IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 14th OF JUNE, 2023

WRIT PETITION No. 5271 of 1999

BETWEEN:-

S.D.TECKWANI (DEAD) THROUGH LRS.

1. **MANISH TECKWANI S/O LATE S.D. TECKWANI, AGED ABOUT 45 YEARS, R/O HOUSE NO. D-501, SPRING VALLEY, KATARA HILLS, BHOPAL (MADHYA PRADESH)**

2. **SHEELA DEVI W/O LATE S.D TECKWANI, AGED ABOUT 65 YEARS, R/O HOUSE NO. 65 KRISHNA NAGAR MANDSOR (MADHYA PRADESH)**

3. **LALIT TECKWANI S/O LATE S.D TECKWANI, AGED ABOUT 43 YEARS, R/O HOUSE NO. 5 KRISHNA NAGAR, MANDSOUR (MADHYA PRADESH)**

4. **SHARDA NEMA W/O LATE DHIRENDRA NEMA, AGED ABOUT 49 YEARS, R/O GOKUL SOCIETY INDORE (MADHYA PRADESH)**

5. **LAXMAN TECKWANI S/O LATE S.D TECKWANI, AGED ABOUT 48 YEARS, R/O HOUSE NO. 200, TILAK NAGAR, NEAR PANCHWATI BHOPAL (MADHYA PRADESH)**

.....PETITIONERS

(BY SHRI SWAPNIL GANGULY – ADVOCATE WITH SHRI AYUR JAIN - ADVOCATE)

AND

1. **THE STATE BANK OF INDIA THROUGH ITS CHAIRMAN, STATE BANK OF INDIA,**

CENTRAL OFFICE, NARIMAN POINT, MUMBAI (MAHARASHTRA)

2. **CHIEF GENERAL MANAGER, LOCAL HEAD OFFICE, STATE BANK OF INDIA, HOSHANGABAD ROAD, BHOPAL (MADHYA PRADESH)**

3. **THE GENERAL MANAGER, STATE BANK OF INDIA, LOCAL HEAD OFFICE, BHOPAL (MADHYA PRADESH)**

4. **DEPUTY GENERAL MANAGER, STATE BANK OF INDIA (ZONAL OFFICE), CHHOLA ROAD WING, HAMIDIYA ROAD, BHOPAL (MADHYA PRADESH)**

.....RESPONDENTS

(BY MS. RITIKA CHOUHAN - ADVOCATE)

This petition coming on for hearing this day, the court passed the following:

ORDER

This petition under Article 226 of the Constitution of India has been filed against the order dated 27/09/1998 passed by General Manager (DNPB), Local Head Office Bhopal and order dated 07/09/1999 passed by Chief General Manager, by which the petitioner has been dismissed from service and the appeal has also been dismissed.

2. It is not out of place to mention here that the original petitioner has expired and the Writ Petition is being pursued by his legal representatives.

3. Without entering into the controversy as to whether the *lis* would

survive after the death of employee or not, this Court thinks it appropriate to consider and decide the case on merits.

4. The facts necessary for disposal of the present petition in short are that the original petitioner was posted as Branch Manager, State Bank of India, Branch at Nandner. He was served with an order dated 28th November, 1993 by which he was reverted from MMGS-II to JMGS-I. The petitioner remained in Nandner Branch up to 30/06/1994. Thereafter, he was transferred to Sehore. A charge-sheet was issued to the petitioner by a covering letter dated 15/04/1997. Three charges were leveled against him. The departmental enquiry was conducted and one Shri V.K. Gupta was examined as a departmental witness, whereas the petitioner examined himself and one Shri Shivkar Singh as defence witnesses. An enquiry report dated 26/02/1998 was submitted and a copy of the same was supplied to the petitioner, however, it is the case of the petitioner himself that he could not submit his reply to the show cause notice. The prayer for extension of time was rejected and ultimately the petitioner was dismissed from service by order dated 27/09/1998.

5. Being aggrieved by the said order, the petitioner preferred an appeal which too has been dismissed by order dated 07/09/1999.

