

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-14246-1998

HARDEEP SINGH ATWAL

...PETITIONER

VERSUS

BANK OF INDIA ETC.

...RESPONDENTS

1.	The date when the judgment is reserved	12.11.2025
2.	The date when the judgment is pronounced	21.01.2026
3.	The date when the judgment is uploaded	22.01.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any of the pronouncement of full judgment and reason thereof.	Not applicable

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. H.C. Arora, Advocate with
for the petitioner.

Mr. K.P.S. Dhillon, Advocate
for respondent/Bank.

SANDEEP MOUDGIL, J

Prayer

1. The petitioner has filed the present writ petition under Articles 226/227 of the Constitution of India for quashing the findings of the Inquiry Officer vide order (Annexure P-6) and the order of punishment dated 05.07.1996 (Annexure P-8) vide which the petitioner has been dismissed from service and the appellate order dated 13.01.1997 (Annexure P-10) by which the said penalty has been confirmed by respondent No.3.

The Conspectus Of Facts

2. The petitioner, a citizen of India, was working as an Assistant Manager/Staff Officer at Bank of India, Gaggo Mahal Branch, within the territorial jurisdiction of this Hon'ble Court. While in service, he was served with a charge-sheet dated 21.03.1995 (Annexure P-1) containing three articles of charge relating to alleged unauthorised transactions in Saving Bank Account No. 5950, availing of a consumer loan in the name of another staff member, and an alleged irregularity in availing a demand loan against bank deposits.

3. Prior to issuance of the charge-sheet, a preliminary investigation was conducted by Shri P.K. Kesri, Investigation Officer, who allegedly acted in connivance with the Branch Manager. Statements were allegedly obtained from the petitioner under coercion and various staff members were examined. The charge-sheet was issued on the basis of the said investigation report, though a copy of the report was never supplied to the petitioner despite repeated demands. Parts of the investigation material were relied upon during the enquiry, yet the Investigation Officer himself was not produced as a witness.

4. During the departmental enquiry, only three management witnesses were examined. The petitioner was denied production of several relevant documents on the ground of privilege, contrary to the Bank of India Officer Employees (Discipline & Appeal) Regulations, 1976 (in short as "1976 Regulations").

5. After conclusion of the enquiry, the Enquiry Officer held the petitioner guilty of all charges. The Disciplinary Authority, ignoring the petitioner's detailed representation and his unblemished past service record,

imposed the extreme penalty of dismissal from service by order dated 05.07.1996 (Annexure P-8).

6. This decision was influenced by adverse observations of the Chief Vigilance Officer, a copy of which was never supplied to the petitioner.

7. The petitioner preferred a statutory appeal, which was dismissed by order dated 13.01.1997 (Annexure P-10) without granting any opportunity of personal hearing to the petitioner.

8. Aggrieved by the punishment order, the petitioner has approached this Court seeking quashing of the enquiry report, dismissal order, and appellate order, along with reinstatement in service with all consequential benefits.

Contentions

On behalf of Petitioners

9. Learned counsel for the petitioner submits that the departmental enquiry is vitiated due to blatant violation of principles of natural justice and the mandatory provisions of the 1976 Regulations. The charge-sheet was based on a preliminary investigation report which was never supplied to the petitioner, though relied upon during the enquiry, thereby denying him a fair opportunity of defence.

10. It is contended that statements recorded by the Investigation Officer were exhibited and relied upon, yet the Investigation Officer himself was not produced for cross-examination, causing serious prejudice. The petitioner was further denied copies of examination-in-chief of management witnesses and several material documents were wrongly declared privileged at the instance of the Presenting Officer, in violation of Regulations 6(11) and 6(12) of the 1976 Regulations.

11. Learned counsel argues that the Enquiry Officer violated Regulation 6(17) by not questioning the petitioner on circumstances appearing against him and also conducted crucial proceedings in his absence despite a medical certificate. The findings on Article-I are assailed as perverse and based on presumptions, particularly when the alleged death of an account holder was not proved by any death certificate and the evidence showed that the account was not a joint account as alleged.

12. With respect to Articles II and III, it is submitted that the documentary evidence established consent of the concerned staff member and that the alleged omission was purely inadvertent, temporary, and caused no loss to the Bank, and thus did not amount to misconduct.

13. It is further contended that the penalty of dismissal is grossly disproportionate, imposed without considering the petitioner's unblemished service record, and was influenced by adverse vigilance remarks not supplied to the petitioner. The appellate order is challenged as mechanical and illegal, having been passed without personal hearing and without proper consideration of the grounds raised, contrary to Regulation 17 of 1976 Regulations.

14. Learned counsel therefore submits that the enquiry proceedings, the dismissal order, and the appellate order are unsustainable in law and liable to be quashed with all consequential benefits.

On behalf of Respondents

15. Learned counsel for the respondent-Bank submits that the writ petition is wholly misconceived and liable to be dismissed. The fraudulent withdrawals from Saving Bank Account No. 5950 came to light in October 1994 after information regarding the death of the account holders. A detailed investigation revealed the petitioner's involvement, and in his confessional

statement the petitioner admitted withdrawal of Rs.20,000/- and Rs.10,000/- from the said account.

