

W.A.(MD)No.1 of 2023

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

| <i>Judgment Reserved On</i> | <i>Judgment Pronounced On</i> |
|-----------------------------|-------------------------------|
| <b>22.04.2025</b>           | <b>18.07.2025</b>             |

**CORAM:**

**THE HONOURABLE MRS.JUSTICE J. NISHA BANU**  
**and**  
**THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.A(MD)No.1 of 2023**  
**and**  
**C.M.P.(MD)No.30 of 2023**

1.Assistant General Manager (OAD),  
Disciplinary Authority,  
State Bank of India,  
Circle Top House, No.16 College Lane,  
Chennai – 600 006.

2.Enquiry Officer,  
State Bank of India,  
FIMM RACC, Distillery Road,  
Nagercoil – 629 001.

... Appellants

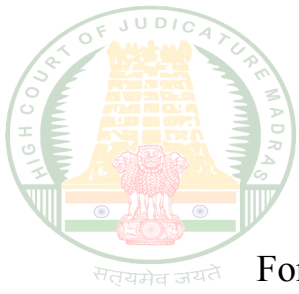
-Vs-

S.Raja

... Respondent

**Prayer:** Writ Appeal filed under Clause 15 of the Letter Patent against the order of this Court in W.P.(MD).No.14100 of 2021, dated 11.10.2022.

For Appellants : Mr.M.Ajmalkhan  
Senior Counsel  
For Mr.M.Ponniah



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For Respondent

: M.s/K.Sumathi  
For Mr.S.Suresh

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### **JUDGMENT**

(Judgment of the Court was delivered by **S.SRIMATHY, J.**)

The present W.A.(MD)No.1 of 2023 is filed by the respondents in the writ petition challenging the order dated 11.10.2022 passed in W.P.(MD)No. 14100 of 2021.

2. The writ petition was filed for Certiorarified Mandamus, to quash the penalty order dated 23.07.2021 passed by the 1<sup>st</sup> respondent and to direct the respondents to reinstate the petitioner with all attendant benefits.

3. The brief facts are that the writ petitioner is a dismissed employee and was serving as Special Assistant (Cash-in-charge) / cashier at Thingal Nagar Branch of State Bank of India from 30.06.2010 to 20.10.2015. The 1<sup>st</sup> respondent was the Disciplinary Authority and the 2<sup>nd</sup> respondent was the Enquiry Officer who conducted departmental enquiry. One of petitioner's duties is to replenish cash running in lakhs in ATM on daily basis along with an Officer called "Joint Custodian". The procedure governing the mechanism of



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replenishing cash is stipulated in ATM Manual (June, 2008) which involves fool proof technology and 8 CCTV cameras will be recording and monitoring the act of “Joint Custodians Replenishing Cash”. After loading the cash, ATM would generate a slip called “supervisory and admin slip” which will reflect the balance in the ATM before and after replenishment and this Admin slip is the most important document and should be checked in case of shortage and the slips should be maintained for 8 years as per ATM rules. Earlier when the petitioner was serving as cashier, one Ms.Vanitha who was the Accounts Officer / Deputy Manager was the Joint Custodian, who is the superior officer was the custodian of the hood key of the ATM. But she would never accompany the petitioner but would hand over the hood key and her password voluntarily and would instruct the petitioner to replenish cash along with messenger. CCTV footage would reveal that the petitioner had on several occasions replenished cash in the absence of Ms. Vanitha and always with her knowledge. Also the steps involved in opening the ATM doors would clearly show that it is impossible to open the ATM without the knowledge of Ms.Vanitha. Chapter 13.09 of ATM Manual deals with handling of keys of ATM. There are two doors in an ATM machine to be opened. In step one, the hood key is used to access the inside of ATM. This key is to be kept in the



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custody of one of Joint Custodians, handling the Admin Function. This physical key was under the control of Ms. Vanitha. The second step is safe keys can be accessed only after the hood is opened. The safe door has a combination lock. Each joint custodian holds one password and the password should not be revealed to the other. The above two steps would explain that even if the petitioner knows the password of the other joint custodian, it is impossible to open the safe of ATM without the knowledge of joint custodian having the hood key of the first door. Further the signatures of Vanitha in the ATM slip and Back-up Register as per rule together with CCTV footage would prove the dereliction of duty on the part of Ms. Vanitha by ordering her subordinates to do her duty.