6. Challenging both the orders passed by the Authorities, it is submitted by the counsel for the petitioner that in view of the limited scope of judicial review in the matters of departmental enquiry, he would confine his arguments only on two grounds i.e., firstly, the disciplinary Authority while assessing the quantum of punishment has taken the past track record of the petitioner into consideration, however there was no allegation of past track record in the charge-sheet and

therefore, the petitioner could not have been terminated for the charge which was not a part of the charge-sheet and secondly, the punishment of dismissal of service is disproportionate to the allegations made against the petitioner. No financial loss was caused to the Bank. It is further submitted that although the person in whose favour the loan was sanctioned was a defaulter or his previous loan account was irregular but the outstanding loan amount was deposited. However, it is fairly conceded by the counsel for the petitioner that the loan amount was cleared after the petitioner was dismissed from service. To buttress his contention, the counsel for the petitioner has relied upon the judgment passed by the Supreme Court in the case of **The State of Mysore Vs. K. Manche Gowda** reported in **AIR 1964 SC 506**, and the orders passed by the Co-ordinate Bench of this Court in the cases of **Surendra Prasad Pande Vs. State of Madhya Pradesh and others** reported in **(2007) 3 MPHT 565**, **Rajendra Singh Kushwah Vs. State of M.P.** reported in **(2017) 1 MPLJ 193**, **Bhaskar Rawat Vs. State of Madhya Pradesh and another** decided on 17/01/2020 in **Writ Petition No.16966/2017 (Principal Seat at Jabalpur)** and **Ramesh Singh Thakur Vs. State of M.P. and others** decided on 16/02/2023 passed in **Writ Petition No.5505/1999 (Principal Seat at Jabalpur).**

7. *Per contra*, it is submitted by the counsel for the respondents that undisputedly the scope of judicial review in a departmental enquiry is limited. No malafides have been alleged. No irregularity in the procedure adopted by the disciplinary Authority/ enquiry officer has been pointed out. The dismissal of the petitioner from service is not disproportionate to the allegations made against him and to buttress her contention, the counsel for the respondents has relied upon the judgment passed by the Supreme Court in the case of **Regional**

Manager, U.P. SRTC, Etawah and others Vs. Hoti Lal and another reported in **(2003) 3 SCC 605**, **State Bank of India and others Vs. Ramesh Dinkar Punde** reported in **(2006) 7 SCC 212** and **State of Karnataka and another Vs. N. Gangraj** reported in **(2020) 3 SCC 423**.

8. Heard the learned counsel for the parties.

9. The copy of the charge-sheet has been filed as Annexure-P/12. In all, total three charges were leveled.

10. The first article of charge was that by sanctioning and disbursing the loans without taking into consideration, the position of the earlier loans granted to the borrower and his family members and by failing to ensure that mortgage of land is registered with appropriate Authority within the stipulated time, the petitioner had disregarded the Bank's instructions and jeopardized the Bank's interest and accordingly, the petitioner has contravened Rule No.50(1) and 50(4) of the State Bank of India Officers Service Rules governing his services in the Bank. This charge was further bifurcated into following five components:-

> (i) The loan already sanctioned to Shri Amar Singh (borrower) was running irregular.
>
> (ii) Cash receipts/ bills were not obtained in proof of the purchase of Thresher and wire for fencing.
>
> (iii) The registered mortgage of the land was not done before the expiry time stipulated in the Act.
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> (iv) The loans sanctioned to Shri Sanjay Singh s/o Shri Amar Singh were running highly irregular at the time of sanction of the loan of Rs.10,000/- to Shri Amar Singh on 19/02/1994.
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> (v) That the petitioner had sanctioned a fresh crop loan of Rs.10,000/- to Smt. Phool Bai w/o Shri Amar Singh on 08/03/1994 even when the

accounts sanctioned to her and to her family members as mentioned against (i) and (iv) above were running highly irregular.

11. The second charge was that by sanctioning and disbursing fresh loans to the defaulter borrowers knowing the fact that their earlier loan accounts were running highly irregular and by not ensuring that the assets were delivered to the borrower, the petitioner had passed undue benefits to them and exposed the Bank towards further risk. The acts of the petitioner were alleged to be in contravention of Rule 50(1) and 50(4) of the State Bank of India Officers Service Rules governing his services in the Bank. This charge was further bifurcated into following five components:-

(i) Shri Sittu Singh A/c No.N-1-96 was sanctioned a crop loan of Rs.10000/- and disbursed a part amount of Rs.5000/- on 25.7.92. The rest of the crop loan amount of Rs.5000/- was disbursed on 20.10.93 when the earlier amount disbursed on 25.7.92 was outstanding and the A/c was running highly irregular. Further an ATL of Rs.12000/- for purchase of oil engine was sanctioned and disbursed on 23.10.93. The borrower an illiterate person denied of having received either the amount or the assets.

