IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJAY DWIVEDI

ON THE 25th OF APRIL, 2025

Writ Petition No.20359 of 2015

NIRANJAN SINGH KAURAV

Vs.

MADHYA PRADESH GRAMIN BANK AND ANOTHER

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Appearance

Shri Akash Choudhary – Advocate for the petitioner.

Shri Rajesh Maindiretta – Advocate for respondent Nos.1 and 2.

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Reserved on : 11.11.2024
Pronounced on : 25.04.2025

ORDER

Since pleadings are complete and learned counsel for the parties are ready to argue the matter, therefore, it is finally heard.

2. In this petition filed under Article 226 of the Constitution of India, the assail is to the orders dated 17.03.2015 (Annexure-P/1) and 26.06.2014 (Annexure-P/12). In pursuance of order passed by the Disciplinary Authority on 26.06.2014 (Annexure-P/12), a punishment of compulsory retirement from service was inflicted upon the petitioner whereas vide order dated 17.03.2015 (Annexure-P/1), the Appellate Authority, affirming the order of Disciplinary Authority, has dismissed the appeal preferred by the petitioner.

3. As per the facts of the case, at the relevant point of time, the petitioner being a Field Officer in the respondent/Bank was posted at Bareli, District Raisen. While performing the duties, a complaint was made on 15.09.2010 against the petitioner so also against one D.S. Patel, Branch Manager by one of the beneficiaries namely Hari Singh to Special Police Establishment (Lokayukta), Bhopal alleging therein that these people, in lieu of renewal of Kisan Credit Card (KCC) of the complainant's father namely Shri Babulal Bais, are demanding illegal gratification.

(3.1) According to the petitioner, on receiving such complaint, though the Lokayukta conducted a raid on 20.09.2010 at Branch Patandeo, District Raisen, but not a single document/file of the complainant or of his father was found in his possession. Subsequently, a seizure memo was prepared which is also part of the petition as Annexure-P/3.

(3.2) After completing the investigation, challan was filed by the Lokayukta before the trial Court on 30.12.2011, resultantly, the petitioner was placed under suspension vide order dated 07.08.2013. On 27.08.2013, a show-cause notice was issued to the petitioner asking his explanation in regard to alleged irregularity. Reply to the same was submitted by the petitioner on 07.09.2013 wherein he has denied all the allegations levelled against him.

(3.3) According to the petitioner, the authority in a mechanical manner recorded its dissatisfaction with the reply to the show-cause notice and thereafter issued charge-sheet on 07.10.2013 against the petitioner levelling therein as many as three charges. However, reply to the charge-sheet was also filed explaining therein that the charges levelled against

the petitioner are incorrect, but despite that the authority proceeding further with the departmental enquiry has appointed Enquiry Officer and Presenting Officer.

(3.4) The enquiry commenced on 06.01.2014. Though, the petitioner after participating in the enquiry had made a demand for supply of legible copies of the documents so as to defend himself, but those were not supplied to him. The statements of the witnesses of the management were submitted on 17.01.2014. However, ignoring the fact that demand of supply of legible documents as made by the petitioner was not fulfilled, he was also asked to submit the statement of his witnesses.

(3.5) As per the petitioner, from the record of Enquiry Officer, it can be ascertained that neither copies of legible documents were supplied to him nor witnesses were examined before the Enquiry Officer. Enquiry was concluded on 22.02.2014. However, the petitioner was asked to submit the statement of his defence, which, he submitted on 10.03.2014 and thereafter the Enquiry Officer solely relying upon the statements and documents produced by the management held charge Nos.1 and 3 found proved whereas charge No.2 was found partially proved against the petitioner. The report of the Enquiry Officer dated 25.04.2014 is available on record as Annexure-P/10. The said report was given to the petitioner so as to submit his defence before the Disciplinary Authority.

(3.6) The Disciplinary Authority after approving the finding so given by the Enquiry Officer held the petitioner guilty and as such, vide order dated 26.06.2014 (Annexure-P/12) passed the order of his compulsory retirement from service.

(3.7) Aggrieved and dissatisfied with the order of Disciplinary

Authority, though the petitioner preferred an appeal before the Appellate Authority as provided under Regulation 49 of the Central Madhya Pradesh Gramin Bank (Officers and Employees) Service Regulations 2010, but, the Appellate Authority, in a very mechanical manner had rejected the appeal vide order dated 17.03.2015 (Annexure-P/1); hence, this petition.