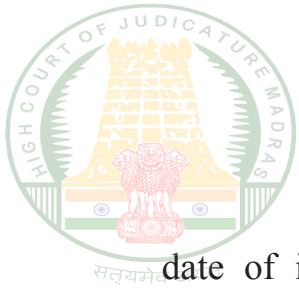
4. On 14.08.2015, when the petitioner was in Chennai to receive an award, the officers in-charge, namely Ms.Lavanya and Ms.Hamilta, replenished cash at ATM and these two officers had committed several violations of ATM rules and allowed messengers to use the Admin Card, which is a serious offence. Without actually counting the physical cash as evident from CCTV footage, admitted by both of them in cross-examination, they filed a false complaint on 14.08.2015 to the Chief Manager, Mr.Mahendrarvarman alleging



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there was a shortage of Rs.2,50,000/- in physical balance. The Chief Manager without verifying the 'Supervisory Slip' and 'Admin Slip' concluded that there was shortage of Rs.2,50,000/- on 31.07.2015 based on CCTV footage and demanded that the shortage be made good by the petitioner but did not make the joint custodian Ms.Vanitha accountable for the shortage. The petitioner was misled and under threat and coercion paid Rs.2,50,000/- on 27.08.2015 and the Chief Manager sent a letter dated 27.08.2015 to the then Regional Manager, Tirunelveli that on his advice the petitioner made good the shortage. After 6 months by an order dated 03.02.2016 without any enquiry the petitioner was suspended and a criminal complaint was filed for misappropriation before the Superintendent of Police but the same was closed as no evidence. The subsequent complaint was filed after 4 years and 4 months which was registered as FIR No.38/2019, which was quashed by the High Court by an order dated 06.03.2020 in CrI.O.P.(MD)No.3749/2020, thus the petitioner was acquitted of criminal charges of misappropriation. However in the enquiry conducted separately for Ms.Vanitha under charge sheet dated 17.04.2017, charges were framed and findings were given by Enquiry Report dated 31.08.2017 as though the petitioner was already convicted. Subsequently, a charge sheet dated 22.11.2017 that is after about 2 ½ years from the alleged



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date of incident with 3 charges was issued to the petitioner. The enquiry proceedings was conducted in most prejudicial manner, the Presenting Officer himself marked documents including the document that was deliberately destroyed, then biased and arbitrary finding was given by the 2<sup>nd</sup> respondent by an Enquiry Report dated 29.06.2021 stating that the 3 charges against the petitioner was proved. Based on the Enquiry Report, the 1<sup>st</sup> respondent passed the punishment order dated 23.07.2021 thereby imposed punishment of dismissal without notice under Clause 6 (a) of Memorandum of Settlement dated 10.04.2002. Aggrieved over the same the present writ petition is filed to quash the punishment order.

5. The respondents have filed a detailed counter wherein it is stated that the affidavit contains no valid grounds and the same is liable to be dismissed, the petitioner comes under the category of Award Staff and as per the terms of Bipartite Settlement dated 10-04-2002, the petitioner ought to have file an appeal, without exhausting alternative appellate remedy, the writ petition is filed and is liable to be dismissed in-limine. During the period from 30.06.2010 to 31.10.2015, the petitioner was the Cash In-Charge of SBI Thingal Nagar Branch. The petitioner and Deputy Manager (Accounts) were assigned the