(ii) Shri Shivraj Singh (A/c No.N-165) was sanctioned an ATL of Rs.8000/- for purchase of Electric pumpset on 20.10.89. The Account was running highly irregular and no credits were made in the A/c and the outstandings were Rs.9465/- as on 4.10.93. The account was closed on 11.2.94 and on the same day three loans aggregating Rs.27000/- were sanctioned and disbursed by the petitioner unmindful of fact that the earlier account of the borrower was highly irregular.

(iii) Shri Niranjan Singh A/c No.N-2/15 was

> sanctioned crop loan of Rs.10,000/- on 11.11.93 when the accounts were running highly irregular.
>
> (iv) Shri Amar Singh A/c No.N-1/37 was sanctioned fresh ATL of Rs.15,000/- for Thresher on 9.6.93 when the accounts were running highly irregular.
>
> (v) Shri Pannalal A/c No.N2/20 was sanctioned a fresh crop loan of Rs.5,000/- on 29.7.93 when the ATL account of Rs.1,00,000/- sanctioned on 24.10.89 for purchase of Tractor was running highly irregular by Rs.60,000/- with an outstanding of Rs.87,413/-.

12. The third charge was that by falsifying the Branch records and passing undue benefits to third persons the petitioner had acted in a highly objectionable manner detrimental to Bank's interest. Thus, it was alleged that the petitioner had acted in a manner unbecoming of a Bank official and contravened Rule No.50(1) and 50(4) of the SBI Officers Service Rules.

13. The enquiry officer after conducting the enquiry found that charges No.1(i, iii, iv, v) were found proved whereas charge No.1(ii) was not found proved. Similarly, charge No.2(i) was found partly proved, whereas charges No.2(ii, iv, v) were not found proved and charge No.2(iii) was found to be proved and charge No.3 was not found proved. Accordingly, the disciplinary Authority passed the following order:-

> "4. I have perused the records of the enquiry in its entirety and agree with the findings and recommendations of the Disciplinary Authority. I find that the official has sanctioned loans to defaulter borrowers and their family members, passed on undue benefits to them, failed to register mortgage of the land within the stipulated time and was grossly negligent in

> performing his duties. His past track record shows that he has not mended his ways despite having been given such opportunities in the past. Keeping in view of the gravity of the proved allegations and charges against the official and the totality of the case, I have decided to impose the penalty of "Dismissal" from Bank's service on Shri Tekwani in terms of Rule No.67(j) of the State Bank of India Officers Service Rules, which I hereby do in terms of Rule No.68(3)(iii) ibid. The penalty will be effective from the date of service of the order."

14. The first contention of the counsel for the petitioner is that so far as the charge No.1 of sanctioning loan in favour of the borrower Amar Singh, his wife Phool Bai and his son Sanjay Singh is concerned, the entire outstanding loan amount was deposited by the borrowers on 31.03.1999 and thus, no financial loss was caused to the Bank.

15. It is not out of place to mention here that the petitioner was already dismissed from service by order dated 27.09.1998 i.e., much prior to closure of the loan account. However, the crux of the submission of the counsel for the petitioner is that since no financial loss was caused to the Bank therefore, the dismissal of the petitioner from service is disproportionate.

16. The Supreme Court in the case of **State Bank of India and others Vs. Ramesh Dinkar Punde** reported in **(2006) 7 SCC 212** has held as under:

> **"21.** Confronted with the facts and the position of law, learned counsel for the respondent submitted that leniency may be shown to the respondent having regard to long years of service rendered by the respondent to the Bank. We are unable to countenance such submission. As already said, the respondent being a bank officer holds a position of trust where honesty and

> integrity are inbuilt requirements of functioning and it would not be proper to deal with the matter leniently. The respondent was a Manager of the Bank and it needs to be emphasised that in the banking business absolute devotion, diligence, integrity and honesty needs to be preserved by every bank employee and in particular the bank officer so that the confidence of the public/depositors is not impaired. It is for this reason that when a bank officer commits misconduct, as in the present case, for his personal ends and against the interest of the bank and the depositors, he must be dealt with iron hands and he does not deserve to be dealt with leniently."

