



W.P. No.29208/2017

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 08.04.2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.29208 OF 2017

S.D.Srinivasan
S/o S.R.Desigan
Regional Secretary
Vijaya Bank Workers' Organisation
No.60, Big Street, Triplicane
Chennai 600 005.

.. Petitioner

- Vs -

The General Manager
Vijaya Bank, Personnel Department
Head Office, No.41/2, M.G.Road
Bangalore 560 001.

.. Respondent

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records on the file of the Central Government Industrial Tribunal cum Labour Court, Chennai in Industrial dispute No.41/2010 vide order dated 6.5.2014 and quash the same and consequently direct the respondent bank to reinstate the P.Natarajan with all consequential service benefits.



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For Petitioner : Mr. L.Chandrakumar, for
Mr. M.Guruprasad

For Respondent : Mr. S.Sandesh Saravanan, for
M/s.I.Rollence Samuel Raman &
Associates

ORDER

Aggrieved by the order dated 06.05.2014 passed by the Central Government Industrial Tribunal cum Labour Court, Chennai in I.D. No.41/2010, confirming the punishment of removal from service along with superannuation benefits imposed on the workman, the present writ petition has been filed on behalf of the workman by the Regional Secretary to the Workers Organisation.

2. One Natarajan was appointed as clerical staff in the respondent bank for over a period of 23 years. While working as single window operator at the Dr.Nanjappa Road Branch, Coimbatore during the period from 29.06.2005 to 16.7.2005, disciplinary proceedings were initiated against the said workman on the allegation that he had unauthorisedly debited two account numbers on five occasions to the tune of Rs.45,000/- and Rs.29,000/- respectively. Upon



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issuance of show cause notice, the workman submitted his explanation dated 18.3.2006 by submitting that the debits were made only along with the necessary supporting instruments. However, not being satisfied with the explanation, enquiry was initiated by appointment of enquiry officer. The workman objected to the appointment of enquiry officer submitting that the enquiry officer so appointed was involved in the decision making process during the initiation of the disciplinary proceedings against him. However, without considering the same, the enquiry officer proceeded with the enquiry and concluded the disciplinary proceedings in a biased manner and submitted his report holding the workman guilty. The workman was issued with a second notice along with the enquiry report to which explanation was submitted by the workman. However, not being satisfied with the explanation offered, the workman was imposed with punishment of removal from service with superannuation benefits.

3. Aggrieved by the imposition of punishment, the workman raised an industrial dispute to which the respondent filed a reply. As the conciliation proceedings did not turn out successful, report was filed by the authority,



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whereupon, the industrial dispute was referred to the Tribunal in I.D. No.41/2010.

4. Upon reference of the dispute, the Tribunal took up the reference and on behalf of the workman and the workman examined himself as W.W.2 in addition to the petitioner herein being examined as W.W.1 and marked Exs.W-1 to W-25. On behalf of the bank, while no witnesses were examined, however, Exs.M-1 to M-44 were marked. On the basis of the oral and documentary evidence, the Tribunal concurred with the findings arrived at by the enquiry officer and also upheld the punishment of removal of the petitioner from service along with superannuation benefits by holding that the leniency clearly reveals that there is no disproportionality in the punishment and dismissed the dispute. Aggrieved by the dismissal, the workman has preferred the present writ petition.

5. Learned counsel appearing for the petitioner submits that the order passed by the Tribunal is illegal, perverse and against the probabilities and



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weight of evidence and that the said award is contrary to the documentary and oral evidence available on record.

6. It is the further submission of the learned counsel that the withdrawal cheque leaves produced by the workman had not been properly taken into consideration by the Tribunal to support the withdrawal of cash from the account of the respective customers. It is the further submission of the learned counsel that the supervisor, who had verified the daily slips had not reported any errors nor the audit report found any discrepancies with respect to withdrawal from the customer's accounts. It is therefore the submission of the learned counsel that the complaint having been given after 17 days of the incident, the workman cannot be held responsible for the slips being misplaced.