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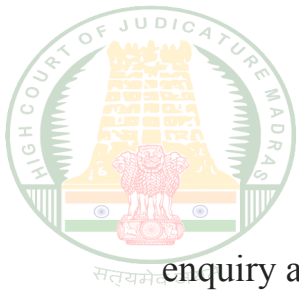
work of replenishment of cash in ATM of the Branch. As per the procedure, the Accountant has to open the hood of the ATM using the key under her custody and then both the Joint Custodians have to open the ATM vault by using their respective passwords to load cash. After loading cash, amount of Cash Replenished has to be fed in the ATM and print out of Admin Slip has to be taken from the ATM, which will show the Cash balance in the ATM. On 14.08.2015, petitioner was on deputation to Chennai and officiating Joint Custodians Mrs M.P.Lavanya and Mrs.Hamilta were assigned the work of replenishment of cash in the ATM. Officiating Joint Custodian detected cash shortage of Rs.2,50,000/- and reported the matter. On verification it was found that the petitioner had replenished cash in the ATM on 31.07.2015, without being accompanied by Joint Custodian and misappropriated amount to the tune of Rs.2,50,000/- and manually amended the Admin Balance in the ATM to Rs. 12,62,500/- as if the physical balance available was Rs.12,62,500/-, while there was a shortage of Rs.2,50,000/-. The petitioner himself prepared the ATM Cash Back up register in his own handwriting and got it signed by the Joint Custodian Mrs.Vanitha and the Chief Manager of the Branch and based on the ATM Cash Back up Register, got the monthly ATM Cash Verification Certificate dated 31.01.2015 also signed by the joint custodian and the Chief



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Manager certifying the total cash available as Rs.36,34,500/-. The petitioner made good the shortage of Rs.2,50,000/- to the Bank on 21.08.2015. The petitioner was issued with charge sheet dated 22.11.2017 with three charges. In the Enquiry, the petitioner was represented by an advocate. In the enquiry PEX 1 to 14 were marked including CCTV footages and 3 witnesses were examined in support of the charges from the Respondent Bank's side and DEX 1 to 34 were marked and one witness was examined by the defence side. Enquiry Officer submitted his report dated 29.06.2021 holding all the three charges as proved and after offering the petitioner, a personal hearing, which opportunity the petitioner did not utilize, the Disciplinary Authority imposed the penalty of dismissed without notice, treating the period of suspension as suspension only for all intents and purposes, vide order dated 23.07.2021. The the allegation that 8 CCTV cameras recording and monitoring the act of joint custodian at the time of replenishment of cash in the ATM is totally denied as incorrect and the fact remains that there is only one camera installed inside the ATM and the remaining cameras are installed within the premises of the bank, including one in the cabin of Cash-in-charge. The ATM centre is annexed with the Thingal Nagar Branch and running under the same roof, hence the allegations of the petitioner are false. The CCTV footages of these cameras are exhibits in the



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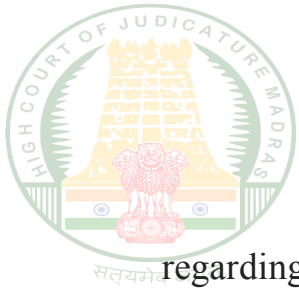
enquiry and it was proved as the petitioner has committed the malpractice and it was adjudicated by the 1<sup>st</sup> respondent. The allegation that the Joint Custodian/Accounts Officer/Deputy Manager namely Mrs. Vanitha was his Joint Custodian and Superior Officer and she was custodian of the hood key of the ATM and she never accompany with the petitioner, but handed over the hood key and gave password voluntarily to replenish the cash along with the messenger and the CCTV footage reveal the allegations of the petitioner that in several occasions he replenished the cash in the absence of Mrs. Vanitha but with her knowledge and the steps involved in opening the ATM doors clearly shows the ATM door cannot be opened without the knowledge of Vanitha and he referred chapter 13.09 of ATM manual in support of his alleged case and even the petitioner know the password of his Joint custodian it is impossible to open the ATM without her knowledge and requires the hood key of the first door and that the signature of Mrs. Vanitha in the ATM backup register, with CCTV footage are alleged to have proved the said Vanitha derelict in her duty, are all strongly denied as misleading incorrect and unsustainable. However the petitioner indirectly admitted the case of the bank that he had entered the ATM with hood key and password on many occasions along with the messenger and that he has cunningly misused and allowed Vanitha to take his help and else