17. The Supreme Court in the case of **Regional Manager, U.P. SRTC, Etawah and others Vs. Hoti Lal and another** reported in **(2003) 3 SCC 605** has held as under:-

> **"10.** It needs to be emphasized that the court or tribunal while dealing with the quantum of punishment has to record reasons as to why it is felt that the punishment was not commensurate with the proved charges. As has been highlighted in several cases to which reference has been made above, the scope for interference is very limited and restricted to exceptional cases in the indicated circumstances. Unfortunately, in the present case as the quoted extracts of the High Court's order would go to show, no reasons whatsoever have been indicated as to why the punishment was considered disproportionate. Reasons are live links between the mind of the decision taken to the controversy in question and the decision or conclusion arrived at. Failure to give reasons amounts to denial of justice. [See *Alexander Machinery (Dudley) Ltd.* v. *Crabtree [1974 LCR 120 (NIRC)]*]. A mere statement that it is disproportionate would not suffice. A party appearing before a court, as

> to what it is that the court is addressing its mind. It is not only the amount involved but the mental set-up, the type of duty performed and similar relevant circumstances which go into the decision-making process while considering whether the punishment is proportionate or disproportionate. If the charged employee holds a position of trust where honesty and integrity are inbuilt requirements of functioning, it would not be proper to deal with the matter leniently. Misconduct in such cases has to be dealt with iron hands. Where the person deals with public money or is engaged in financial transactions or acts in a fiduciary capacity, the highest degree of integrity and trustworthiness is a must and unexceptionable. Judged in that background, conclusions of the Division Bench of the High Court do not appear to be proper. We set aside the same and restore order of the learned Single Judge upholding the order of dismissal."

18. Thus, the nature of duty assigned to a Bank Officer certainly go into the decision making process while considering whether the punishment is proportionate or disproportionate. A Bank Officer holds a position of trust, which requires utmost honesty and integrity. Any misconduct on the part of the Bank employee involving financial implications is to be dealt with firmly.

19. So far as the submission made by the counsel for the petitioner that since no financial loss was caused to the Bank therefore the punishment of dismissal from service is disproportionate, is concerned, the same is misconceived for the following two reasons:

1. This Court is required to consider as to whether the departmental enquiry which was conducted by the respondents was in accordance with law or not?
2. Whether there was any deficiency in decision

making process or not?

20. In order to consider the satisfaction of the employer with regard to quantum of punishment, this Court cannot take any subsequent event into consideration, which might have taken place after the order of dismissal. Furthermore, absence of any loss to the Bank is no defence. If an employee has committed a misconduct thereby acting contrary to the utmost integrity, honesty which is expected from him specifically when public money is involved, then such a misconduct cannot be dealt with in a lenient manner.

21. The Supreme Court in the case of **State Bank of India and another Vs. Bela Bagchi and others** reported in **(2005) 7 SCC 435** has held as under:-

> **"15.** A bank officer is required to exercise higher standards of honesty and integrity. He deals with money of the depositors and the customers. Every officer/employee of the bank 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. Good conduct and discipline are inseparable from the functioning of every officer/employee of the bank. As was observed by this Court in *Disciplinary Authority-cum-Regional Manager* v. *Nikunja Bihari Patnaik [(1996) 9 SCC 69 : 1996 SCC (L&S) 1194]*, it is no defence available to say that there was no loss or profit which resulted in the case, when the officer/employee acted without authority. The very discipline of an organisation more particularly a bank is dependent upon each of its officers and officers acting and operating within their allotted sphere. Acting beyond one's authority is by itself a breach of discipline and is a misconduct. The charges against the employee

were not casual in nature and were serious. That being so, the plea about absence of loss is also sans substance."

(Underline Supplied)

22. The Supreme Court in the case of **Disciplinary Authority-Cum-Regional Manager and others Vs. Nikunja Bihari Patnaik** reported in **(1996) 9 SCC 69** has held as under:-