4. The respondents have filed return giving para-wise reply to the facts mentioned in the petition and supported the impugned orders passed by the authorities. In the return, they have also taken a stand that since the petitioner was caught red-handed by the Lokayukta police that too with an amount of Rs.5000/- as bribe, therefore, criminal case was also lodged against him. According to the respondents, since the conduct of the petitioner tarnished the image of the bank, therefore, decision of his compulsory retirement from service was taken which, according to them, was just and proper. According to the respondents, enquiry was conducted as per the procedure prescribed and legible copies of documents asked for by the petitioner since were in possession of the Lokayukta police, therefore, the same could not be supplied to him. Although, it could be made available to the petitioner in a criminal trial and as such, according to the respondents, unavailability of legible documents cannot be made a ground to hold the enquiry in violation of principles of natural justice and only on that ground, no interference in the impugned orders is warranted. According to the respondents, proper opportunity of hearing was provided to the petitioner and as such, nothing wrong is committed by the authority while passing the impugned orders. According to them, the petition is without any

substance and liable to be dismissed.

5. Rejoinder has also been filed by the petitioner saying that from the return submitted by the respondents, it is clear that they have not supplied legible copies of the documents to him and as such the enquiry conducted and orders passed can be said to be in violation of principles of natural justice. It is also submitted by the petitioner that basically it is a case of no evidence because in the enquiry, nobody has stated anything against the petitioner and even the basic charge of taking bribe could not be found proved. Complainant namely Hari Singh was not produced in the enquiry and as such, in absence of material witness Hari Singh, it is difficult to prove that the petitioner had ever made any demand or received any bribe. According to the petitioner, the examination of main witness namely Hari Singh is fatal and that is the sole basis for setting aside the impugned orders.

6. Learned counsel for the petitioner has assailed the impugned orders mainly on the ground that those were passed without application of mind that too in violation of principles of natural justice. He has tried to establish that the Enquiry Officer and the Disciplinary Authority without appreciating the material produced during the course of enquiry in a proper manner had proceeded in the matter very casually. He has submitted that the authorities further failed to appreciate as to whether sufficient material to substantiate the charges levelled against the petitioner were produced by the prosecution or not. Had it been done, then the situation would have been different for the reason that the complaint contains false and frivolous allegations. Even otherwise, on the basis of statement of prosecution witnesses, the authorities failed to

prove the charges levelled against the petitioner. He has further submitted that the trial Court, on the basis of witnesses of prosecution, had opined that the charges levelled against the petitioner have not been found proved and as such, acquitted him on that count and hence, in this petition, it has been claimed that the opinion given by the Enquiry Officer; finding given by the Disciplinary Authority and also of the Appellate Authority are not sustainable on the basis of material available and finding given by the competent Court conducted the trial in a criminal case registered against the petitioner. Learned counsel for the petitioner, in support of his submissions, has placed reliance upon the case reported in **(2006) 5 SCC 446 [G.M. Tank Vs. State of Gujarat and others]**, **(2024) 1 SCC 175 [Ram Lal Vs. State of Rajasthan and others]** and also upon an order passed by this Court in **Writ Petition No.10400/2018 [R.K. Mishra Vs. State of Madhya Pradesh and others]**.

7. I have heard the arguments advanced and perused the record.

8. In the charge-sheet issued to the petitioner, three charges were levelled against him. The first charge relates to the fact that a bribe of Rs.5000/- was demanded by the petitioner from one of the beneficiaries namely Hari Singh. In the euquiry, after considering the contents of complaint made by Hari Singh, it has been opined by the Enquiry Officer that since the petitioner was caught red-handed by the Lokayukta police in a trap made by them in which Rs.5000/- was recovered from his possession, therefore, charge No.1 is found proved. However, with regard to charge No.2, the Enquiry Officer, overlooking the material aspect of the case that complainant Hari Singh in criminal

trial did not support the prosecution case and very categorically stated that delinquent never demanded any money but that was kept in his pocket just to implicate him whereas the said amount was to be paid to one D.S. Patel, Branch Manager; only on the basis of contents of complaint and also of FIR, had held that charge No.2 is found proved against the petitioner. As regards charge No.3 which was in respect of tarnishing the image of the bank, it has been observed by the Enquiry Officer that mere denial of said charge on the part of the petitioner is not enough to hold him not guilty. However, no reasoning was given by the Enquiry Officer as to how the petitioner, acting against the norms of the bank, has tarnished its image. The Enquiry Officer has opined that a criminal case is pending against the petitioner and it is enough to tarnish the image of the bank.

