

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 10679 of 2025

The Institution of Engineers (India)
Vs
Union of India & Ors.

For the Petitioner : Mr. Soumya Majumder, Ld. Sr. Adv.
Mr. Indranil Munshi,
Ms. Anuska Sarkel,
Ms. Ahona Guha Majumder.

For the State : Mr. K.J. Yusuf,
Mr. Sudip Kumar Maity.

For the Respondent no. 4 : Mr. Shiv Mangal Singh.

For the Union of India : Mr. Siddhartha Bhattacharjee (Virtual),
Mr. Subit Majumder.

For the Respondent no. 6 : Mr. Sugata Shankar Roy.

For the E.D. : Mr. Arijit Chakraborty,
Mr. Debsoumya Basak,
Ms. Swati Kumari Singh.

Judgment reserved on : 16.03.2026

Judgment delivered on : 30.03.2026

Shampa Dutt (Paul), J.:

1. The writ application has been preferred praying for setting aside of orders dated 30th December, 2023 and 28th April, 2025, passed by the Controlling authority and the Appellate authority.
2. The petitioner has further prayed for direction upon the the respondent no.2 to declare the Form N dated 18th October, 2022 submitted by the respondent no. 6 as illegal, null and void and also set aside the notice dated 1st May, 2025
3. The petitioner has also prayed for return of the demand drafts dated 29th January, 2024 vide no. 895212 and 30th August, 2024 vide no. 229879.
4. **The petitioner's case is follows :-**
 - a. The petitioner is an organisation established under Royal Charter in the year 1935. On or about 11.09.2019 and 14.10.2020, the Petitioner was subjected to a large scale financial fraud amounting to Rs. 35 Crores (Approximately). During this period, Respondent No. 6 held the position of **Director (Finance)** of the Petitioner. On or about 31st October, 2020, a complaint was filed in Muchipara P.S. and consequently FIR no. 205 was registered by the police authority.
 - b. A Departmental Enquiry Committee was constituted on 03.12.2020 to investigate the role of Respondent No. 6 in the aforementioned financial fraud following which Respondent No. 6 was placed under suspension on 31.12.2020. Upon conclusion of the departmental proceedings, Respondent No. 6 was dismissed from service on 29th April, 2021

- c. Thereafter, Respondent No. 6 on 18.10.2022 filed an application before the controlling authority. On or about 30.12.2023 order was passed by respondent no. 3, directing the Petitioner to pay Rs. 9,98,662/- to Respondent No. 6 in the form of Gratuity. The Petitioner filed an appeal before the Deputy Chief Labour Commissioner i.e. Respondent no. 2. Consequently, impugned order was passed by the said Respondent on 28th April, 2025, upholding the order dated 30.12.2023. The Respondent No. 3 then issued a show cause notice dated 1st May, 2025, directing the petitioner to respond within 15 days, failing which the gratuity amount with interest of Rs. 13,23,228/- would be released to Respondent No. 6.

5. Hence the writ petition.

6. The respondent no. 6 has argued by way of filing written notes that:-

- i. The Departmental Enquiry Committee had on 06.01.2021 recommended lodging an FIR inter alia against the Respondent No. 6 and accordingly a Complaint was made by then Deputy Director (Finance) of the Petitioner before the Officer-in-Charge Bhowanipur Police Station suggesting to lodge an FIR against Respondent 6 and another.
- ii. It is stated that the enquiry proceeding was not in accordance with law and that this is a case of wrongful dismissal on the ground of alleged Major Misdemeanor without giving Enquiry Report and the same was given after 3 and half years as per the

direction of the Appellate Authority under Payment of Gratuity Act, 1972 on 28.08.2024.

- iii. On 15.06.2024, 726th Council Meeting at Kathmandu of the Petitioner, Minute about observation of the Enforcement Directorate (ED) that they have already filed a chargesheet wherein 10 names were there. None of the 10 persons were either IEI employees or Corporate Members of IEI.

ED also mentioned that they have cross-checked the statements of all 10 persons, but none of them had any mention of any IEI employee or Corporate members of IEI.

- iv. Muchipara PS case no 205 of 2020 has been investigated and ended in a Charge Sheet and observed that it would be an abuse of process if this case were further allowed to be continued.

Final Order was pronounced and the Case was dropped against Respondent 6 and 8 others.