> **"7.** It may be mentioned that in the memorandum of charges, the aforesaid two regulations are said to have been violated by the respondent. Regulation 3 requires every officer/employee of the bank 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 requires the officer/employee to maintain good conduct and *discipline* and to act to the best of his judgment in performance of his official duties or in exercise of the powers conferred upon him. Breach of Regulation 3 is 'misconduct' within the meaning of Regulation 24. The findings of the Inquiry Officer which have been accepted by the disciplinary authority, and which have not been disturbed by the High Court, clearly show that in a number of instances the respondent allowed overdrafts or passed cheques involving substantial amounts beyond his authority. True, it is that in some cases, no loss has resulted from such acts. It is also true that in some other instances such acts have yielded profit to the Bank but it is equally true that in some other instances, the funds of the Bank have been placed in jeopardy; the advances have become sticky and irrecoverable. It is not a single act; it is a course of action spreading over a sufficiently long period and involving a large number of transactions. 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. If what we hear about the reasons for the collapse of Barings Bank is true, it is attributable to the acts of one of its employees, Nick Leeson, a minor officer stationed at Singapore, who was allowed by his superiors to act far beyond his authority. As mentioned hereinbefore, the very discipline of an organisation and more particularly, a bank is dependent upon each of its employees and officers acting and operating within their allotted sphere. Acting beyond one's authority is by itself a breach of discipline and a breach of Regulation 3. It constitutes misconduct within the meaning of Regulation 24. No further proof of loss is really necessary though as a matter of fact, in this case there are findings that several advances and overdrawals allowed by the respondent beyond his authority have become sticky and irrecoverable. Just because, similar acts have fetched some profit — huge profit, as the High Court characterises it — they are no

> less blameworthy. It is wrong to characterise them as errors of judgment. It is not suggested that the respondent being a Class I Officer was not aware of the limits of his authority or of his powers. Indeed, Charge 9, which has been held established in full is to the effect that in spite of instructions by the Regional Office to stop such practice, the respondent continued to indulge in such acts. The Inquiry Officer has recorded a clear finding that the respondent did flout the said instructions and has thereby committed an act of disobedience of lawful orders. Similarly, Charge 8, which has also been established in full is to the effect that in spite of reminders, the respondent did not submit "Control Returns" to the Regional Office. We fail to understand how could all this be characterised as errors of judgment and not as misconduct as defined by the Regulations. We are of the opinion that the High Court has committed a clear error in holding that the aforesaid conduct of the respondent does not amount to misconduct or that it does not constitute violation of Regulations 3 and 24."

23. Thus, whether any actual loss was caused to the Bank or not is not a relevant criteria for ascertaining the quantum of punishment. At this stage, it is submitted by the counsel for the petitioner that since the original employee has already expired and the petition is being pursued by his legal representatives therefore, any lesser punishment may be imposed so that the legal heirs of the employee may get some financial benefits.

24. Considered the submissions made by the counsel for the petitioner.

25. In the case of **Nikunja Bihari Patnaik** (supra), the Supreme Court has held as under:

> **"8.** We must mention that Shri V.A. Mohta, the

> learned counsel for the respondent, stated fairly before us that it is not possible for him to sustain the reasoning and approach of the High Court in this case. His only submission was that having regard to the age of the respondent (37 years) and the facts and circumstances of the case, this Court may substitute the punishment awarded to the respondent by a lesser punishment. The learned counsel suggested that any punishment other than dismissal may be imposed by this Court. We considered this request with the care it deserves, but we regret that we are unable to accede to it. The learned counsel for the Bank, Shri V.R. Reddy, Additional Solicitor General, also stated, on instructions of the Bank, that it is not possible for the Bank to accommodate the respondent in its service in view of his conduct."

26. In view of the abovementioned law laid down by the Supreme Court, it is not possible for this Court to accept the contention of the counsel for the petitioner to award lesser punishment.

27. So far as the judgments relied upon by the counsel for the petitioner in the case of **Rajendra Singh Kushwaha (supra)** and **Bhaskar Rawat (supra)** are concerned, it is sufficient to mention here that those judgments are not in relation to a Bank employee.

28. The quantum of punishment is to be assessed on the basis of the duties attached to the particular post. This Court has already held that a Bank employee holds the post of trust requiring utmost honesty, integrity and any infringement of the same will certainly invite the major punishment of dismissal from service.

29. It is next contended by the counsel for the petitioner that since the disciplinary Authority has considered the previous conduct of the petitioner, therefore, it has prejudiced the mind of the disciplinary Authority while assessing the quantum of punishment. Thus, the order

of dismissal from service is bad in law.

30. Considered the submission made by the counsel for the petitioner.

31. In the writ petition itself the petitioner has pointed out that he was reverted back from the post of MMGS-II to JMGS-I and the petitioner has also filed W.P. No.5265/1999 against the order of his reversion. The said Writ Petition is also listed today along with the present petition. In the said departmental proceedings there were certain allegations of misconduct allegedly committed by the petitioner in granting overdraft and in availing of a consumer loan and the said allegations were found to be proved and the petitioner was reverted back from MMGS-II to JMGS-I.

