

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

W.P.A. 3575 of 2019

Anjan Biswas

-Vs-

Central Bank of India & Ors.

For the Petitioner	: Mr. Sardar Amjad Ali, Sr. Adv. Mr. Dilip Kumar Samanta Ms. Riya Saha
For the respondents/Bank	: Mr. Bishwambher Jha Ms. Munmun Mishra, Mr. H. K. Jha
Heard on	: 18.03.2025, 12.09.2025, 25.09.2025
Judgment on	: 03.02.2026

Ananya Bandyopadhyay, J.:-

1. The petitioner submitted to have earlier preferred W.P. No.31156 (W) of 2017 challenging the order of dismissal dated 01.08.2018 issued by respondent No.3 The writ petition was dismissed. Aggrieved thereby, the petitioner preferred Mandamus Appeal being FMA 704 of 2019 together with CAN 9644 of 2018, seeking stay of the impugned order.
2. It was brought to the notice of the Court that by an order dated 13.11.2019, the Hon'ble Division Bench dismissed the stay application on the ground since the writ petition stood dismissed, no interim protection could be granted. During hearing of the appeal, it was contended the writ petition had been disposed of without calling for any affidavit and the stay

application might be treated as the paper book for adjudication of the issues. The Hon'ble Division Bench, after accepting such submission, directed the papers filed in support of the stay application be treated as the paper book of the appeal and fixed the appeal for further hearing.

3. The petitioner contended the order of dismissal marked as Annexure-P/16 issued by the respondent No.3 was wholly illegal and liable to be set aside. It was urged despite being appraised of the pendency of the appeal being MAT 1441 of 2018 with CAN 9644 of 2018, the respondent No.3 proceeded with the enquiry and issued the order of dismissal ignoring the subsisting proceedings before the Division Bench. Such action, according to the petitioner, reflected *mala fide* attempt to frustrate the appeal proceedings and amounted to violation of the principles of natural justice.
4. It was further contended the respondent failed to appreciate the pendency of the mandamus appeal constituted a part of the due process of law and no final prejudice could be caused to the petitioner until adjudication of the issues by the Division Bench. Proceeding with the disciplinary enquiry and passing the impugned dismissal order during the pendency of the appeal was alleged to be illegal, arbitrary and violative of Articles, 14 and 21 of the Constitution of India.
5. The petitioner relied upon the order of the Hon'ble Division Bench dated 12.02.2020 where it was observed that earlier rounds of litigation had culminated in setting aside the Disciplinary Authority's order due to violation of natural justice and procedural lapse. The matter had been remanded with directions to ensure that the Disciplinary Authority proceeded uninfluenced by any preconceived notion. However, in the

subsequent round, the Disciplinary Authority repeated the very errors previously deprecated by the Court. The Division Bench also referred to the decision in *Comptroller & Auditor General Vs. K.S. Jagannathan* (AIR 1987 SC 537) emphasizing the power of a High Court under Article 226 to issue mandamus compelling lawful exercise of statutory direction.

6. The Hon'ble Division Bench ultimately held this was not a case for substitution of the Court's decision in place of the Disciplinary Authority. However, it affirmed the earlier direction requiring the Disciplinary Authority to act strictly in accordance with law and dismissed the appeal being FMA 704 of 2019.
7. Relying on this observations, the petitioner urged the impugned order of dismissal issued by respondent No.3 on 28.01.2019 communicated on 30.01.2019 must be quashed as it stood issued during the pendency of the appeal and in derogation of constitutional guarantees of fairness and non-arbitrariness. It was submitted the writ petition was liable to be allowed with the direction upon the respondent to reinstate the petitioner in service with consequential benefits, including arrear salaries, revision-linked enhancement and promotional entitlement.
8. The Learned Advocate for the respondent submitted the writ petition had been a continuation of a long series of litigation initiated by the petitioner to obstruct the departmental proceedings, though the disciplinary process had already been conducted strictly in accordance with the orders of this Hon'ble Court and the statutory framework governing the Bank.
9. It was urged the impugned order dated 28.01.2019 passed by the Disciplinary Authority was neither irregular nor arbitrary, but was the

culmination of Departmental Enquiry undertaken strictly in compliance with the direction of the Co-ordinate Bench dated 01.08.2018 in WP 31156 (W) of 2017, which mandated the respondent-Bank to resume and complete the enquiry from the stage of receipt of the petitioner's reply dated 12.07.2017 and to do so expeditiously.