- v. The respondent no. 6 has stated as follows:-

“I submit that as a qualified professional person with more than 10 years experience of working at IEI the Respondent 6 supposed to work in good faith treating a Nationalized Bank as a reliable and responsible banker. Opening of Bank account was not mandatory for which supporting document placed before Enquiry Officer. Accordingly, the Investment Committee certainly took the offer of highest rate of interest and for bulk deposit granted. IEI Kolkata received interest against those Investments in their bank account. IEI, Investment Committee trusted upon the Allahabad Bank, Bowbazar Branch and believed that their investment in safe custody. In view of the above, holding

the Respondent no 6 exclusively responsible terming the lapse as gross negligence is a figment of imagination and hence denied as mischievous and mindless.”

- vi. The respondent no. 6 contends that no criminal case could be substantiated against him and as such the disciplinary proceeding was conducted violating the principle of natural justice and abuse of process of law.
- 7. From the materials on record, it appears that on 31.10.2020, a written complaint was filed by the petitioner with the Joint Commissioner of Police (Crime), Lalbazar.
- 8. Several officials of the Bank, being Indian Bank (previously Allahabad Bank). Both the Branches were named in the said complaint.
- 9. The private respondent was named in the FIR, being Muchipara P.S. Case No. 205 dated 02.11.2020, where in the following allegations were made against him:-
 - “a. The brief fact of the case is that the accused persons entered into a criminal conspiracy among themselves and in pursuant thereof issued letters by Allahabad Bank, Bowbazar Branch, used the same as genuine before The Institution of Engineers (India) and allured them to invest for fixed deposits at highest rate of interest.*
 - b. Thereafter the then branch manager made RTGSs of the invested amount after insertion into the account numbers 50500106596 and 50464814920 with Allahabad bank.*
 - c. The said bank employee in conspiracy with others issued forged F.D.s purportedly issued by Allahabad Bank, Bowbazar*

Branch. Therefore total amount of Rs. 35 Crores (approx) was debited from different bank accounts of the Institution of Engineers (India) on different dates through RTGS and siphoned off to the different bank accounts and withdrawal causing wrongful loss on the part of the complainant organization and subsequent gain on the part of the accused persons which is punishable U/S 120B/420/467/471 and 409 IPC.”

10. A specific **written complainant** was lodged against the private respondent and another before the Bhavanipore police station on 06.01.2021.
11. **Suspension order** in respect of the private respondent herein was served on 31.12.2020.
12. **Charge Sheet** dated 24th February, 2021 was served upon the private respondent, containing the several charges against the private respondent herein, on completion of a Departmental Enquiry by a Committee.
13. The **Charge included gross irregularities and negligence** on the part of the petitioner in carrying out his official duties and transactions, related to the bank, including depositing FD's worth Rs. 35 .09 crores as Director (finance) **without opening a Bank account**, necessary for the transferring money.
14. **The charges were stated in detail, clear and are specific in nature with no ambiguity.**
15. **Penalty** was imposed on completion of enquiry proceedings and submission of enquiry report dated 22.04.2021.

16. The letter dated 29th April, 2021 imposing penalty notes as follows:-

- “a. The above Charge Sheet, the written explanation, proceeding of the Enquiry Committee, the Documents exchanged between the petitioner and the Enquiry Committee, the report of the Enquiry Committee have been considered by the Undersigned.*
- b. The Charge Sheet would show that the allegations made against the petitioner is of very serious in nature involving **gross negligence** in your responsibilities and duties as Director (Finance) which may cause huge financial loss to the Institution of Engineers (India).*
- c. **In the Enquiry the petitioner had been extended all opportunities to defend yourself in rebutting the charges.** To do so the petitioner intended to produce some documents mentioned in the proceedings and report of the Enquiry. In spite of extending the ample opportunity, the petitioner could not produce the documents intended to be produced in support of his defence. In such circumstances, in the proceedings held on 21.04.2021, the Enquiry Committee upheld the charges made against you as Major Misdemeanours under Clauses 5(i), 5(xi) and 5(xxxiii) of the Appendix IV (Conduct, Discipline and Appeal Rules) of the Service Rules of the Employees of IEI as stated in the Charge Sheet under reference.*

