



W.P. No.30809/2018

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 26.03.2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.30809 OF 2018

S.Nandakumar

.. Petitioner

- Vs -

1. The Presiding Officer
Central Government Industrial Tribunal
-cum-Labour Court, Shastri Bhavan
Haddows Road, Chennai 600 006.

2. The General Manager/Appellate Authority
Indian Bank Head Office/HRM Dept.
No.66, Rajaji Salai, Chennai 600 001.

3. The Asst. General Manager/Disciplinary
Authority, Indian Bank Circle Office
No.510-511, Gandhi Road
Kanchipuram 631 501.

4. The Branch Manager
Indian Bank, Valasaravakkam Branch
Chennai 600 087.

.. Respondents

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 of



W.P. No.30809/2018

WEB COPY

the 1st respondent herein pertaining to the award passed in I.D. No.31/2012 dated 07.03.2014 holding that the punishment of compulsory retirement was justified, quash the same and to direct the 3rd respondent herein to reinstate the petitioner with continuity of service, backwages and all other consequential benefits thereon.

For Petitioner : Mr. G.Purushothaman

For Respondent : Mr. P.Raghunathan, for
M/s.T.S.Gopalan & Co. for
RR-2 to 4

ORDER

Aggrieved by the order dated 30.09.2009 passed by the 2nd respondent/Industrial Tribunal, in I.D. No.28/1989, denying reinstatement and other attendant benefits to the petitioner, the present writ petition has been filed challenging the said order.

2. The petitioner was appointed as peon in Mannady Branch of the bank on 29.11.1984 and, thereafter, transferred to Valasarawakkam Branch during 2001. While working in the said branch, the petitioner was issued with a show cause notice by the 3rd respondent on 16.7.2008 making three



W.P. No.30809/2018

WEB COPY

allegations that the petitioner was frequently unauthorisedly absent, instigating the customers to prefer complaint and was not heeding to the words of the superiors and is disobeying the orders of the superior.

3. The petitioner submitted his explanation to the show cause notice and not being satisfied, three charges were framed against the petitioner and enquiry officer was appointed. After affording opportunity to submit oral and documentary evidence, the enquiry officer filed his report holding the charges proved against the petitioner. Further explanation was called for from the petitioner by furnishing the report of the enquiry officer on 13.11.2009 to which the petitioner submitted his explanation on 28.11.2009. However, not being satisfied with the explanation vide 2nd show cause notice dated 19.12.2009, the disciplinary authority called upon the petitioner to submit his explanation as to the proposed punishment to which the petitioner submitted his explanation on 26.12.2009. Not being satisfied with the explanation offered by the petitioner, the disciplinary authority imposed the punishment of withholding of increment for a period of six months for charge No.1 and compulsory retirement for charge Nos.2 and 3.



W.P. No.30809/2018

WEB COPY

4. Aggrieved by the said punishment imposed, the petitioner preferred an appeal to the 2nd respondent, viz., the appellate authority on 27.01.2010, which was rejected by upholding the punishment vide order dated 13.08.2010. Aggrieved by the said rejection, the petitioner raised an industrial dispute in ID No.31/2012.

5. Upon reference of the dispute, the Tribunal took up the reference and on behalf of the petitioner, the petitioner examined himself as P.W.1 and marked Exs.W-1 to W-22. On the side of the 1st respondent, while no oral evidence was adduced, Exs.M-1 to M-29 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 imposed on the petitioner. Aggrieved by the said award, the present writ petition has been preferred by the petitioner.

6. Learned counsel appearing for the petitioner submitted that the request of the petitioner for grant of time was negatived by the enquiry



W.P. No.30809/2018

WEB COPY

officer, which is in violation of principles of natural justice. It is the further submission of the learned counsel that the documents and list of witnesses were marked behind the back of the petitioner. It is further submitted that no assistance was provided to the petitioner and no adequate opportunity was granted to cross examine the witnesses and the petitioner's request to examine the complainants was rejected by the enquiry officer and the depositions of the witnesses were also not provided to the delinquent. In fine, it is the submission of the learned counsel that there is glaring violations of principles of natural justice, which aspect, though placed before the Labour Court, was not properly considered by the Labour Court resulting in the confirmation of the order of punishment, which deserves interference at the hands of this Court.

7. Per contra, learned counsel appearing for the bank submitted that the petitioner's claim that he was not granted enough opportunities to cross examine the witnesses is wholly erroneous. It is the further submission of the learned counsel that the enquiry proceedings were not challenged before the Tribunal and if really the grievance of no opportunity as claimed by the



W.P. No.30809/2018

WEB COPY

petitioner been true, the petitioner would have challenged the enquiry proceedings. However, the petitioner without challenging the enquiry proceedings, had accepted the findings and filed appeal before the appellate authority, which clearly show that the claim of violation of principles of natural justice is an after-thought, woven by the petitioner for the purpose of enlisting the sympathy of this Court.

8. It is the further submission of the learned counsel that all the charges have been proved before the enquiry officer through proper evidence, which fact has been appreciated by the appellate authority as also the Tribunal and this Court, sitting under judicial review, ought not to interfere with the said findings, unless perversity and arbitrariness is shown. In the present case, there is no claim of perversity or arbitrariness and the charges having been proved, this Court shall not interfere with the order of punishment imposed on the petitioner as confirmed by the appellate authority and the Tribunal. In fine, it is prayed that this Court may dismiss the present petition.



W.P. No.30809/2018

WEB COPY

9. 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.

10. 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



WEB COPY

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 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



W.P. No.30809/2018

WEB COPY

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)

11. 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.