7. It is the further submission of the learned counsel that without prejudice to the contentions of the workman, the workman had deposited the amounts, that were alleged to have been withdrawn from the account of the account holders and without considering the said fact, punishment of removal



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from service has been inflicted on the workman, which is grossly disproportionate. Accordingly, he prays for allowing the present petition.

8. Per contra, learned counsel appearing for the respondent submitted that in departmental proceedings, it would suffice if the allegation is proved on the touchstone of preponderance of probabilities and strict proof as is required in criminal prosecution is not necessary. The allegations against the petitioner have been proved on the basis of the documents and merely because the workman had paid the amounts, that were alleged to be withdrawn from the accounts cannot form the basis to reduce the punishment, more so, when the workman is employed in a banking industry, where honesty and integrity is of utmost importance.

9. It is the further submission of the learned counsel that it has been the consistent ratio of the courts that the scale of evidence in departmental proceedings is not akin to criminal prosecution and that being the case, the documents which have been placed during the enquiry point directly to the



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culpability on the petitioner, the enquiry officer has rightly held the workman guilty of the of charges.

10. It is the further submission of the learned counsel that the delay in lodging the complaint by the account holders cannot be the basis to doubt the veracity of the complaint as the account holders had no axe to grind against the workman.

11. It is the further submission of the learned counsel that through proper oral and documentary evidence the respondent had proved the delinquency of the workman before the enquiry officer, which has been assessed by the Tribunal and held to be acceptable and this Court, in exercise of its power of judicial review shall not transpose its views to that of the authorities, which is the well settled ratio in service jurisprudence. The documentary evidence, coupled with the oral testimony of the witnesses, who have spoken about the acts of the workman having not been controverted it is the submission of the learned counsel that the only inference that could be drawn is the complicity of the workman in the offence. Therefore, on the



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touchstone of preponderance of probability, the respondent has proved the case against the workman.

12. The respondent has placed all the necessary evidence to prove the culpability of the workman in the offence and had also provided all the materials to the workman and opportunity was also granted to the workman and all the materials have been rightly appreciated before passing the order of dismissal and the Tribunal, properly appreciating all the facts and documents has upheld the order of dismissal, which does not warrant any interference at the hands of this court.

13. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing for the parties and perused the materials available on record.

14. While dealing with the issue pertaining to the power of the Court relating to judicial review of the order passed by the disciplinary authority, the



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Apex Court, in **B.C. Chaturvedi – Vs - Union of India, (1995 (6) SCC 749)**, has

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 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



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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)

15. The Supreme Court in ***Principal Secy. Govt. of A.P. - Vs - M.***

Adinarayana, (2004 (12) SCC 579), has reiterated the aforesaid view, wherein, it has been held as under :-



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“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 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,



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therefore, the appeal filed by the appellant State stands allowed. Further, there will be no order as to costs.”

16. The Apex Court, in **Director General of Police, RPF & Ors. - Vs – Rajendra Kumar Dubey (C.A. No.3820/2020 dated 25.11.20)**, 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 finding on the evidence. The High Court may, however interfere where the departmental*



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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*



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can be issued if it is shown that in 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.



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of fact by the disciplinary authority is a recognition of the idea that it is the employer who is 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 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*



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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.

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)

17. 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



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the manner in which the decision has been arrived at by the authority and whether 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.

18. 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.



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19. 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, 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*.



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20. 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 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. 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



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

21. 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 worldly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny”*.

22. In the backdrop of the aforesaid legal position, even a cursory perusal of the findings recorded by the Tribunal reveal that the complainant, Dr.Sumathi, had been examined as M.W.3 before the enquiry with regard to



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the unauthorized withdrawal. While the complainant, in unequivocal terms, has spoken about her complaint, however, has stated that since the amount was returned by the delinquent, she had withdrawn the complaint.

