines;

(iv) In 41 cases, the petitioner released loan instalments for housing loans based on the estimated value upon completion of construction rather than on a stage-wise report approved by the engineer;



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(v) The transactions found in some cases in respect of the disbursed and undisbursed portion of the loan, just by adjusting it in the same loan account, as though it is a recovery. But in reality, no actual recovery has been made;

(vi) 21 house loans were sanctioned without conducting due diligence. Sale deeds were not registered in favour of the purchasers, possession was not handed over along with title deeds, and disbursements were made to one of the six vendors without due authorization;

(vii) The loans were disbursed through RTGS and NEFT instead of issuing demand drafts at the time of registration, with the details duly incorporated in the sale deeds and several other charges, totalling 21 charges."

4. After having been found guilty and on the observation that the acts of the petitioner had exposed the bank to huge financial loss, the petitioner has been imposed with a major penalty of dismissal from service. The appeal preferred by the petitioner challenging the above order was also dismissed by confirming the orders of punishment imposed by the disciplinary authority.

5. The learned counsel for the petitioner submitted that the order of punishment has been filed arbitrarily without any application of mind. He further



submitted that sufficient opportunity was not given to the petitioner and there is a violation of principles of natural justice. The charges proved are trivial in nature, for which the major penalty of dismissal from service has been imposed.

6. The learned counsel for the respondent submitted that the powers of judicial review against the orders of the appointment imposed by the authorities in disciplinary proceedings cannot be expected to be exercised as those of the powers of the appellate authority. Unless there is any unfair treatment while conducting the enquiry, the findings are patently perverse and no interference can be done. The petitioner has been charged for various allegations of sanctioning loans and disbursing the same in a very shortsighted manner and violating the extant guidelines of the bank; his negligence and callousness had exposed the bank to heavy financial risk and loss.

7. The petitioner had participated in the enquiry proceedings by submitting his explanation. The petitioner has not produced any materials to show that he had requested any important documents for perusal and that he was denied the opportunity to pursue them. Having participated in the enquiry process without any compliance, the petitioner now has raised the allegation that he was not given a fair opportunity just for the purpose of this petition.



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8. It is needless to state that the time and again, in various decisions, it has been held by the Hon'ble Supreme Court that the powers of the judicial review on the findings of guilt against the delinquent employee cannot be intercepted in a routine manner unless there are any gross violations. In this regard it is appropriate to refer to the judgement of the hon'ble Supreme Court in ***Union of India and others Vs. Subrata Nath*** reported in ***2022 SCC OnLine SC 1617***, wherein it is held that even with regard to quantum of punishment, if the decision of the employer is found to be within the legal parameter, the jurisdiction of the superior Courts shall not be exercised under Article 226 of the Constitution of India. The essential part of the above judgement in this regard is extracted below:

*"16. In ***State Bank of Bikaner and Jaipur v. Nemi Chand Nahwaya*** 7, a two Judge Bench of this Court held as below :*

*"7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of*



natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations. (Vide *B.C. Chaturvedi v. Union of India*<sup>8</sup>, *Union of India v. G. Ganayutham*<sup>9</sup>, *Bank of India v. Degala Suryanarayana*<sup>10</sup> and *High Court of Judicature at Bombay v. Shashikant S. Patil*<sup>11</sup>). [Emphasis laid]

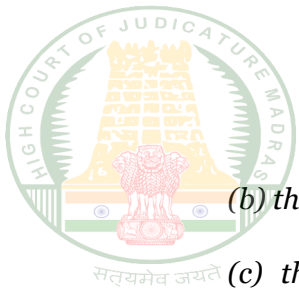
**17.** In *Chairman & Managing Director, V.S.P. and Others v. Goparaju Sri Prabhakara Hari Babu*<sup>12</sup>, a two Judge Bench of this Court referred to several precedents on the Doctrine of Proportionality of the order of punishment passed by the Disciplinary Authority and held that :

“21. Once it is found that all the procedural requirements have been complied with, the courts would not ordinarily interfere with the quantum of punishment imposed upon a delinquent employee. The superior courts only in some cases may invoke the doctrine of proportionality. If the decision of an employer is found to be within the legal parameters, the jurisdiction would ordinarily not be invoked when the misconduct stands proved.”