32. It is true that the past track record of the petitioner was not a subject matter of the charge sheet in question. Even if the said aspect is ignored, still this Court has already come to a conclusion that a singular act of misconduct by a Bank Officer involving financial repercussions would certainly invite the punishment of dismissal from service. Thus, it is clear that merely because the past track record of the petitioner was taken into consideration, no interference can be made in the order of punishment of dismissal from service because even in absence of the past track record, no other punishment except the punishment of dismissal from service could have been imposed.

33. It is well established principle of law that this Court cannot act as an Appellate Authority and the scope of judicial review is very limited.

34. The Supreme Court in the case of **State of Karnataka and another Vs. N. Gangraj** reported in **(2020) 3 SCC 423** has held as under:

> **"8.** We find that the interference in the order of

punishment by the Tribunal as affirmed by the High Court suffers from patent error. The power of judicial review is confined to the decision-making process. The power of judicial review conferred on the constitutional court or on the Tribunal is not that of an appellate authority.

9. In *State of A.P.* v. *S. Sree Rama Rao*, *AIR 1963 SC 1723*, a three-Judge Bench of this Court has held that the High Court is not a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant. It is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. The Court held as under : (AIR pp. 1726-27, para 7)

> "*7.* … The High Court is not constituted in a proceeding under Article 226 of the Constitution a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant : it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence."

10. In *B.C. Chaturvedi* v. *Union of India*, *(1995) 6 SCC 749 : 1996 SCC (L&S) 80],* again a three-Judge Bench of this Court has held that power of

judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eyes of the court. The court/tribunal in its power of judicial review does not act as an appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. It was held as under : (SCC pp. 759-60, paras 12-13)

> "*12*. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of the Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its

> power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.
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> *13*. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has co-extensive power to reappreciate the evidence or the nature of punishment. In a disciplinary inquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In *Union of India* v. *H.C. Goel*, *(1964) 4 SCR 718 : AIR 1964 SC 364*, this Court held at p. 728 that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued."

11. In *High Court of Bombay* v. *Shashikant S. Patil*, *(2000) 1 SCC 416 : 2000 SCC (L&S) 144*, this Court held that interference with the decision

of departmental authorities is permitted if such authority had held proceedings in violation of the principles of natural justice or in violation of statutory regulations prescribing the mode of such enquiry while exercising jurisdiction under Article 226 of the Constitution. It was held as under : (SCC p. 423, para 16)

> "*16*. The Division Bench [*Shashikant S. Patil* v. *High Court of Bombay*, *1998 SCC OnLine Bom 97 : (2000) 1 LLN 160]* of the High Court seems to have approached the case as though it was an appeal against the order of the administrative/disciplinary authority of the High Court. Interference with the decision of departmental authorities can be permitted, while exercising jurisdiction under Article 226 of the Constitution if such authority had held proceedings in violation of the principles of natural justice or in violation of statutory regulations prescribing the mode of such enquiry or if the decision of the authority is vitiated by considerations extraneous to the evidence and merits of the case, or if the conclusion made by the authority, on the very face of it, is wholly arbitrary or capricious that no reasonable person could have arrived at such a conclusion, or grounds very similar to the above. But we cannot overlook that the departmental authority (in this case the Disciplinary Committee of the High Court) is the sole judge of the facts, if the enquiry has been properly conducted. The settled legal position is that if there is some legal evidence on which the findings can be based, then adequacy or even reliability of that evidence is not a matter for canvassing before the High Court in a

writ petition filed under Article 226 of the Constitution."

12. In *State Bank of Bikaner & Jaipur* v. *Nemi Chand Nalwaya*, *(2011) 4 SCC 584 : (2011) 1 SCC (L&S) 721,* this Court held that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be ground for interfering with the findings in departmental enquiries. The Court held as under : (SCC pp. 587-88, paras 7 & 10)

"*7.* It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary,

capricious, mala fide or based on extraneous considerations. (Vide *B.C. Chaturvedi* v. *Union of India*, *(1995) 6 SCC 749 : 1996 SCC (L&S) 80*, *Union of India* v. *G. Ganayutham, (1997) 7 SCC 463 : 1997 SCC (L&S) 1806* and *Bank of India* v. *Degala Suryanarayana*, *(1999) 5 SCC 762 : 1999 SCC (L&S) 1036*, *High Court of Bombay* v. *Shashikant S. Patil*, *(2000) 1 SCC 416 : 2000 SCC (L&S) 144]*.)