16. It is contended that the petitioner was rightly placed under suspension and charge-sheeted on 21.03.1995 (Annexure P-1) for serious acts of misconduct, namely fraudulent withdrawal of funds by abuse of official position, unauthorised credit of a staff loan amount to his own account, and irregular availing of loan against his deposit by manipulating accounting entries. A full-fledged departmental enquiry was conducted strictly in accordance with the applicable Rules affording the petitioner adequate opportunity to cross-examine management witnesses and to lead evidence in defence.

17. Learned counsel submits that the findings of the Enquiry Officer are based on cogent documentary and oral evidence and clearly establish fraud, dishonesty and misuse of official position by the petitioner. Non-production of the Investigating Officer caused no prejudice, as the charges were proved independently and the investigation report was not relied upon as substantive evidence. Moreover, the documents claimed as privileged were rightly withheld as internal bank correspondence.

18. It is further contended that the Disciplinary Authority passed a reasoned order imposing the penalty of dismissal after due consideration of the enquiry report and the petitioner's representation. The consultation with the Chief Vigilance Officer was in accordance with the regulations and did not vitiate the order. The Appellate Authority also passed a speaking order after duly considering all the material on record while confirming the punishment.

19. Lastly, it is submitted that the writ petition suffers from delay and laches, having been filed about eighteen months after dismissal of the appeal.

Analysis

21. Having considered the submissions advanced by learned counsel for the parties and perused the material placed on record, it is pertinent to discuss the scope of judicial review in disciplinary matters under Article 226 of the Constitution of India. It is well settled that the High Court does not act as an appellate authority to re-appreciate evidence or substitute its own conclusions for that of the departmental authorities. Interference is warranted only where the enquiry is held in violation of statutory rules, principles of natural justice, or where the findings are perverse or the punishment is shockingly disproportionate.

22. On examination of the record, it emerges that the petitioner was served with a detailed charge-sheet dated 21.03.1995 (Annexure P-1) containing charges of misconduct to which he submitted his reply. A regular departmental enquiry was conducted in accordance with the 1976 Regulations and the petitioner participated in the enquiry, cross-examined management witnesses, and was afforded a fair opportunity to build up a defence.

23. The contention that the preliminary investigation report was not supplied to the petitioner does not advance his case. It is well settled that a preliminary enquiry report is only meant to decide whether a regular departmental enquiry should be initiated and does not form substantive evidence unless specifically relied upon. In the present case, the findings of guilt are based on documentary evidence and oral testimony led during the regular enquiry. The investigation report was not treated as evidence, and non-supply thereof has not caused any demonstrable prejudice to the petitioner. Support for this view of mine, can be drawn from the judgment of the Supreme Court passed in “***State of Uttar Pradesh v. Harendra Arora, (2001)***

report does not vitiate the proceedings unless prejudice is shown. Relevant extract is as under:

“21. Thus, from a conspectus of the aforesaid decisions and different provisions of law noticed, we hold that provision in Rule 55-A of the Rules for furnishing copy of enquiry report is procedural one and of a mandatory character, but even then a delinquent has to show that he has been prejudiced by its non-observance and consequently the law laid down by the Constitution Bench in the case of ECIL, to the effect that an order passed in a disciplinary proceeding cannot ipso facto be quashed merely because a copy of the enquiry report has not been furnished to the delinquent officer, but he is obliged to show that by non-furnishing of such a report he has been prejudiced, would apply even to cases where there is requirement of furnishing copy of enquiry report under the statutory provisions and/or service rules.”

24. Moreover, another grievance raised by the petitioner regarding non-examination of the Investigating Officer is also without merit. The law is trite that the Investigating Officer is not a mandatory witness in departmental proceedings unless the case rests solely on the investigation report. In the present case, the charges stood proved through independent evidence, including bank records and testimony of management witnesses. The petitioner was given a fair and reasonable opportunity to cross-examine the management witnesses on whose testimony his charges stood proved and thus this stand taken by the petitioner pertaining to non-examination of the Investigating Officer cannot sustain.

25. As regards denial of certain documents on the ground of privilege, the record indicates that such documents were internal correspondence and not relied upon to prove the charges. The petitioner has failed to establish how non-supply of those documents prejudiced his defence as held in ***Harendra Arora (supra)***.

Interference of this Court

26. Moreover, the allegation of violation of Regulation 6(17) of the 1976 Regulations also does not merit acceptance. The same is read as under:-

6. Procedure for imposing major penalties :

(17) The Inquiring Authority may, after the officer employee closes his evidence, and shall, if the officer employee has not got himself examined, generally question him on the circumstances appearing against him in the evidence for the purpose of enabling the officer employee to explain any circumstances appearing in the evidence against him.