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nowhere in the affidavit he narrated anything as he refused to the alleged demand of the Vanitha and entered into the ATM in her absence and also he has not made any efforts to report such depiction or his objections to the higher authority. When the petitioner is very much keen and strict in following and expecting the respondent bank shall follow the rules and regulation of the ATM Manual, the petitioner is having duty to report any dereliction of duty either by his superior or by inferior to the higher authorities to protect himself and to protect the interest of the bank. The entire allegation made by the petitioner in his affidavit is nothing but try to draw a parallel line between two wrongful acts, which is never permitted by any law in force. When the petitioner is accusing Vanita for dereliction of duty, it applies to the petitioner who also violated the Rules and Regulations of ATM Manual and followed illegitimate procedures himself and by such act cleverly misappropriated fund and enriched himself. That the allegations on 14-03-2015 the petitioner went to Chennai to receive an award and the officer in charge namely Lavanya and Hamilta replenished the cash in ATM and these two officers alleged to have committed several violations of ATM rules and allowed the messengers to use the Admin Card and without counting the physical cash on 14.08.2015, they alleged to have filed a false complaint to the Chief Manager Mr. Mahendrarvarman



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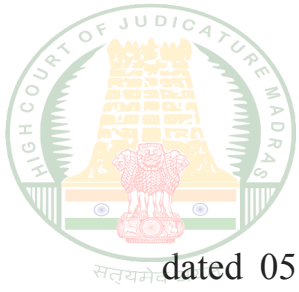
regarding the shortage of Re.2,50,000/- in physical balance and the Chief Manager without verifying the "supervisory slip" and "admin slip" alleged to have concluded a shortage of Rs.2,50,000/- on 31.07.2015 based on the CCTV footage and demanded the petitioner that the shortage be made good by him and did not make the Joint custodian Mrs. Vanitha accountable for the shortage and he was misled and under threat and coercion paid the said sum of Re. 2,50,000/- on 27.08.2015 and the Chief Manager sent a letter dated 27.08.2015 to the Regional Manager, Tirunelveli that on the alleged advise of the Chief Manager, the petitioner has made good the shortage are all strongly denied as false, incorrect and falsehood invented for the purpose of the case by the petitioner. The said allegations of the petitioner as if Lavanya and Hamilta have committed serious violations and allowed messenger to use the admin card and without counting the physical cash alleged to have made a complaint and which was admitted during the time of cross-examination and only on the advice of the Chief Manager, he paid a sum of ₹2,50,000 are strongly denied as false. In fact, the said Lavanya and Hamilta followed ATM rules and only after proper examination of shortage of cash, as per the rules, they have made the complaint and the petitioner has paid the said amount because of the fact that he has



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misappropriated the cash with malafide intention to cause loss to the bank and hence responsible for the loss.

6. The allegation regarding criminal case and enquiry proceedings of Vanitha are strongly denied as incorrect vexatious, besides falsehood. The complaint with police was filed by the Regional Manager on 09.03.2016 and the Inspector of Police, District Crime Branch, Nagercoil issued report dated 16.04.2016 that the matter was investigated and it was found that departmental proceedings have been initiated against the petitioner and that he repaid Rs. 2,50,000/- and as original documents relating to the complaint are not produced hence the investigation is temporarily dropped. Then the bank had filed CrI.O.P.No.10630 of 2016 and prayed for a direction to register a case based upon their criminal complaint dated 09.03.2016 and the said petition was disposed of vide order dated 05.07.2016 and police was directed to expedite the enquiry and complete the same within one month. In the meanwhile, Chief Manager, SBI Thingal Nagar Branch filed complaint dated 16.12.2019 with DCB, Kanyakumari and FIR No. 38 dated 16.12.2019 was registered. The petitioner filed CrI.O.P.(MD) No. 3749/2020 and the Court quashed the FIR No. 38/2019 giving liberty to the Bank to work out its rights in terms of order