* * *

10. The fact that the criminal court subsequently acquitted the respondent by giving him the benefit of doubt, will not in any way render a completed disciplinary proceeding invalid nor affect the validity of the finding of guilt or consequential punishment. The standard of proof required in criminal proceedings being different from the standard of proof required in departmental enquiries, the same charges and evidence may lead to different results in the two proceedings, that is, finding of guilt in departmental proceedings and an acquittal by giving benefit of doubt in the criminal proceedings. This is more so when the departmental proceedings are more proximate to the incident, in point of time, when compared to the criminal proceedings. The findings by the criminal court will have no effect on previously concluded domestic enquiry. An employee who allows the findings in the enquiry and the punishment by the disciplinary authority to attain finality by non-challenge, cannot after several years, challenge the decision on the ground that subsequently, the criminal court has acquitted him."

13. In another judgment reported as *Union of India* v. *P. Gunasekaran*, *(2015) 2 SCC 610 : (2015) 1 SCC (L&S) 554*, this Court held that while reappreciating evidence the High Court cannot act as an appellate authority in the disciplinary proceedings. The Court held the parameters as to when the High Court shall not interfere in the disciplinary proceedings : (SCC p. 617, para 13)

> "*13*. Under Articles 226/227 of the Constitution of India, the High Court shall not:
> (*i*) reappreciate 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."

14. On the other hand the learned counsel for the respondent relies upon the judgment reported as *Allahabad Bank* v. *Krishna Narayan Tewari*, *(2017) 2 SCC 308 : (2017) 1 SCC (L&S) 335*, wherein this Court held that if the disciplinary authority records a finding that is not supported by any evidence whatsoever or a finding which is unreasonably arrived at, the writ court could interfere with the finding of the disciplinary proceedings. We do not find that even on touchstone of that test, the Tribunal or the High Court could interfere with the findings recorded by the disciplinary authority. It is not the case of

> no evidence or that the findings are perverse. The finding that the respondent is guilty of misconduct has been interfered with only on the ground that there are discrepancies in the evidence of the Department. The discrepancies in the evidence will not make it a case of no evidence. The inquiry officer has appreciated the evidence and returned a finding that the respondent is guilty of misconduct.
>
> **15.** The disciplinary authority agreed with the findings of the enquiry officer and had passed an order of punishment. An appeal before the State Government was also dismissed. Once the evidence has been accepted by the departmental authority, in exercise of power of judicial review, the Tribunal or the High Court could not interfere with the findings of facts recorded by reappreciating evidence as if the courts are the appellate authority. We may notice that the said judgment has not noticed the larger Bench judgments in *State of A.P.* v. *S. Sree Rama Rao*, *AIR 1963 SC 1723* and *B.C. Chaturvedi* v. *Union of India*, *(1995) 6 SCC 749 : 1996 SCC (L&S) 80* as mentioned above. Therefore, the orders passed by the Tribunal and the High Court suffer from patent illegality and thus cannot be sustained in law."

35. The Supreme Court in the case of **Ramesh Dinkar Punde (supra)** has held a under:

> **"6.** Before we proceed further, we may observe at this stage that it is unfortunate that the High Court has acted as an Appellate Authority despite the consistent view taken by this Court that the High Court and the Tribunal while exercising the judicial review do not act as an Appellate Authority:
>
> > "Its jurisdiction is circumscribed and confined to correct errors of law or procedural error, if any, resulting in manifest miscarriage of justice or

> violation of principles of natural justice. Judicial review is not akin to adjudication on merit by reappreciating the evidence as an Appellate Authority." (See *Govt. of A.P.* v. *Mohd. Nasrullah Khan [(2006) 2 SCC 373 : 2006 SCC (L&S) 316]*, SCC p. 379, para 11.)

9. It is impermissible for the High Court to reappreciate the evidence which had been considered by the inquiry officer, a disciplinary authority and the Appellate Authority. The finding of the High Court, on facts, runs to the teeth of the evidence on record.

12. From the facts collected and the report submitted by the inquiry officer, which has been accepted by the disciplinary authority and the Appellate Authority, active connivance of the respondent is eloquent enough to connect the respondent with the issue of TDRs and overdrafts in favour of Bidaye.