**18.** Laying down the broad parameters within which the High Court ought to exercise its powers under Article 226/227 of the Constitution of India and matters relating to disciplinary proceedings, a two Judge Bench of this Court in *Union of India and Others v. P. Gunasekaran*<sup>13</sup> held thus :

“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 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;



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

**19.** In *Union of India and Others v. Ex. Constable Ram Karan* 14, a two Judge Bench of this Court made the following pertinent observations :



*“23. The well-ingrained principle of law is that it is the disciplinary authority, or the appellate authority in appeal, which is to decide the nature of punishment to be given to the delinquent employee. Keeping in view the seriousness of the misconduct committed by such an employee, it is not open for the courts to assume and usurp the function of the disciplinary authority.*

*24. Even in cases where the punishment imposed by the disciplinary authority is found to be shocking to the conscience of the court, normally the disciplinary authority or the appellate authority should be directed to reconsider the question of imposition of penalty. The scope of judicial review on the quantum of punishment is available but with a limited scope. It is only when the penalty imposed appears to be shockingly disproportionate to the nature of misconduct that the courts would frown upon. Even in such a case, after setting aside the penalty order, it is to be left to the disciplinary/appellate authority to take a call and it is not for the court to substitute its decision by prescribing the quantum of punishment. However, it is only in rare and exceptional cases where the court might to shorten the litigation may think of substituting its own view as to the quantum of punishment in place of punishment awarded by the competent authority that too after assigning cogent reasons.”*

*20. A Constitution Bench of this Court in [State of Orissa and Others](#) (supra) held that if the order of dismissal is based on findings that establish the prima facie guilt of great delinquency of the respondent, then the High Court cannot direct reconsideration of the punishment imposed. Once the gravity of the misdemeanour is established and the inquiry conducted is found to be consistent with the prescribed rules and reasonable opportunity contemplated under the rules, has been afforded to the delinquent employee, then the punishment imposed is not open to judicial review by the Court. As long as there was some evidence to arrive at a conclusion that the Disciplinary Authority did, such an order becomes unassailable and the High Court ought to forebear from interfering. The above view has been expressed in [Union of India v. Sardar Bahadur](#)<sup>15</sup>.”*



**9.** In the instant case, the enquiries were found to be held by the competent authority in accordance with the procedure prescribed in this regard. No substance has been produced to establish the allegations that there was a violation of principles of natural justice while conducting the enquiry proceedings.

**10.** Each of the allegations and the petitioner's explanation has been dealt by the authorities on the basis of the materials available, and the orders are speaking ones. The orders passed by the disciplinary authority and the appellate authority, on the face of it, do not seem to be arbitrary or unreasonable. The punishment imposed on the petitioner is not found to be disproportionate in view of the multiple charges involving heavy financial transactions where the petitioner was found to be negligent, over-sighted, and unreasonable. So there is no necessity for this Court to re-appreciate the evidence and have to interfere with the conclusion of the enquiry officer. This Court is not expected to re-appreciate the evidence as that of an appellate authority or interfere with the conclusions unless there is any violation of fair procedure. It is unnecessary to interfere in the decision of the respondent authorities.

**11.** The serious misconduct committed by the petitioner was the basis on which the authorities have chosen to impose the capital punishment of removal from service. The various charges proved against the petitioner would only justify



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the actions of the respondents in imposing and confirming the punishment of removal from service. So the punishment of the removal from service in the case of the petitioner in the context of the charges proved seemed to be appropriate and not disturbing the conscious. Hence, I find no reason for interference.

In the result, this writ petition is **dismissed**. No costs.

**19.02.2025**

Internet : Yes/No  
Speaking:Non-Speaking  
Neutral: Yes/No  
jrs

**R.N.MANJULA, J.**  
jrs

To  
1.THE GENERAL MANAGER (HR)  
And Disciplinary Authority,

11/12



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Union Bank of India,  
Human Resources Department (IR),  
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