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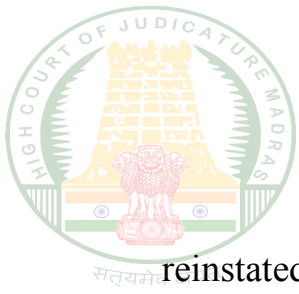
dated 05.07.2016. The petitioner has suppressed material facts and stated the petitioner was acquitted of charges of criminal misappropriation. There is no order of any Court acquitting the petitioner of charges of misappropriation. Further the enquiry was conducted as against Mrs. Vanitha under the "SBI officer services Rules 1992" and she has been imposed with severe punishment with "reduction by 3 stages in time scale of pay for a period of two years with further direction that the official will not earn increment to pay during the period of such reduction and on expiry of such period the reduction will have effect of postponing the future increment of her pay" and it is very serious punishment in nature. Since the said Vanitha is an Officer, the disciplinary proceedings as against her was conducted under the Officers' Services Rules as stated supra. As far as the case of the petitioner he is an Award Staff coming under Memorandum of Settlement dated 10-04-2002. The charges against the petitioner were proved and the 2<sup>nd</sup> respondent has submitted his enquiry report to the 1<sup>st</sup> respondent and after submission of enquiry report the 1<sup>st</sup> respondent, after due compliance of the procedures, independently passed the order of penalty which is sustainable in law. The petitioner is legally not entitled to draw a parallel between the enquiry proceedings, punishment imposed to the said Mrs. Vanitha and to the petitioner under the Memorandum of Settlement.



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Further there is no alleged injustice, bias, arbitrariness in the proceedings followed adopted by the respondents and the punishment of penalty now imposed to the petitioner is proportionate to the gravity of charges proved against by him. The writ petitioner filed several writ petitions at every stage, thereby try to stall the disciplinary proceedings. Further, the petitioner was granted fullest opportunity there is no violation of principle of natural justice. The writ petition is bereft of any merits. Hence the respondent is prayed to dismiss the writ petition.

7. After considering the rival submissions, the Writ Court had allowed the writ petition and the punishment order was set aside, the matter was remand to the disciplinary authority, the disciplinary authority was direct to reopen the enquiry, however the evidence already been adduced will remain intact. A new enquiry officer may be appointed and further enquiry may be conducted and concluded in compliance with the principles of natural justice and in the light of the observations made in the order. Thereafter, said report to be placed before the authority superior in rank to that of General Manager and the said authority would take appropriate action on merits and in accordance with law. Further, held since the dismissal order was set aside, the petitioner stands



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reinstated. However, the liberty was granted manner to keep the petitioner under suspension with the subsistence allowance as per law. Aggrieved over the same the present writ appeal is filed.

8. Heard Mr.M.Ajmal Khan, the Learned Senior Counsel for Mr.M.Ponniah appearing for the appellants and M/s.K.Sumathi, the Learned Counsel for Mr.S.Suresh appearing for the respondent and perused the records.

9. The primary contention of the appellant bank is that the writ petitioner comes under the category of “award staff” and as per the terms of bipartite settlement dated 10.04.2002, the petitioner ought to have filed an appeal under clause 14 of the Bipartite Settlement, hence without exhausting the alternative remedy, the writ petition cannot be entertained for which the appellant had relied on the judgement rendered in 2006 4 CTC 689, wherein the Hon'ble Five - Judge Bench held, *“In the absence of special circumstances, the Court will not ordinary exercise power under Article 226 of the Constitution of India when the Acts provides for an alternative remedy.”* The further contention of the appellant is that the penalty order was passed in a proper manner as per law



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after affording adequate opportunity to the delinquent and the delinquent was permitted to represent through an Advocate in the enquiry proceedings. When there is no violation of principles of natural justice, then the writ petition cannot be entertained. The aforesaid issue was raised before the Writ Court also and it was held by the Writ Court that if the petitioner bypasses the appellate remedy, then the scope for factual appreciation gets limited and the petitioner had taken the said risk and further held that the writ Court can interfere if the petitioner convinces there is violation of principles of natural justice.

