IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Tapabrata Chakraborty
&
The Hon'ble Justice Partha Pratim Roy

MAT 1479 of 2025
+
IA No.: CAN 1 of 2025

United Commercial Bank (UCO Bank) & Others
-Versus-
Indranath Mukherjee

For the Appellants	:	*Mr. S. Pal,* *Mr. S. Pal Choudhuri,* *Mrs. S. Dey Pal Choudhuri,* *Ms. S. Paul*
For the Writ Petitioner/ Respondent	:	*Mr. Kallol Basu,* *Mr. Samik Sarkar*
Hearing is concluded on	:	*16th November, 2026.*
Judgment On	:	**16th November, 2026.**

Tapabrata Chakraborty, J.

1. The United Commercial Bank (UCO Bank) (hereinafter referred to as the Bank) and its functionaries, being the appellants herein, have taken

exception to a judgment dated 22nd July, 2025 passed by the learned Single Judge in a writ petition, being WPA 6755 of 2018 setting aside the *'Memorandum of Charge-sheet dated 29.08.2013, the Enquiry Report, the order of punishment issued by the Disciplinary Authority dated 28.09.2013 and the order of the Appellate Authority dated 31.12.2014'* and directing the appellants *'to disburse all admissible terminal benefits to the petitioner, treating the case as if no disciplinary proceeding had been initiated against him.'*.

2. Records would reveal that the writ petitioner/respondent herein, namely, Indranath Mukherjee (in short, Indranath) joined the services in a clerical cadre in the year 1981. He worked for about 32 years in different capacities and got promotions. He had no antecedents. At the fag end of his service tenure and barely a month prior to the date of his retirement a Disciplinary Proceeding (hereinafter referred to as DP) was initiated against him by a Charge Sheet (hereinafter referred to as CS) dated 29th August, 2013 to which he replied on 6th September, 2013. The Enquiry Officer (hereinafter referred to as EO) was appointed thereafter on 7th September, 2013 and he submitted an undated Enquiry Report (hereinafter referred to as ER) to which Indranath replied on 24th September, 2013. The Disciplinary Authority (hereinafter referred to as DA) issued a second show-cause notice on 27th September, 2013 and passed the order of punishment on 28th September, 2013, against which Indranath preferred a statutory appeal which was disposed of by the Appellate Authority (hereinafter referred to as AA) by an order dated 31st December, 2014. Thereafter on

15th May, 2015, Indranath sought for copies of documents regarding enquiry proceeding initiated against one Tapas Kumar Banerjee (in short, Tapas), who was a staff of the Bank and was named in the CS. As such prayer was not considered Indranath filed an application under the Right to Information Act, 2005 (hereinafter referred to as the 2005 Act) on 15th January, 2015. Aggrieved by an order of dismissal dated 28th January, 2015, he preferred a statutory appeal on 9th February, 2015 but the same was dismissed by the first appellate authority under the 2005 Act and accordingly, Indranath approached the second appellate authority on 19th March, 2015 and upon the same not being answered, he preferred a writ petition which was disposed of on 7th July, 2015 directing the competent authority to dispose of the second appeal and pursuant thereto, the second appeal was dismissed on 4th July, 2016 and the review preferred thereafter was not answered. As his termination was not due to any act of wilful omission or moral turpitude or riotous act, Indranath approached the competent authority under the Payment of Gratuity Act, 1972 (hereinafter referred to as the 1972 Act) and pursuant to the order passed by the appellate authority under the 1972 Act on 29th September, 2017, the appellants disbursed the gratuity amount. Thereafter, Indranath preferred the writ petition in the month of May, 2018 which was disposed of finally by the judgment dated 22nd July, 2025, impugned in the present appeal.

3. According to Mr. Pal, learned advocate appearing for the appellants, as the DP was guided by the bipartite settlement, Indranath had an alternative efficacious remedy to approach the Industrial Tribunal and the learned

Single Judge ought not to have negated such issue, as urged, applying the general principle that existence of an alternative remedy is not an absolute bar against maintainability of a writ petition and observing that Indranath does not fall within the definition of '*workman*', as contemplated under Section 2(s) of the Industrial Disputes Act, 1947 (hereinafter referred to as the 1947 Act) failing to appreciate that the principal duty discharged by him was clerical in nature.