- d. *The entire proceedings of the Enquiry including the correspondence between the petitioner and the Enquiry Committee has been considered independently. **The charges have been proved by the Enquiry committee and now the question would arise as to what penalty to be imposed.***
- e. *As stated, the charges made against the petitioner very serious in nature involving huge financial loss to the Institution due to gross negligence of yourself in responsibilities and duties as Director (Finance) as mentioned in the Charge Sheet.*
- f. *The petitioner has been charged for the major misdemeanours as proved by the Enquiry Committee in its report.*
- g. *The institution having suffered from huge financial loss, the question of discipline of the Institution being involved and some of the charges also amounting to very serious in nature and hence it is stated that the petitioner deserve commensurate punishment and as such in accordance with the clause no 08 (Penalties) and its sub-clause no (iii) of the Conduct, Discipline and Appeal Rules for the Employees (Appendix IV of the existing Service Rules), the petitioner is hereby **dismissed from the services** of the Institution of Engineers (India) with immediate effect.”*

17. The private respondent no. 6 then prayed for review on 5th Feb, 2022 on the ground that:-

“There was no criminal case registered against the then Director (Finance)/petitioner herein nor did the police/ED find any involvement of the then Director (Finance)/petitioner herein in the extant Bank Fraud case.”

- 18.** The respondent no. 6 was dismissed from service w.e.f. 29th April, 2021, on account of major mindemeanors on disciplinary ground.
- 19.** Form N are submitted on 18.10.2022 by the respondent before the controlling authority on ground of wrongful termination and claiming gratuity.

20. The controlling authority vide order dated 30.12.2023, held:-

*“The contention of the opposite party to forfeit the gratuity of the applicant as the applicant has caused huge financial loss to the Opposite Party is not in consonance with the provision and rules of the Payment of Gratuity Act, 1972. Opposite Party took liberty to decide upon the issues on their own, will and whims, circumventing, statutory mandates, and thus deprived the applicant of statutory right. **Though, the opposite party has intimated the applicant about forfeiture of gratuity the controlling authority is of the opinion** that there was a clear violation of rule-8 of the Payment of Gratuity Act, Central Rules, 1972 as neither any intimation was given by the Opposite Party to the controlling authority with respect to forfeiture of gratuity, or any permission was sought by the Opposite Party to forfeit the gratuity of the*

applicant an order regarding forfeiture of gratuity of the petitioner, passed by the employer without affording any opportunity of hearing to the employee-petitioner in unsustainable since it has been passed in violation of concept of principles of natural justice.

In view of the above the Controlling Authority findings the action of Opposite Party to withhold the gratuity of the applicant unjust and unlawful.”

- 21.** Finally the authority granted gratuity in favour of the private respondent no. 6.
- 22.** The petitioner preferred an appeal, where in the **appellate authority** vide an order dated 28th April, 2025 decided as follows:-

“ORDER

*Going through the facts of the case, the investigation of Appellant may still be in process and **the initial investigation seems to have proven the loss to the organization because of the negligence/intention of the Respondent to do so.** However, on technical grounds if the Gratuity is required to be forfeited, an intimation to that effect is required to be sent to the Controlling Authority so that any action required to be taken at that point of time can be taken by the Authority. In this instant case no such intimation has been endorsed to the Controlling Authority informing that the claim for Gratuity to the Respondent is not found admissible. **No notice in Form-M has been issued to the Respondent specifying***

the reasons as to why the claim of Gratuity is not considered admissible.

*There is no evidence to reason out claim of the Respondent as there is a **long set of process on going to decide the amount of damage done to the organization** and to hold the Respondent responsible for the same. But as this office has to go by the conditions laid down in the Payment of Gratuity Act, in violation of Section 8(1)(ii), the Gratuity to the Respondent seems to be payable.*

The order of the Controlling Authority is hereby upheld and payment of Gratuity as well as the interest amount is payable to the Respondent which is already deposited with the Controlling Authority. This is my order on this day of 28th April, 2025.

-Sd/-

***Dy. Chief Labour Commissioner (Central)
Kolkata and Appellate Authority under
the payment of Gratuity Act. 1972”***

- 23.** Written notes and judgments relied upon have been filed by the parties.
- 24.** The petitioner in it's Written notes has stated that after issuing the dismissal order, the respondent's claim for gratuity was rejected on 8th March, 2022.
- 25.** The petitioner's further argument is that Section 4(6) of the Act does not provide for any separate opportunity of hearing to be provided for the purpose of forfeiture of gratuity. The provision of section 4(6) of the Act read with Rule 7 of the Central Rules, automatically constitute statutory

notice through implementation of law with regard to forfeiture of gratuity of an employee who has been terminated from service.