10. After hearing the rival submissions, this Court is of the considered opinion there is no prohibition in entertaining writ petition, it depends upon case to case basis. If there is any violation of principles of natural justice or jurisdictional issue, then the Court can entertain the writ petition under Article 226. Further if there is any special circumstances, then also the Court may entertain the writ petition and interfere in the disciplinary proceedings. In the present case, there were two accused, the first accused is in Manager Cadre and the writ petitioner comes under Award Staff category. The enquiry officer against the accused serving in Manager cadre was already completed by



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General Manager and awarded punishment. Hence while conducting disciplinary proceedings in the present case, an higher authority over and above the General Manager ought to have been appointed to conduct enquiry in the present case. But the appellant had appointed an authority below the cadre of General Manager as enquiry officer. Hence, the present enquiry officer cannot conduct an enquiry by deviating the other enquiry report. The enquiry officer should have a free and fearless mind to conduct enquiry, which is also one of the facets of the principles of natural justice. When there is violation in the present case, then on the principles of violation of natural justice, the writ petition is entertainable. The Writ Court has rightly held the enquiry officer was not properly appointed and directed to conduct enquiry with a specific direction to appoint an authority superior in rank to the General Manager. Therefore, the contention of the appellant regarding violation of principles of natural justice and the contention of alternative remedy is rejected.

11. The next contention of the appellant is that the allegation against the petitioner is that while replenishing ATM at Thingal Nagar Branch on 31.07.2015, the petitioner has misappropriated the banking money for his personal benefit with fraudulent intention, in such circumstances, the



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punishment of dismissal under Art 226 cannot be entertained. The said contention of misappropriation was vehemently opposed by the Learned Counsel appearing for the petitioner and relied on the complaint of Lavanya dated 14.08.2015, wherein it is stated there is a difference in the cash amount, hence the word of misappropriation is an after-thought. On perusing the complaint dated 14.08.2015 it is seen that the respondent themselves had stated it as cash difference. The phrase “cash difference” is used until the respondent had decided to take action against the petitioner, once it is decided to take action, then the respondents had used the word as misappropriation. The usage of words would not determine the case, the real issue is whether the petitioner had taken the money or whether there was carelessness on the part of the petitioner or whether the very allegation itself is false. Therefore, the contention of the petitioner “cash difference” and the contention of the bank “misappropriation” is rejected.

12. The Learned Counsel appearing for the petitioner vehemently submitted that the very basis of the allegation itself is incorrect. For which she relied on ATM cash verification certificate, which is signed Joint Custodian namely the said Ms. Vanitha and the delinquent and further counter signed by

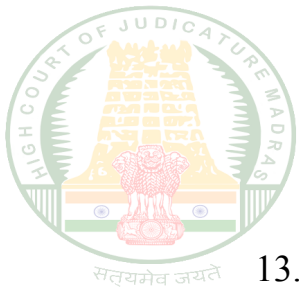


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the Chief Manager Mr. Mahendra Varman. The said certificate states that the signed parties had physically verified the cash in the ATMs and found that the physical cash in the ATM tallies with the admin cash. The admin slip is pasted in the backup register duly signed by the ATM joint custodians and duly countersigned by the Chief Manager and the balance is stated under:

|                                   |                                     |                    |
|-----------------------------------|-------------------------------------|--------------------|
| <b>ATM ID –<br/>S10A003234001</b> | <b>BALANCE AS ON<br/>31.07.2015</b> | <b>-</b>           |
| <b>PHYSICAL BALANCE</b>           | <b>ADMIN BALANCE</b>                | <b>BGL BALANCE</b> |
| Rs.36,34,500/-                    | Rs.36,34,500/-                      | Rs.36,34,500/-     |

The aforesaid certificate clearly states that the balance is Rs.36,34,500/- even after physical verification. When the said certificate is signed by the joint custodian especially Ms. Vanitha and the Chief Manager of the branch Mr. Mahendra Varman, then it has to be concluded that there is no difference in cash at all. This Court is of the considered opinion that there is some weight in the argument of the delinquent, but the same is not sufficient to conclude that there is no cash difference. In other words, the petitioner ought to establish with some more evidence.