4. He contends that the statutory appeal was disposed of on 31st December, 2014 and the writ petition was preferred about 4 years thereafter in the month of May, 2018. Such delay was not appropriately explained by Indranath and the learned Single Judge construed an excuse given by Indranath to escape from the blame, to be an explanation and negated the issue of maintainability without any reason whatsoever.

5. He argues that the scope of review in matters concerning imposition of punishment by the DA is strictly confined to procedural compliance, observance of natural justice, adherence to statutory rules and freedom from extraneous or *mala fide* consideration, rather than assessing the correctness of the decision, re-appreciating evidence or evaluating its adequacy, reliability or sufficiency. It is not a case that Indranath had been found guilty on the basis of mere surmises. His guilt stood established through the specific findings in the report of the EO as well as in the order of the DA. It is also not a case that Indranath was not granted adequate opportunities to defend himself. Elaborating such argument, he submits that in a proceeding under Article 226 of the Constitution, the High Court

does not sit as an appellate authority over the findings of the DA and the AA. The learned Single Judge glossed over the issue that Indranath himself admitted the guilt that he had approved upon verification, the modification of the introducer's name using his ID in the system and sought to wriggle out of the rigours of the act by giving a purported explanation that he had done so in good faith and it was an unintentional mistake on his part. In support of such argument, as advanced, reliance has been placed upon the judgment delivered in the case of *Union of India & Ors. vs. P. Gunasekaran* reported in *(2015) 2 SCC 610* and an unreported judgment delivered in *Civil Appeal No.2148 of 2015 (Central Industrial Security Force & Ors. vs. Abrar Ali)*.

6. He contends that the learned Single Judge also failed to appreciate that a Bank officer is required to exercise high standard of honesty and integrity. He deals with the money of the depositors and the customers. As such, he is required to take all possible steps to protect the interests of the Bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and to do nothing which is unbecoming of a Bank officer. It is no defence available to say that no loss or profit resulted. In view thereof, Indranath's act is a misconduct and attracts Clause 5(j) of the bipartite settlement.

7. He contends that even in cases where the penalty imposed appears to be shockingly disproportionate to the nature of misconduct, the matter needs to be relegated to the DA/AA to take a call and it is not for the Court to substitute its decision by prescribing the quantum of punishment more

so when it is not a case that the impugned judgment results in inconsistent treatment of similarly placed personnel, creating inconsistency in judicial outcomes and possible complications.

8. *Per contra*, Mr. Basu, learned advocate appearing for Indranath, argues that the entire proceeding smacks of biased and closed mind. The EO, the DA, the AA have all been swayed by a pre-conceived notion that Indranath had deliberately approved upon verification, the modification of the introducer's name using his ID in the system in the account no.02770210000892 being entered by Tapas and had acted in connivance with the said staff in causing loss to the Bank though such allegation of connivance does not feature in the CS and a perusal of the ER would categorically reveal that no evidence was led to establish any allegation of connivance against Indranath. Suspicion, howsoever high may be, under no circumstances, can be held to be a substitute for legal proof.

9. He argues that as Indranath's acts were sought to be linked with those of Tapas, he sought for all the documents regarding the DP against Tapas and as such prayer was not considered, he availed the remedies provided under the 2005 Act unsuccessfully expending the period from 15th January, 2015 till 4th July, 2016. As his termination was not for any act of wilful omission or moral turpitude or riotous act, Indranath also approached the competent authority under the 1972 Act and pursuant to the order passed by the Act on 29th September, 2017, the appellant disbursed the gratuity amount. The finding that for the service rendered by Indranath, the appellants did not suffer any loss had a direct bearing on the DP and as

such the writ petition was filed challenging the DP. Considering the said sequence of facts and giving reasons, the learned single Judge entertained the writ petition condoning the delay and negating the plea of alternative remedy. The argument that the delay in preferring the writ petition had been condoned on the rudiments of a mere excuse is thus not sustainable. Considering such sequence of facts, the learned Single Judge entertained the writ petition condoning the delay and negating the plea of alternative remedy. The argument that the delay in preferring a writ petition had been condoned on the rudiments of mere excuse, is thus not sustainable. In support of such submission, reliance has been placed upon the judgments delivered in the case of *Union of India & ors. vs. R. Reddappa & anr.* reported in *(1993) 4 SCC 269* and *Tukaram Kana Joshi & Ors. through Power-of-Attorney Holder vs. Maharashtra Industrial Development Corporation & Ors.* reported in *(2013) 1 SCC 353*.