10. It was further contended the petitioner during his tenure in the respondent-Bank, engaged in grave financial misconduct of a fraudulent nature. The charge-sheet recorded that the petitioner misused his own log-in credentials, as well as those of another staff member, conducted unauthorised debit transactions from multiple customer accounts, facilitated fraudulent credit transfers into other accounts, enabling external persons to withdraw significant sums, thereby causing huge pecuniary loss to the Bank and grossly abused the trust reposed in him. Such acts constituted gross misconduct warranting major penalty under the service regulations.

11. The Learned Advocate representing the respondent emphasized as follows:

- a) The Bank proceeded only after the certified copy of the Court's order dated 01.08.2018.
- b) The enquiry was conducted meticulously and in compliance with principles of natural justice. The Disciplinary Authority considered the enquiry report, the written brief of the Presiding Officer and the defence representative and the petitioner's submissions. Consequently, the Authority found the petitioner guilty of the grave charges and imposed the penalty of dismissal.

12. It was further highlighted the petitioner habitually approached this Court at every stage of the disciplinary proceedings by filing several mandamus, appeals, and stay applications including MAT 1441 of 2018 (FMA 704 of 2019) with CAN 9644 of 2018, which were all attempts to delay or derail the proceedings.

13. The stay application was dismissed by the Hon'ble Division Bench on 13.11.2019 and the Mandamus Appeal was dismissed finally on 12.02.2020, affirming the order of the Learned Single Judge.

14. The respondent relied on these decisions to argue that the petitioner's persistence in challenging concluded issues exemplified the abuse of process of law. The respondents drew attention to the findings of the Division Bench as follows:

- i. The Writ Court cannot substitute itself for the disciplinary authorities, except in rare circumstance,
- ii. The Single Judge had rightly directed the authority to act uninfluenced by earlier errors,
- iii. The Disciplinary Authority was a proper forum to conclude the enquiry.

15. It was contended these findings negated the petitioner's plea that the enquiry and dismissal order had been vitiated.

16. It was further submitted that:

- i. At no point, did the petitioner obtain a stay preventing the respondent-Bank from conducting the enquiry or passing the final order.

ii. Therefore, the Bank had no option but to comply with the subsisting order dated 01.08.2018 and conclude the enquiry.

iii. The petitioner could not fault the Bank for proceeding in the absence of any judicial restraint order.

17. It was emphasised that the order dated 01.08.2018 had been binding on both parties, had attained finality and its legality could not be questioned in subsequent writ proceedings.

18. It was further argued that:

i. The petitioner had an alternative remedy of statutory appeal against the final order of dismissal.

ii. The writ petition challenging the dismissal order was therefore not maintainable.

iii. All issues raised had already been adjudicated by this Court and a fresh repetition was impermissible in law.

19. It was further submitted the petitioner's contempt application (noted as CPAN 1008 of 2018) was devoid of cause and the Hon'ble Court in the order dated 03.12.2024 recorded that the respondent-Bank had fully complied with the earlier directions.

20. The Learned Advocate representing the respondent iterated the entire enquiry process was conducted in compliance with the statutory rules and court directions, all allegations of *mala fide* or illegality had been baseless. The final dismissal order was lawful, reasoned and sustainable.

21. It was further submitted the writ petition be dismissed *in limine* as devoid of merit, the petitioner be held to have suppressed material facts and misused writ jurisdiction, the relief sought be rejected in entirety and the

petition be dismissed with cost for repeated frivolous litigation was on the same matter.

22. The pleadings and documents revealed a protracted sequence of proceedings initiated by the petitioner at every stage of the departmental enquiry, the cumulative effect where off had been to obstruct the orderly completion of disciplinary action commenced pursuant to grave financial charges. The foundational order directing the respondent-Bank to resume the enquiry from the stage of the petitioner's reply dated 12.07.2017 was passed by the Co-ordinate Bench on 01.08.2018 in W.P. No.311576 (W) of 2017. The said order had attained conclusive finality.

23. In strict adherence to that order, the respondent-Bank resumed the proceedings from the precise point directed, afforded opportunity to the petitioner, considered the findings of the enquiry authority, the written briefs of the Presiding Officer and the defence representative and thereafter reached its conclusion. The penalty order dated 28.01.2019 was the culmination of a process undertaken in compliance with judicial mandate.