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13. The next contention of the appellant is that under Article 226, the Court cannot venture into re-appreciation of evidence and relied on Union of India Vs. V.P. Gunasekaran, wherein in para 13 it has been held that:

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

- i. Re-appreciate the evidence;*
- ii. Interference 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”.*

It is settled proposition that evidence cannot be revisited and normally the Court would not revisit the evidence and will not assess the evidentiary value of the documents. However, if there is any grave mistake in placing the evidence or/and not placing the evidence, whereby it affects the rights of the delinquent or if the evidence relied on, any prudent person would not come to such conclusion then the Courts can very well interfere. In the present case, the

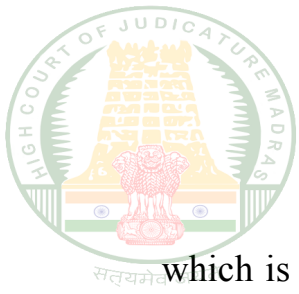


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petitioner had sought the copy of the “Admin Slips” from 31.07.2015 to 14.08.2015 and the respondents have replied vide letter dated 12.01.2021 that only 14.08.2015 was available and the relevant portion is extracted hereunder:

*“02.In this connection we advise that the ATM Admin Slip dated 14.08.2015 alone is available and a copy of the same is enclosed herewith for your reference”*

The reply would clearly indicates that the respondent bank is not having the copy of Admin Slips from 31.07.2015 to 13.08.2015. It is pertinent to state that it is on 31.07.2015 the alleged cash difference occurred. The petitioner is relying on the said Admin Slip dated 31.07.2015 to prove his case, but the respondents had failed to produce or deliberately denied to access the said slip, the said fact cannot be brushed aside just like that. Further it is pertinent to state that the respondent bank is bound to retain and preserve the records for 8 years i.e. until 2023. Especially when the enquiry was completed prior to 2023 i.e. in the year 2021 itself, then the respondent bank is bound to retain the said Admin Slip. At least the appellant ought to have retained until the adjudication is completed. Failing on the part of the respondents to produce the vital document

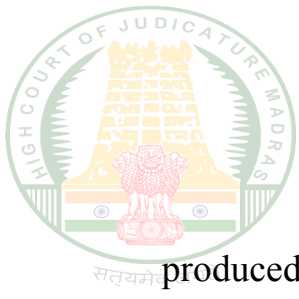


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which is in favour of the petitioner, then the benefit ought to be granted to the petitioner.

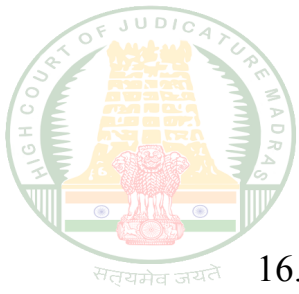
14. Further it is seen that the petitioner requested the appellants to produce the Admin Slips for the subsequent period from 14.08.2015 to 27.08.2015, which is after the alleged incident, in order to prove there is no shortage at all. The appellants produced the same but the same is not at all legible and nothing can be read from the produced admin slips. On one hand the appellants are stating that some of admin slips are not available and on the other hand submitted illegible copies of admin slips for some period, which indicates the suspicious attitude of the appellants. Further the said attitude amount to denying fair opportunity to the petitioner. If there is no fair opportunity granted to the delinquent, then the writ Court can interfere as held in the case of Executive Director, Corporation Bank, Mangalore and others Vs. P.S.Shantharaman reported in 2021 4 CTC 269.

15. Further this Court is of the considered opinion when the documentary evidence is in favour of the delinquent, then the appellants ought to have produced the evidence which can disprove the same. But the appellant had not