26. Additionally, Appendix III of the Service Rules of IEI clearly puts an employee on notice, that no gratuity shall be paid to him, if he is dismissed for gross misconduct causing damage to the property of the Institution.
27. That, there is no provision in the Act of 1972 to seek permission from the Controlling Authority to forfeit gratuity amount of terminated employee.
28. **It is further stated that the order of the Appellate Authority is bad in law for the following reasons:-**
 - i. By letter dated 8th March, 2022 (**Page no 44 of the Writ Petition**), IEI had already rejected the claim for gratuity by reference to clause 3 of Appendix III of the Service Rules. Therefore, **in essence, the purpose of Form-M was complied with through letter dated 8th March, 2022. Procedural rule is handmaid of justice and cannot override a substantive provision of section 4(6) of the Act of 1972.**
 - ii. In the appellate order itself it was recorded that investigation of the employer seems to have proven the loss to the organisation. This investigation is obviously referable to the disciplinary proceeding conducted by the employer, and not to any other investigation.
 - iii. The order of the disciplinary proceeding has been accepted by the employee, and **the disciplinary authority/proceeding has**

clearly mentioned about the quantified loss of Rs. 35 crores (approximately) and finally the proving of charges in the departmental action, operates as an ostensible ground for denial of gratuity in terms of Service rules of IEI.

- iv.** The power to forfeit gratuity has been explained by the Apex Court in the judgment of **Western Coal Fields Limited Vs. Manohar Govinda Fulzele reported in 2025 SCC Online SC 345 (Paras 9 and 10)**, wherein the Supreme Court held:-

“9. With all the respect at our command, the interpretation in C.G. Ajay Babu does not come out of the statutory provision; Section 4(6)(b)(ii) of the Act. Normally we would have referred the matter for consideration by a Larger Bench, but, as we noticed, the statutory provision does not make it a requirement that the misconduct alleged & proved in a departmental enquiry should not only constitute an offence involving moral turpitude, but also should be duly established in a Court of Law. The words “duly established in a Court of Law” cannot be supplied to the provision. Moreover, as we observed; the interpretation of sub-clause (b)(ii) of sub-section (6) of Section 4 was uncalled for in C.G. Ajay Babu since the provisions of the Section 4, including sub-section (6) was found to be inapplicable to the employer Bank and its employee, by virtue of sub-section (5) of Section 4. The interpretation, hence, with due respect was an obiter making a reference unnecessary.

10. As has been argued by the learned Solicitor General and the learned Counsel appearing for MSRTC, sub-clause (ii) of Section 4(6)(b) enables forfeiture of gratuity, wholly or partially, if the delinquent employee is terminated for any act which constitutes an offence involving moral turpitude, if the offence is committed in the course of his employment. An ‘Offence’ as defined in the General Clauses Act, means ‘any act or omission made punishable by any law for the time being’ and does not call for a

*conviction; which definitely can only be on the basis of evidence led in a criminal proceeding. The standard of proof required in a criminal proceeding is quite different from that required in a disciplinary proceeding; the former being regulated by a higher standard of 'proof beyond reasonable doubt' while the latter governed by 'preponderance of probabilities'. The provision of forfeiture of gratuity under the Act does not speak of a conviction in a criminal proceeding, for an offence involving moral turpitude. On the contrary, the Act provides for such forfeiture; in cases where the delinquent employee is terminated for a misconduct, which constitutes an offence involving moral turpitude. **Hence, the only requirement is for the Disciplinary Authority or the Appointing Authority to decide as to whether the misconduct could, in normal circumstances, constitute an offence involving moral turpitude, with a further discretion conferred on the authority forfeiting gratuity, to decide whether the forfeiture should be of the whole or only a part of the gratuity payable, which would depend on the gravity of the misconduct.** Necessarily, there should be a notice issued to the terminated employee, who should be allowed to represent both on the question of the nature of the misconduct; whether it constitutes an offence involving moral turpitude, and the extent to which such forfeiture can be made. There is a notice issued and consideration made in the instant appeals; the efficacy of which, has to be considered by us separately."*

- v. It is further stated by the petitioner that this is without prejudice to the submission that respondent no. 6 is not entitled to gratuity because of Appendix III of the service rules, and no element of forfeiture under section 4(6) of the act is required to be examined in the instant case.