10. We have heard the learned advocates appearing for the parties at length and we have given our anxious consideration to the facts and circumstances of the case, as well as to the documents disclosed before us.

11. Discussing and deliberating upon the arguments as advanced by the learned advocates appearing for the respective parties, the learned Single Judge delved into the following facets of the *lis* : *'(i) whether the writ petition is maintainable in view of the existence of an efficacious alternative remedy and the petitioner's failure to exhaust the same; (ii) whether the present writ petition is liable to be dismissed on the ground of delay; (iii) whether the acts of omission and/or commission by the petitioner, in the absence of mala fide intent, can still amount to misconduct; (iv) whether the findings recorded by*

the Enquiry Officer and/or the decision rendered by the Disciplinary Authority are perverse; and whether the findings of the EO and order of the DA and AA are non-speaking; (v) whether the punishment imposed is so disproportionate as to shock the conscience of the Court'.

12. The argument that the writ petition ought to have been dismissed on the ground of availability of an alternative remedy and delay was rightly discounted by the learned single Judge since the existence of the bipartite agreement did not create any absolute bar towards preference of the writ petition more so when, the appellants themselves have stated that Indranath was promoted to the post of Special Assistant and was drawing a pay in excess of Rs.40,000/- per month. The jurisdiction of this Court cannot be fettered by a mechanical tendency to retreat from exercise of the plenary powers vested in the Writ Court by Article 226 of the Constitution. Indranath sought for directions from the Writ Court for protection of his constitutional right since on the basis of the ER, the DP was not sustainable as the EO arrived at a specific finding that *'evidences and depositions on record do not suggest any malafide intention on the part of CSE and the mistake so committed, in all likeliness is unintentional, there is no denying the fact that the transaction was verified by Sri Mukherjee in routine manner'.* For having allegedly conducted the verification in a routine manner, Indranath could not have been dismissed. The allegation that Indranath's dismissal was for an act of willful omission resulting in financial loss also could not be established by the appellants in the proceedings under the 1972 Act. In view thereof, the learned single Judge rightly exercised discretion in favour of Indranath.

13. The DP was initiated alleging that Indranath had verified the modification of the introducer's name using his ID in the system in the account no. 02770210000892, entered by Tapas. There was no specific charge of any connivance or of any financial loss caused to the Bank. Indranath was not in any manner responsible for the acts of Tapas inasmuch as there was no allegation against Indranath in the proceedings initiated against Tapas. The alleged fraud devised by Tapas and four other officials was investigated by the police authorities and in the same nothing was found against Indranath and the appellants in their affidavit-in-opposition also admitted that the proceedings against Indranath had no connection with the proceedings against Tapas. The learned Single Judge rightly discounted the argument that Indranath had admitted the guilt delving deep into the facts and arriving at a finding that an unintentional mistake bereft of any ill motive cannot be construed as a misconduct under clause 5(j) of the bipartite settlement.

14. It is well-settled that a judgment is an authority for what it decides and not what can be deduced therefrom. A minor difference in facts and circumstances may lead to a huge difference in the decision making process. There is no dispute as regards the proposition of law as laid down in the judgments upon which reliance has been placed by the appellants, however, the same are distinguishable on facts.

15. An appellate power interferes not when the judgment appealed is not right but only when it is clearly wrong. Such interference is called for primarily when the subordinate Court had acted wholly without jurisdiction or in excess of it or where the discretion exercised is not supported with

reasons or when the decision is perverse. Having regard to this constellation of considerations, carefully viewed in the jurisprudential setting above silhouetted, we are not inclined to interfere with the judgment impugned, more so when, the learned Single Judge upon dealing with the factual issues arrived at specific findings supported with detailed reasons.

16. Accordingly, the appeal and the connected application are dismissed.

17. There shall, however, be no order as to costs.

18. Urgent Photostat certified copy of this judgment, if applied for, shall be granted to the parties as expeditiously as possible, upon compliance of all formalities.

(Partha Pratim Roy, J.) **(Tapabrata Chakraborty, J.)**