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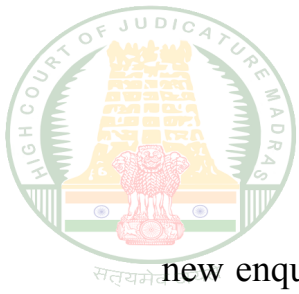
produced any such evidence. Even the Writ Court has held that the appellant ought to have played a fair play. Infact the petitioner had raised a crucial point, wherein the petitioner has stated that it is the case of the appellants that on 14.08.2015 it was found that there was shortage of cash. If that is so, then the same shortage would have been continued till 27.08.2015. Then if the Chief Manager had kept the collected cash in ATM on 27.08.2015 then the Chief Manager ought to have made rectification entries as per the ATM cash reconciliation process to tally the account on 27.08.2015 as per the ATM Manual. If the appellant had produced the Admin Slips for the period from 14.08.2015 to 27.08.2015 it could been conclusively proved that there was no such rectification, consequently there was no such alleged shortage at all, but the appellants failed to produce the legible admin slip for the period from 14.08.2015 to 27.08.2015, which indicates that there is no such rectification. Then it should be concluded there was no alleged shortage at all from 31.07.2015. In other words, when there was no rectification in the Admin Slips for the period from 14.08.2015 to 27.08.2015, then there is no such alleged short fall at all. The said contention of the delinquent is convincing. The above narration of facts would clearly prove that the allegation against the delinquent is baseless. If so, the very allegation itself seems to be false.



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16. The next contention of the petitioner is that the co-accused namely Vanitha was not produced as one of the witnesses in enquiry proceedings of the petitioner. Also the Chief Manager Mahendra Varman was not produced as witness. When the co-accused Vanitha, who has full information was not produced as witness, then the same is fatal to the case. Further when the Chief Manager Mahendra Varman was not produced who is one of the vital witness, then the enquiry proceeding is absolutely prejudiced. The said two persons are crucial witnesses but they were not produced at all. The reason stated by the appellants is that the delinquent ought to produce the said witness. Again this attitude of the appellants make the disciplinary proceedings prejudice, bias and unfair. Infact the writ Court had rightly held that when the delinquent was saddled with serious charges and imposed major punishment then the employer ought to conduct fair enquiry by producing best witness especially when the delinquent sought the aforesaid two witness, then the enquiry officer ought to have produced them as witness. Therefore, this Court is of the considered opinion that the enquiry was conducted in an unfair, bias manner which has seriously prejudiced the rights of the delinquent, thereby the enquiry proceeding is vitiated. The Learned Single Judge has rightly entertained the writ petition and has rightly remitted the case to the authority for constituting



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new enquiry officer who is above the rank of General Manager and directed to conduct enquiry.

17. It is pertinent to state that the CCTV footage also not proving the allegation against the writ petitioner. Infact the only allegation against the writ petitioner is that the petitioner had repaid the said amount. But the entire evidence produced by the appellant is not proving the case against the petitioner.

18. The Learned Counsel appearing for the delinquent submitted that pending the writ appeal, the delinquent had attained superannuation. Further submitted that the petitioner had served with unblemished record and had received awards. Infact the alleged incident happened when the petitioner went to Chennai for receiving award. The impugned allegation was foisted on the petitioner which is stigma on the writ petitioner. Infact based on the false allegations then entire family is shattered. The petitioner's only daughter could not be married due to the social stigma. Hence the petitioner is fighting to remove the stigma. Therefore, the Learned Counsel prayed to dismiss the writ appeal and also prayed to pass appropriate orders to remove the stigma against the petitioner. After hearing the submissions of the petitioner this Court is of the considered opinion that the petitioner had attained superannuation, in such



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circumstances, even if the case is remitted back to the appellants there will not be any useful purpose. Further this Court has held supra that the very basis of the charge itself is creating a doubt that the charge is false. Therefore this Court is not inclined to remit back the case. However this Court is confirming the order passed by the Writ Court as far as punishment is concerned wherein the punishment order is set aside.

19. With the above said observations, the impugned order is modified to the extent stated above and the writ appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

20. At the time of pronouncing the judgment, the learned Counsel appearing for the respondent submitted that salary was not paid from the date of dismissal and further, prayed to grant consequential relief. This Court had set aside the punishment, hence, the respondent is entitled to consequential relief including salary from the date of dismissal. The appellants are directed to disburse the consequential relief within a period of eight weeks from the date of receipt of a copy of this judgment.

[J.N.B., J.] [S.S.Y., J.]  
18.07.2025

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**J.NISHA BANU, J.**

and

**S.SRIMATHY, J.**

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