- vi. The aforesaid decision also takes care of the position that right of an employer to forfeit gratuity is independent of the outcome of criminal proceeding.
 - vii. Disciplinary proceeding and criminal proceeding operate in different fields with different standards of tests, ***State of Jammu and Kashmir & Ors. Vs. Farid Ahmas Tak, reported in 2019 (7) SCC 278 (para 16 and 17).***
 - viii. **In the instant case, the charges in the disciplinary proceeding were completely different from the charges involved in the criminal trial. In disciplinary proceeding, the charge is predominantly of culpable negligence causing huge loss to IEI.**
 - ix. Thus, a reference to a probable outcome of the criminal proceedings made by the Appellate Authority is completely de-hors the settled proposition of law.
- 29.** It is further stated that the criminal proceeding has no relevance with the forfeiture of gratuity amount which is a civil action taken against an employee found to be guilty of misconduct as per Service Rules of the organisation.
- 30. Petitioner relies upon the Judgments of the Supreme Court in:-**
- i. *Karam Pal & Ors. vs Union of India & Ors. reported in AIR 1985 SC 711.*
 - ii. *State of Jammu and Kashmir & Ors. vs Farid Ahmad Tak, reported in 2019(7) SCC 278.*
- 31. The respondent no. 6 has relied upon the following judgments:-**

- (i) *Khem Chand vs Union of India & Ors.* 1957 SCC OnLine SC 6.
- (ii) *D.V. Kapoor vs Union of India & Ors.* (1990) 4 SCC 314.
- (iii) *Union Bank of India & Ors. vs C.G. Ajay Babu & Anr.,* (2018) 9 SCC 529.
- (iv) *Western Coal Fields Ltd. vs Manohar Govinda Fulzele & Anr.,* in Civil Appeal No. 2608 of 2025, decided on February 17, 2025.

32. In the report filed by the Enforcement Directorate, it appears that the private respondent has been named as witness no. 6 in the prosecution Complaint filed.

33. The state in its report has stated that the **IEI staff acted believing the fake representations and documents of the then Branch Manager of Allahabad Bank, Bowbazar Branch, to be genuine.** Considering the higher rate of interest, they followed his instructions and, after maintaining all formalities to book the FDs, put the mentioned account numbers in the RTGS advice form, while always mentioning “Allahabad Bank” as the beneficiary name.

34. From the minutes dated 30-31 March of 2024, 726th Council Meeting, the following was noted:-

During deliberation on the Rs.35 Cr Fraud Case at the 726th Council meeting and being asked by the President, the members of the Committee apprised the following:-

1. Fresh application has been submitted to the Enforcement Directorate (ED).
 2. A visit was made by the Committee members to the office of the ED where they highlighted all the procedural lapses.
 3. ED stated that they had already submitted chargesheet wherein 10 names were there.
 4. All the 10 persons are now out on bail.
 5. None of the 10 persons were either IEI employee or Corporate Members of IEI.
 6. One of the 10 persons was the Bank Manager.
 7. The ED had duly investigated and crosschecked the statements of all the 10 persons. But none of them had any mention of any IEI employee or Corporate Member of IEI. **Although there was no internal involvement in the crime, there were huge procedural lapses and negligence.**
- 35. During investigation,** it was revealed that Samrat Paul, the then Branch Manager of Allahabad Bank, Bowbazar Branch, was directly involved in this crime. **He provided fake proposal letters and FD certificates with malicious intent, and the IEI personnel acted upon his misrepresentation (negligence).** Samrat Paul has been arrested and a chargesheet has been submitted against him as Accused No. 3.
- 36. The Respondent Bank on the basis of records maintained by way of a report in the form of affidavit has stated as follows:-**
- “i. Upon careful perusal and scrutiny of the bank records as it appears that there was no savings or current accounts**

opened in the of the petitioner namely “The Institute of Engineers (India)” with the Indian Bank, Bowbazar Street Branch;

- ii. The Respondent bank further states that there were four current/saving accounts standing in the names of “M/s Kadamtala Rural Health Service Society being Account No. 50500106596”, “M/s Sattya Seba Sangha being Account No. 50464814920”, “M/s ALL Bank being Account No. 50497767399” and “M/s ALL Bank being Account No. “50529292569” maintained with the Indian Bank, Bowbazar Branch, wherein various amounts on different dates were credited in the aforesaid accounts.”**

37. From the report as filed by the respondent bank, it appears that prima facie, the whole process undertaken by the private respondent on behalf of the petitioner appears to a **clear case of severe negligence, if at all the same is not taken to be an offence**, in view of the report of the investigating agency, including the enforcement directorate.