15. In *Union of India* v. *Sardar Bahadur [(1972) 4 SCC 618 : (1972) 2 SCR 218]* it is held as under: (SCC p. 623, para 15)

> A disciplinary proceeding is not a criminal trial. The standard proof required is that of preponderance of probability and not proof beyond reasonable doubt. If the inference that lender was a person likely to have official dealings with the respondent was one which a reasonable person would draw from the proved facts of the case, the High Court cannot sit as a court of appeal over a decision based on it. The Letters Patent Bench had the same power of dealing with all questions, either of fact or of law arising in the appeal, as the Single Judge of the High Court. If the enquiry has been properly held the question of

> adequacy or reliability of the evidence cannot be canvassed before the High Court. A finding cannot be characterised as perverse or unsupported by any relevant materials, if it was a reasonable inference from proved facts. (SCR p. 219)

16. In *Union of India* v. *Parma Nanda [(1989) 2 SCC 177 : 1989 SCC (L&S) 303 : (1989) 10 ATC 30]* it is held at SCC p. 189, para 27 as under:

> "*27.* We must unequivocally state that the jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the inquiry officer or competent authority where they are not arbitrary or utterly perverse. It is appropriate to remember that the power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislature or rules made under the proviso to Article 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is mala fide is certainly not a matter for the Tribunal to concern itself with. The Tribunal also cannot interfere with the penalty if the conclusion of the inquiry officer or the competent authority is based on evidence even if some of it is found to

> be irrelevant or extraneous to the matter."

17. In *Union Bank of India* v. *Vishwa Mohan [(1998) 4 SCC 310 : 1998 SCC (L&S) 1129]* this Court held at SCC p. 315, para 12 as under:

> "*12*. After hearing the rival contentions, we are of the firm view that all the four charge-sheets which were enquired into relate to serious misconduct. The respondent was unable to demonstrate before us how prejudice was caused to him due to non-supply of the enquiry authority's report/findings in the present case. It needs to be emphasised that in the banking business absolute devotion, diligence, integrity and honesty needs to be preserved by every bank employee and in particular the bank officer. If this is not observed, the confidence of the public/depositors would be impaired. It is for this reason, we are of the opinion that the High Court had committed an error while setting aside the order of dismissal of the respondent on the ground of prejudice on account of non-furnishing of the enquiry report/findings to him."

18. In *Chairman and MD, United Commercial Bank* v. *P.C. Kakkar [(2003) 4 SCC 364 : 2003 SCC (L&S) 468]* this Court held at SCC pp. 376-77, para 14 as under:

> "*14*. A bank officer is required to exercise higher standards of honesty and integrity. He deals with the money of the depositors and the customers. Every officer/employee of the bank 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. Good conduct and discipline are inseparable from the functioning of every officer/employee of the bank. As was observed by this Court in *Disciplinary Authority-cum-Regional Manager* v. *Nikunja Bihari Patnaik [(1996) 9 SCC 69 : 1996 SCC (L&S) 1194]* it is no defence available to say that there was no loss or profit resulted in case, when the officer/employee acted without authority. The very discipline of an organisation more particularly a bank is dependent upon each of its officers and officers acting and operating within their allotted sphere. Acting beyond one's authority is by itself a breach of discipline and is a misconduct. The charges against the employee were not casual in nature and were serious. These aspects do not appear to have been kept in view by the High Court."

19. In *Regional Manager, U.P. SRTC* v. *Hoti Lal [(2003) 3 SCC 605 : 2003 SCC (L&S) 363]* it was pointed out as under: (SCC p. 614, para 10)

> "If the charged employee holds a position of trust where honesty and integrity are inbuilt requirements of functioning, it would not be proper to deal with the matter leniently. Misconduct in such cases has to be dealt with iron hands. Where the person deals with public money or is engaged in financial transactions or acts in a fiduciary capacity, the highest degree of integrity and trustworthiness is a must and unexceptionable."

20. In *Cholan Roadways Ltd.* v. *G. Thirugnanasambandam [(2005) 3 SCC 241 :*

2005 SCC (L&S) 395] this Court at SCC p. 247, para 15 held:

> "*15*. It is now a well-settled principle of law that the principles of the Evidence Act have no application in a domestic enquiry.""

36. Since no deficiency in the decision making process could be pointed out by the counsel for the petitioner and the punishment of dismissal from service in the light of the charges leveled against the petitioner are not disproportionate to the conscience of this Court, this Court is of the considered opinion that no case is made out warranting interference.

37. The petition fails and is hereby **dismissed**.

(G.S. AHLUWALIA)
JUDGE

shubhankar

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