23. It further transpires from the order of the Tribunal that M.W.2 the auditors, who had audited the accounts of the branch, had given a special report with regard to the withdrawal of the account of the aforesaid complainant, which report speaks about the withdrawal of amount from the account of one Dr.Ajay Prasad Shetty as has been done in the same manner as done to the account of Dr.Sumathi.

24. Further, the order of the Tribunal reveals that M.W.5, the person, who investigated the issue was examined during the enquiry, who has, in his report, given the details in which the withdrawals have been made. The evidence of the said witness reveals that all the ledgers were verified and it did not reveal the existence of any instruments supporting the transactions in question, viz., Exs.M-32 to M-36.



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25. The findings of the Tribunal reveal that all the material documents, which have been placed before the Tribunal were carefully scanned through by the Tribunal before coming to a definitive conclusion that the findings, which have been recorded during the enquiry are fair and proper and is supported by materials, from which a reasonable inference could be drawn with regard to the culpability of the workman. When once the enquiry officer as also the Tribunal, on appreciation of oral and documentary evidence have arrived at a conclusion with regard to the delinquency of the workman, this Court, sitting in judicial review is not permitted to reappraise the evidence as a whole, unless there is perversity and arbitrariness in its appreciation. In the present case, there is neither perversity or arbitrariness in the appreciation of the evidence by the authorities below and in such a scenario, the hands of this Court are tied and this Court cannot interfere with the findings recorded by the authorities. Therefore, the misconduct perpetrated by the workman stands established.

26. Coming to the question of infliction of punishment, it is the stand of the workman that the workman having deposited the amount into the



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account of the account holders, lesser punishment ought to have been given and the punishment of removal from service is disproportionate to the delinquency committed by the petitioner.

27. In ***Boloram Bordoloi – Vs – Lakhimi Gaolia Bank & Ors. (2021 (3) SCC 806)***, the Supreme Court had occasion to consider an issue relating to the discharge of duty by the employee of a 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 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



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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.”

28. 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. Even in the present case, the workman, being an employee in a bank, highest stands of integrity and probity is expected and any infraction would drastically hamper the public confidence imposed on the bank by the general public.

29. 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



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

30. 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**



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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.

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



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authority as per the Rules or may substitute the punishment by itself instead of remitting to the appointing authority.”

(Emphasis Supplied)

31. 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.

32. The act of misappropriation by the workman, though it had been offset later, would in no way grant any benefit to the workman, as in banking industry, the trust of the public in the bank has to be safeguarded and any infraction would directly affect the credibility of the institution. In the present case, the act of the workman in siphoning off the money from the account of the general public, though at a later point of time it was refunded, would not give any leverage for sympathy and the act of the workman not only shocks the conscience of the Court, but has eroded the faith, which the general public



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had invested in the bank. The gravity of the offence, which has been alleged against the petitioner, which had been proved, clearly does not eke any sympathy at the hands of this Court. Any sympathy given to the petitioner would be a mistaken sympathy, as it would be against the interest of justice and would be a travesty of justice to the general public, who had reposed faith on the bank and the act of its employee had, in turn, portrayed the bank in a bad light before its customers.

33. However, inspite of the fact that the gravity of the offence is so enormous, however, the disciplinary authority, while imposing the punishment of removal from service on the workman, had leniently considered his case and had granted superannuation benefits which are otherwise due to the workman, which by itself shows that the punishment could, by no stretch, be termed to be disproportionate to the delinquency committed by the workman. The Tribunal, appreciating the materials, had confirmed the punishment of removal of the petitioner from the service of the bank with superannuation benefits, which, both on facts, as well as law, is



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justified and this Court does not find any infirmity in the same warranting interference.

34. For the reasons aforesaid, this writ petition lacks merit and, accordingly, the same is dismissed confirming the order impugned herein dated 06.05.2014 passed in I.D. No.41/2010 by the Industrial Tribunal-cum-Labour Court, Chennai.

08.04.2025

Index : Yes / No

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To

The Presiding Officer
Industrial Tribunal-cum-Labour Court
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M.DHANDAPANI, J.

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