24. The petitioner, thereafter, repeatedly approached this Court by filing writ petitions, mandamus appeals, and stay applications to stall the enquiry, from proceeding against him. The mandamus appeal being MAT 1441 of 2018 FMA 704 of 2018 accompanied by CAN 9644 of 2018 were dismissed by the Hon'ble Division Bench first on the stay application by order dated 13.11.2019 and subsequently on merits by order dated 12.02.2020 affirming the Single Judge's directions and expressly declining interference. The Division Bench elaborately held that the writ

court could not substitute itself for the Disciplinary Authority, except in rare circumstances. The Disciplinary Authority was rightly directed to act uninfluenced by prior errors. No embargo existed on the Bank to conclude the enquiry.

25. The legal position emerging from the pronouncement had been unequivocal. The Disciplinary Authority was duty-bound to complete the process lawfully and the Court would not interject to re-appraise evidence or substitute its reasoning for that of the statutory authority.
26. The petitioner had not shown any demonstrable prejudice, procedural lapse or violation of natural justice. In the enquiry conducted post the order dated 01.08.2018 instead, the allegations raised pertained to the matters already adjudicated by the Division Bench on the appellate round and hence were barred by the principles of finality and were not open to collateral challenge in this petition.
27. The petitioner also possessed the statutory remedy of appeal against the penalty order. The writ petition alternatively suffered from the well-established bar against entertaining service disciplinary disputes where an efficacious appellate mechanism exists.
28. Further, the record disclosed grave allegations of fraudulent transactions involving misuse of log-in credentials of another staff, member, unauthorised debits and pecuniary loss to the Bank. The Disciplinary Authority having considered the evidence found the petitioner guilty of serious misconduct. This Court while exercising power of judicial review does not re-evaluate evidence unless perversity, *mala fides* or violation of law was shown. Not such infirmity is established.

29. The repeated filing of writ petition and mandamus appeals over the same subject matter also recoured to abuse of process, attempting to re-open settled issues under the cloak of fresh litigation.
30. It was of significance that no stay order was issued by the Hon'ble Division Bench in the mandamus appeal filed against the order of the Single Bench. The stay application being CAN 9644 of 2018 was dismissed on 13.11.2019 and until such dismissal, no interim protection had ever been granted. In law, therefore, the order of the Learned Single Judge continued to bind the respondent with full force, notwithstanding the pendency of the appeal.
31. Once the Appellate Court declines to grant an order of stay, the order of the Single Judge remains operative and enforceable and the respondents are under a continuing obligation to comply with the same. The Bank, having received the certified copy of the order, was thus duty-bound to proceed with the enquiry and complete the process as directed.
32. The petitioner cannot contend the respondent-Bank acted improperly in completing the enquiry when the Single Judge's order was binding. There was no legal embargo restraining further action. The Division Bench did not stay the proceeding at any stage and the appellate judgement dated 12.02.2020 ultimately affirmed the course adopted by the Learned Single Judge.
33. Thus the allegation that the Bank "ought not to have proceeded" is contrary to the procedural posture of the case and the settled legal proposition that in absence of stay, judicial orders must be obeyed and implemented in letter and spirit.

34. The Bank's compliance with the binding directions cannot be constituted as *mala fide*, arbitrary, or illegal.

35. Upon a comprehensive appraisal of the facts, submissions, and binding judicial directions, this Court arrived at the following conclusions:

- i. The order dated 01.08.2018 of the Learned Single Judge was binding on the respondent and in the absence of any order of stay from the Appellate Court the respondents were legally obligated to implement it.
- ii. The respondent-Bank rightly proceeded with the disciplinary enquiry in faithful compliance with the said order.
- iii. The mandamus appeal did not result in any stay order on the contrary, the Division Bench ultimately affirmed the Single Judge's approach and dismissed the appeal on 12.02.2020 thereby validating the steps taken by the Bank.
- iv. No violation of natural justice, procedural irregularity or *mala fide* was established in the conduct of the enquiry culminating in the order dated 28.01.2019.
- v. The petitioner possessed a statutory remedy against the penalty order, rendering the writ petition not maintainable.
- vi. The present petition being a reiteration of issues already decided amounted to misuse of writ jurisdiction.
- vii. No ground exists for judicial interference with the penalty of dismissal.

36. There shall be no interference with the order of dismissal dated 28.01.2019.

37. In view of the above discussions, the instant writ petition being WPA 3575 of 2019 is dismissed.

38. There is no order as to costs.

39. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)