9. Considering the aforesaid facts and circumstances of the case, I find substance in the submissions so advanced by learned counsel for the petitioner that the Enquiry Officer without there being any evidence, found the charges levelled against the petitioner proved. It is also true that the Enquiry Officer has not considered the statement of any of the witnesses. Although, it appears that statement of prosecution witnesses were not recorded and even the star witness namely Hari Singh, on whose version, the sole case of the authorities was founded, has also not been brought before the Enquiry Officer to support the contents of his complaint. Under such circumstances, his statement which got recorded during trial in a case of trap in which challan was filed by the Lokayukta had to be given weightage because he has very categorically stated before the Court that demand was not made by the petitioner and it is

the Lokayukta team which persuaded him to keep the amount in the pocket of the petitioner whereas the demand had been made by the Branch Manager. In the aforesaid backdrop, I have no hesitation to say that the Enquiry Officer acted arbitrarily rather maliciously for holding the aforesaid charges proved. If the complainant, who is the star witness stated before the Court that there was no demand of bribe from the petitioner and amount was kept in his pocket that too on the persuasion of Lokayukta team, then there would have no hesitation in saying that it is a clear cut case of implicating an innocent person falsely. It is a general perception that when a trap is arranged by the Lokayukta team or any other investigating agency and somehow, if they realize that the said trap would not be successful then that goes against their image and in any case, they are not ready to face such a situation and somehow try to make endeavour to get the trap successfully done, but this practice is highly deprecated and only to save the image of a particular organization, service career of an innocent employee cannot be subjected to put to an end that too in such a way. Enquiry Officer, at the same time, had to see that the delinquent was acquitted by the competent Court of law where challan was filed by the Lokayukta. It is a settled principle of law that in a matter of departmental enquiry, strict rule of evidence is not applicable however, at the same time, it has to be seen that a person cannot be punished that too when there is no evidence against him. In the present case, the witnesses of the departmental enquiry were the same that of criminal case and if those witnesses were not produced during the course of enquiry, but examined by the Court in the criminal case, in which, the Court had acquitted the delinquent, then

it would be highly inappropriate on the part of the Enquiry Officer to hold the charges levelled against the delinquent proved.

10. However, the order of Disciplinary Authority is nothing but a mere reproduction of incident and report of Enquiry Officer wherein no application of mind so as to approve the opinion of Enquiry Officer reflects. However, it is not expected from the Disciplinary Authority that the order of punishment that too of compulsory retirement is passed without assigning any reason. There is a procedure prescribed for conducting a departmental enquiry. It is a *quasi* judicial proceeding wherein principles of natural justice had to be followed which, in other words, are the minimum requirement and as such, it is expected from the authority which passes the order to apply its mind before reaching to a conclusion otherwise there was no need for placing the enquiry report before Disciplinary Authority and to seek explanation from the delinquent over the opinion of Enquiry Officer. However, in the present case, the Disciplinary Authority completely failed to discharge its obligation and duties which are expected from him.

11. The Appellate Authority, in the appeal preferred before it, without assigning any reason had given complete weightage to the report of Enquiry Officer. Even, the Appellate Authority did not bother to meet out the grounds raised in the memo of appeal. Under such a circumstance, I have no hesitation to say that the whole exercise of the authorities was in violation of principles of natural justice. The term *audi alteram partem* is not for giving false assurance to the delinquent that he is being given an opportunity to defend himself, but it should be construed in its true perspective. Admittedly, in this case, legible copies

of documents as demanded by the petitioner were not supplied to him with an expectation that they must have been supplied during the course of criminal trial and if that was the reason then the authority was under the obligation to accept the finding given by the Court trying the case registered against the petitioner but that aspect has also been ignored by the authority.

12. In a case relied upon by learned counsel for the petitioner i.e. **G.M. Tank** (supra), the Supreme Court has considered a case in which departmental enquiry and criminal proceedings were based upon same set of facts, charges, evidence and witnesses. However, it has been observed by the Supreme Court that when in the criminal trial, the employee was honorably acquitted in trial, then the order passed by the Disciplinary Authority in the departmental enquiry holding the employee guilty is not sustainable in the eyes of law. In the aforesaid case, the observation made by the Supreme Court reads as under:-

> ‘**20.** It is thus seen that this is a case of no evidence. There is no iota of evidence against the appellant to hold that the appellant is guilty of having illegally accumulated excess income by way of gratification. The respondent failed to prove the charges levelled against the appellant. It is not in dispute that the appellant being a public servant used to submit his yearly property return relating to his movable and immovable property and the appellant has also submitted his return in the year 1975 showing his entire movable and immovable assets. No query whatsoever was ever raised about the movable and immovable assets of the appellant. In fact, the respondent did not produce any evidence in support of and/or about the alleged charges levelled against the appellant. Likewise, the criminal proceedings were initiated against the appellant for the alleged charges punishable under the provisions of the PC Act on the same set of facts and evidence. It was submitted that the departmental proceedings and the criminal case are based on identical and similar (verbatim) set of facts and evidence. The appellant has been honourably acquitted by the competent court on the same set of facts, evidence and witness and, therefore, the dismissal order based on the same set of facts and evidence

on the departmental side is liable to be set aside in the interest of justice.