38. The petitioner in the case of the private respondent, for the said gross negligence and huge loss caused to the institute, conducted an enquiry and then a disciplinary proceeding, where in the private respondent was given proper and sufficient opportunity to defend his case. Principle of natural justice was duly followed.

39. In *The State of Rajasthan & Ors. vs Heem Singh, in Civil Appeal No. 3340 of 2020 (arising out of SLP (C) No. 30763 of 2019)*,

decided on October 29, 2020, wherein the Supreme Court in Para 13, 33 held:-

“13. *The standard of standard of proof in disciplinary proceedings is different from that in a criminal trial. In **Suresh Pathrella v. Oriental Bank of Commerce**⁴, a two judge Bench of this Court differentiated between the standard of proof in disciplinary proceedings and criminal trials in the following terms:*

“...the yardstick and standard of proof in a criminal case is different from the disciplinary proceeding. While the standard of proof in a criminal case is a proof beyond all reasonable doubt, the proof in a departmental proceeding is preponderance of probabilities.”

*This standard is reiterated by another two-Judge Bench of this Court in **Samar Bahadur Singh v. State of U.P.** :*

“Acquittal in the criminal case shall have no bearing or relevance to the facts of the departmental proceedings as the standard of proof in both the cases are totally different. In a criminal case, the prosecution has to prove the criminal case beyond all reasonable doubt whereas in a departmental proceedings, the department has to prove only preponderance of probabilities.”

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 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."

- 40. Admittedly,** no appeal has been preferred by the private respondent against the finding of the disciplinary authority nor has he approached any other forum against the said order finding him guilty and imposing penalty.

- 41. In the present case,** the disciplinary authority has not only proved the severe prejudice caused to the petitioner herein, **but has also quantified the loss caused to the bank due to the sheer and gross negligence of the private respondent herein. The enforcement directorate as noted in the minutes dated 30-31 March, 2024 that the ED had duly investigated and crosschecked the statements of all the 10 persons. But none of them had any mention of any IEI employee or Corporate Member of IEI. Although there was no internal involvement in the crime, there were huge procedural lapses and negligence.**
- 42.** The disciplinary proceeding conducted and penalty of dismissal by the petitioner, has not been challenged till date by the respondent no. 6. But both the controlling authority and more so the appellate authority have taken into consideration the proceeding against the respondent no. 6, while passing the impugned orders.
- 43.** The appellate authority (central) has held that no notice in Form-M has been issued to the respondent.
- 44.** The said observation is found to be in **contradiction** to the findings of the controlling authority, who has categorically stated that the applicant was informed about the forfeiture of gratuity.
- 45.** The controlling authority thus found violation of rule 8 of the payment of gratuity Act, Central Rules, 1972 and the appellate authority agreeing with the same found violation of Section 8(1)(ii) of the rules.
- 46.** It appears that though the technical formalities under the act has prima facie not been complied with, the petitioner has invoked Section 4(6)(a)

of the Act and has done the same in accordance with law, having duly proved that severe prejudice has been caused to the petitioner, due to the gross negligence of the private respondent, causing damages and loss of Rs. 35 crores (quantified), by way of a disciplinary proceedings conducted in accordance with law by following the principles of natural justice and thus calls for no interference in judicial review.

47. Admittedly, the private respondent has been duly show caused and informed of the said forfeiture.
48. The filing of Form –M has been left out by an institute having suffered huge loss, which is a curable defect and the same be completed by the petitioner forthwith.
49. Thus the order of the controlling authority dated 30.12.2023, the order of the appellate authority dated 28th April, 2025, and the notice dated 1st May, 2025, being not in accordance with law, **are set aside**. The demand drafts dated 29th January, 2024 vide no. 895212 and 30th August, 2024 vide no. 229879 be returned to the petitioner forthwith.
50. **WPA 10679 of 2025 is allowed.**
51. Connected application, if any, stands disposed of.
52. Interim order, if any, stands vacated.
53. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties expeditiously after due compliance.

(Shampa Dutt (Paul), J.)