W.P. No.30809/2018

WEB COPY

* * * * *

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

12. 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.



WEB COPY

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 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 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.



WEB COPY

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 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



W.P. No.30809/2018

WEB COPY

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*



WEB COPY

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 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;



W.P. No.30809/2018

WEB COPY

(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)

13. 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 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.

14. 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*



WEB COPY

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.

15. 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*



W.P. No.30809/2018

WEB COPY

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.

16. 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



W.P. No.30809/2018

WEB COPY

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

17. 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*



W.P. No.30809/2018

WEB COPY

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”.

18. Keeping the ratio laid down on the subject issue, a careful perusal of the impugned order in and by which the punishment of compulsory retirement from service has been confirmed, it reveals that the Tribunal has browsed through all the documents, which have been filed by the petitioner as well as the bank while rendering its finding. The Tribunal has made a categorical recording that the documents filed by the bank clearly proves that the charges relating to absenteeism, disobedience to the orders of the superiors and instigating the customers against the bank have clearly been proved. Though the petitioner claims that there is violation of principles of nature justice, however, the records speak otherwise and it shows that the petitioner was provided with the opportunity. Therefore, the claim for violation of principles of natural justice cannot be countenanced.



W.P. No.30809/2018

WEB COPY

19. In this backdrop, it is to be noted that the charges, which have been leveled against the petitioner and which have been proved, clearly show the disinclination of the petitioner to be respectful to his superiors and to follow the orders of the superiors. Further, the acts of the petitioner in instigating the customers clearly show the attitude of the petitioner towards his employer and it is evident that the interests of the employer has been thrown to the winds by the petitioner. Further, the act of the petitioner in being absent without proper intimation clearly shows the scant regard and respect that the petitioner has towards the bank.

20. Though a ground has been taken on behalf of the petitioner that the petitioner was not permitted to examine certain witnesses, however, such a stand has not been taken before the Tribunal and, therefore, when the order of the Tribunal is being tested by this Court under its revisional jurisdiction, it is not open to the petitioner to raise new grounds, which have not been raised before the Tribunal and, therefore, the said grounds are liable for rejection.



W.P. No.30809/2018

WEB COPY

21. The charges having been held to be proved in the enquiry upon which action has been taken by the 3rd respondent, who had come to the conclusion that the continuance of the petitioner would definitely result in the decimation of the stature of the bank in the eyes of the public and, therefore, the disciplinary authority had taken the decision to punish the petitioner, in the light of the discussion made above and the materials on record, the said view cannot be found fault with.

22. The Tribunal, in extenso, has considered all the materials, both oral and documentary placed before it and also analysed the enquiry report and had come to the categorical conclusion that the petitioner had committed the act of delinquency and had concurred with the findings recorded by the enquiry officer, but had interfered with a portion of the punishment imposed on the petitioner.

23. It is to be noted that the allegation levelled against the petitioner is of a very grave nature, which not only borders on the working of the bank, but also the duty of the petitioner and his manner before his superiors. In the



W.P. No.30809/2018

WEB COPY

case on hand, the petitioner had acted prejudicial to the interest of the bank, which had given him his livelihood, but without the scantiest regard for the same, the petitioner had indulged in acts, which had not only brought down the reputation of the bank, but had brought disrepute to him as well.

24. Now the only question that requires determination is the proportionality of the punishment vis-à-vis the delinquency of the petitioner. The proportionality of the punishment inflicted on a delinquent vis-à-vis the charges framed 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



W.P. No.30809/2018

WEB COPY

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.”

25. 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



W.P. No.30809/2018

WEB COPY

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

(Emphasis Supplied)

26. 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



W.P. No.30809/2018

WEB COPY

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.

27. In the present case, the allegations levelled against the petitioner, as aforesaid, had hampered the functioning of the bank and decimated the stature of the superiors in the eyes of the general public. Further the act of frequent absenteeism of the petitioner without intimation, had put the functioning of the bank in a perilous position and the functioning of the bank had been impacted. All the above acts put together had resulted in the disciplinary authority deciding to compulsorily retire the petitioner from the services of 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.



W.P. No.30809/2018

WEB COPY

28. It should also not be lost sight of that even while punishing the petitioner, the disciplinary authority had taken into consideration the length of service put in by the petitioner and had imposed the punishment of compulsory retirement from service for the allegations levelled under charges 2 and 3 and for stoppage of increment for the allegation under charge No.1, which punishment relating to charge No.1 has since been set aside by the Tribunal while confirming the punishment imposed for charges 2 and 3. In fact, taking a beneficial view insofar as the petitioner is concerned, the 3rd respondent had compulsorily retired the petitioner, which punishment, by no stretch, could be termed to be disproportionate shocking the conscience of this Court. The punishment, which has been confirmed by the Tribunal to be imposed on the petitioner, both on facts, as well as law, is justified and this Court does not find any infirmity in the same warranting interference.

29. For the reasons aforesaid, this writ petition lacks merit and, accordingly, the same is dismissed confirming the order impugned herein dated 07.03.2014 passed in I.D. No.31/2012 by the Industrial Tribunal, Chennai.



WEB COPY



W.P. No.30809/2018

07.02.2025

Index : Yes / No

GLN



W.P. No.30809/2018

WEB COPY

To

The Presiding Officer
Industrial Tribunal, Chennai.



WEB COPY



W.P. No.30809/2018

M.DHANDAPANI, J.

GLN

W.P. NO.30809 OF 2018



WEB COPY



W.P. No.30809/2018

26.03.2025