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30. The judgments relied on by the learned counsel appearing for the respondents are distinguishable on facts and on law. In this case, the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in a departmental case against the appellant and the charge before the criminal court are one and the same. It is true that the nature of charge in the departmental proceedings and in the criminal case is grave. The nature of the case launched against the appellant on the basis of evidence and material collected against him during enquiry and investigation and as reflected in the charge-sheet, factors mentioned are one and the same. In other words, charges, evidence, witnesses and circumstances are one and the same. In the present case, criminal and departmental proceedings have already noticed or granted on the same set of facts, namely, raid conducted at the appellant's residence, recovery of articles therefrom. The Investigating Officer Mr V.B. Raval and other departmental witnesses were the only witnesses examined by the enquiry officer who by relying upon their statement came to the conclusion that the charges were established against the appellant. The same witnesses were examined in the criminal case and the criminal court on the examination came to the conclusion that the prosecution has not proved the guilt alleged against the appellant beyond any reasonable doubt and acquitted the appellant by its judicial pronouncement with the finding that the charge has not been proved. It is also to be noticed that the judicial pronouncement was made after a regular trial and on hot contest. Under these circumstances, it would be unjust and unfair and rather oppressive to allow the findings recorded in the departmental proceedings to stand.'

13. In the case of **Ram Lal** (supra), the Supreme Court has observed as under:-

'**28.** Expressions like "benefit of doubt" and "honourably acquitted", used in judgments are not to be understood as magic incantations. A court of law will not be carried away by the mere use of such terminology. In the present case, the Appellate Judge has recorded that Ext. P-3, the original marksheet carries the date of birth as 21-4-1972 and the same has also been proved by the witnesses examined on behalf of the prosecution. The conclusion that the acquittal in the criminal proceeding was after full consideration of the prosecution evidence and that the prosecution miserably failed to prove the charge can only be arrived at after a reading of the judgment in its entirety. The Court in judicial review is obliged to examine

the substance of the judgment and not go by the form of expression used.

29. We are satisfied that the findings of the Appellate Judge in the criminal case clearly indicate that the charge against the appellant was not just, "not proved" — in fact the charge even stood "disproved" by the very prosecution evidence. As held by this Court, a fact is said to be "disproved" when, after considering the matters before it, the court either believes that it does not exist or considers its non-existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist. A fact is said to be "not proved" when it is neither "proved" nor "disproved" (see Vijayee Singh v. State of U.P. [Vijayee Singh v. State of U.P., (1990) 3 SCC 190 : 1990 SCC (Cri) 378]).

30. We are additionally satisfied that in the teeth of the finding of the Appellate Judge, the disciplinary proceedings and the orders passed thereon cannot be allowed to stand. The charges were not just similar but identical and the evidence, witnesses and circumstances were all the same. This is a case where in exercise of our discretion, we quash the orders of the disciplinary authority and the appellate authority as allowing them to stand will be unjust, unfair and oppressive. This case is very similar to the situation that arose in G.M. Tank [G.M. Tank v. State of Gujarat, (2006) 5 SCC 446 : 2006 SCC (L&S) 1121].'

[emphasis supplied]

14. In the case of **R.K. Mishra** (supra), this Court has observed as under:-

'**10.** Thus, it is clear that in the present case also when the petitioner has been acquitted in a criminal case, the order passed in a departmental enquiry dismissing him from service deserves to be set aside. Accordingly, it is set aside.

11. The petitioner is directed to be reinstated in service with all consequential benefits including seniority, notional promotion, fitment of salary and all other benefits. So far as the services are concerned, since the Supreme Court awarded 50% backwages, therefore, this Court is also directing that for the period when the petitioner remained out of service shall also be awarded 50% backwages.'

[emphasis supplied]

15. In view of the aforesaid enunciation of law, I have no hesitation to say that the impugned orders passed by the Disciplinary Authority on

26.06.2014 (Annexure-P/12) and Appellate Authority on 17.03.2015 (Annexure-P/1) are not sustainable in the eyes of law and as such, they are hereby set aside.

16. From the facts and circumstances discussed in the preceding paragraphs, it reveals that it is a clear cut case of harassment and victimization of an innocent employee and as such, the petitioner is entitled to be reinstated in service with 50% back-wages as has been directed by the Supreme Court in the case of **Ram Lal** (supra). Accordingly, the respondents are directed to reinstate the petitioner in service with 50% back-wages within a period of three months from the date of order, failing which, the arrears of back-wages shall carry interest @8% till its actual payment made to the petitioner.

17. With the aforesaid, the petition stands **allowed**.

No order as to cost.

(SANJAY DWIVEDI)
JUDGE

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