The enquiry proceedings, read as a whole, demonstrate that the petitioner was aware of the material against him and had adequate opportunity to explain his conduct. Minor procedural deviations, if any, which do not affect the fairness of the enquiry, cannot be a ground to set aside the punishment. The Supreme Court in “**Managing Director, ECIL vs. B. Karunakar, (1993) 4 SCC 727**”, has emphasized that interference in the decision of a disciplinary proceedings by the Court is justified only where procedural lapses have caused prejudice to the delinquent employee, while observing that:

“31. Hence, in all cases where the Inquiry Officer's report is not furnished to the delinquent employee in the disciplinary proceedings, the Courts and Tribunals should cause the copy of the report to be furnished to the aggrieved employee if he has not already secured it before coming to the Court/Tribunal, and give the employee an opportunity to show how his or her case was prejudiced because of the non-supply of the report. If after hearing the parties, the Court/Tribunal comes to the conclusions that the non-supply of the report would have made no difference to the ultimate findings and the punishment given, the Court/Tribunal should not interfere with the order of punishment. The Court/Tribunal should not mechanically set aside the order of punishment on the ground that the report was not furnished as is regrettably being done at present. The courts should avoid resorting to shortcuts.”

27. Furthermore, the findings recorded by the Enquiry Officer, as alleged, cannot be simply termed perverse. With regard to Article I, the

conclusion is based on documentary evidence of withdrawals and the

petitioner's own admissions recorded during the proceedings. It is trite that the adequacy or sufficiency of evidence is not open to judicial review. In “**Union of India v. P. Gunasekaran, (2015) 2 SCC 610**”, the Supreme Court has clearly circumscribed the parameters of interference and held that the High Court cannot re-appreciate evidence or go into the correctness of findings of fact, relevant extract of the same is as under:

13. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, re-appreciating even the evidence before the enquiry officer. The finding on Charge No. I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Article 226/227 of the Constitution of India, shall not venture into re-appreciation of the evidence. The High Court can only see whether :

- a. the enquiry is held by a competent authority;*
- b. the enquiry is held according to the procedure prescribed in that behalf;*
- c. there is violation of the principles of natural justice in conducting the proceedings;*
- d. the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
- e. the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
- f. the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;*
- g. the disciplinary authority had erroneously failed to admit the admissible and material evidence;*
- h. the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;*
- i. the finding of fact is based on no evidence.*

Under Article 226/227 of the Constitution of India, the High Court shall not:

- (i). re-appreciate the evidence;*
- (ii). interfere with the conclusions in the enquiry, in 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.”

Proportionality of punishment

28. The contention that the punishment of dismissal is disproportionate is also untenable. The charges proved against the petitioner relate to fraud, dishonesty, and misuse of official position in a banking institution, where integrity and trust are paramount. In cases involving financial irregularities and loss of confidence, dismissal is a recognized and justified penalty. The Supreme Court in **“Disciplinary Authority-cum-Regional Manager v. Nikunja Bihari Patnaik, (1996) 9 SCC 69”**, has held that no sympathy can be shown in cases of bank officials found guilty of misconduct involving lack of integrity while observing that,

“In the case of a Bank - for that matter, in the case of any other organisation - every officer/employee is supposed to act within the limits of his authority. If each officer/employee is allowed to act beyond his authority, the discipline of the organisation/bank will disappear; the functioning of the Bank would become chaotic and unmanageable. Each Officer of the Bank cannot be allowed to carve out his own little empire wherein he dispenses, favours and largesse. No organisation, more particularly, a Bank can function properly and effectively if its officers and employees do not observe the prescribed norms and discipline. Such indiscipline cannot be condoned on the specious ground that it was not actuated by ulterior motives or by extraneous considerations. The very act of acting beyond authority - that too a course of conduct spread over a sufficiently long period and involving innumerable instances - is by itself a misconduct. Such acts, if permitted, may bring in profit in some cases but they may also lead to huge losses. Such adventures are not given to the employees of Banks which deal with public funds.”

29. The plea that the disciplinary authority was influenced by adverse vigilance remarks not supplied to the petitioner is not borne out from the record. The disciplinary order reflects independent application of mind to the enquiry report and the petitioner’s representation. Consultation with the

vigilance machinery, as per internal procedure of the respondent bank, does not vitiate the order unless such material is relied upon to the prejudice of the delinquent, which could not be substantiated by the petitioner in the present case.

30. Furthermore, this Court is of the opinion that since the Appellate Authority considered all the grounds raised by the petitioner and passed a reasoned order affirming the punishment granted by the Disciplinary Authority vide order dated 05.07.1996 (Annexure P-8). Therefore, the appellate order dated 13.01.1997 (Annexure P-10) also does not suffer from illegality merely because the petitioner was not given an opportunity of personal hearing.

Conclusion

31. In view of the seriousness of the misconduct proved and the concurrent findings recorded by the Enquiry Officer, the Disciplinary Authority, and the Appellate Authority, this Court is of the opinion that no illegality, perversity, or violation of the principles of natural justice exists in the findings of the Inquiry Officer vide order (Annexure P-6), the order of punishment dated 05.07.1996 (Annexure P-8), and in the appellate order dated 13.01.1997 (Annexure P-10) affirming the same and thus no interference under Article 226 of the Constitution is warranted herein. Accordingly, the present writ petition is dismissed being devoid of merit.

32. Pending application(s), if any shall be disposed off.

(SANDEEP MOUDGIL)
JUDGE

21.01.2026
Sham

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*