IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 16th OF JUNE, 2023

WRIT PETITION No. 3761 of 2017

BETWEEN:-

RATNESH GARG AGED ABOUT 48 YEARS S/O SHRI TULSIRAM GARG, (R. 65/92) E-COMPANY, 10TH VAHINI CAMP, SAGAR (MADHYA PRADESH)

.....PETITIONER

(BY SHRI ASHISH TRIVEDI - ADVOCATE)

AND

1. **STATE OF M.P. THROUGH SECRETARY HOME DEPARTMENT, VALLABH BHAWAN BHOPAL (MADHYA PRADESH)**
2. **DIRECTOR GENERAL OF POLICE PHQ, BHOPAL (MADHYA PRADESH)**
3. **INSPECTOR GENERAL SAF BHOPAL (MADHYA PRADESH)**
4. **COMMANDANT 10TH BATTALION SAF SAGAR (MADHYA PRADESH)**
5. **ASSISTANT COMMANDANT 10TH BATTALION SAF SAGAR (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI JUBIN PRASAD – PANEL LAWYER)

This petition coming on for admission 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 21/01/2014 passed by Commandant, 10th Battalion, SAF Sagar in file No.10th / Bn./SAF/Steno/DE/8191/14, order dated 11/03/2014 passed by Inspector General, SAF, Bhopal Range, Bhopal in file No.IG/SAF/Bhore/Nis/299/2014 and order dated 31/08/2015 passed by Director General of Police, PHQ, Bhopal in case No.PHQ/23/B-3/(895/14)/1747/15, by which the petitioner was awarded the punishment of stoppage of one increment with cumulative effect.

2. The facts necessary for disposal of the present petition in short are that the petitioner was served with a charge-sheet along with other two persons on the allegation that the petitioner was involved in serious indiscipline by using abusive language in the presence of family members residing in the Government accommodation. The petitioner had also displayed serious criminal misconduct by assassinating the character of daughter of Constable Lokendra Singh and thirdly, that by creating nuisance in the Government residential block, the petitioner had acted in a most uncivilized manner.

3. It is submitted by the counsel for the petitioner that prior to issuing the departmental charge-sheet, a preliminary enquiry was conducted and it is clear from the charge-sheet also that the department had relied upon the enquiry report submitted by Assistant Commandant Shri Nishchal Jhariya. Although the petitioner submitted an application for supply of copy of report of preliminary enquiry but the same was not supplied. The petitioner submitted his reply to the charge-sheet and it was prayed that the charge-sheet be dropped. It is submitted that the petitioner sent an application for change of enquiry officer on the ground that he does not want that any officer of the 10th Battalion to conduct an enquiry. In spite of that, enquiry was conducted by the

officer of the 10th Battalion. Since the petitioner had no faith in the officers of the 10th Battalion, therefore he did not participate in the departmental enquiry and ultimately, enquiry officer conducted an ex-parte departmental enquiry and submitted his report. Thereafter, a show cause notice was issued to the petitioner along with the report of the enquiry officer. The said show cause notice was duly replied by the petitioner, however by order dated 21/01/2014, Commandant, 10th Battalion SAF, Sagar imposed the punishment of stoppage of one increment with cumulative effect. The appeal was dismissed by the Inspector General, SAF, Bhopal Range Bhopal by order dated 11/03/2014 and the mercy petition was dismissed by the Director General of Police, Bhopal by order dated 31/08/2015.

4. Challenging the order of punishment, it is submitted by the counsel for the petitioner that the respondent had relied upon the enquiry report of preliminary enquiry but the same was not supplied to him. It is submitted that the petitioner had applied for supply of the said copy but the same was not supplied. To buttress his contentions, the counsel for the petitioner has invited attention of this Court to an undated letter, Annexure-P/2, and pointed out that the petitioner had specifically pointed out that he had sought for the certified copy of the report of preliminary enquiry but the same was not supplied. Accordingly, it is submitted that, in the light of the judgment passed by the Supreme Court in the case of **Kashinath Dikshita Vs. Union of India and others** reported in **AIR 1986 SC 2118** and **State of Uttar Pradesh Vs. Mohd. Sharif (dead) through L.Rs.** reported in **AIR 1982 SC 937**, the departmental enquiry is vitiated.

5. Heard the learned counsel for the petitioner.

6. The solitary ground which has been raised by the petitioner is

with regard to the non-supply of copy of report of preliminary enquiry. However, the said submission is false and contrary to the record. The application on which the petitioner has placed reliance to claim that the copy of report of preliminary enquiry was not given, is not only undated but is also not containing the acknowledgment of receipt. The said document has been filed as Annexure-P/2.

7. The petitioner has filed a copy of reply filed by the petitioner to the charge-sheet. In reply, the petitioner has referred to the contents of the report of preliminary enquiry as well as the statements of the witnesses recorded during the said preliminary enquiry in detail and certain findings were reproduced. Thus, it is clear that prior to the reply of charge-sheet could be filed by the petitioner, a copy of the report of preliminary enquiry as well as the statements of the witnesses recorded during the said preliminary enquiry were already supplied to the petitioner. Thus, the counsel for the petitioner could not make out a case that the copy of the report of preliminary enquiry or the statements of the witnesses was not supplied to the petitioner.

8. It is next contended by the counsel for the petitioner that since the petitioner was not having any faith in any of the enquiry officers, therefore he should not have been proceeded *ex-parte*.

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

10. The petitioner has filed a copy of application dated 08/07/2013 which is addressed to enquiry officer, 10th Battalion, SAF Sagar. The said application reads as under:-

> ''प्रति,
>
> श्रीमान् विभागीय जांचकर्ता अधिकारी महोदय,
> 10वीं बटा. वि.स.बल, सागर

विषयः— विभागीय जांच के संबंध में।

संदर्भः— विभागीय जांच क्रमांक 10वीं/बटा./एजूडेन्ट/55/13 दिनांक 02/07/2013 के नोटिस के संदर्भ में।

परम्आरणीय,

प्रार्थना है कि मैं प्रार्थी गण रत्नेश गर्ग नं. 65 सी. कम्पनी 10वीं बटालियन सागर को संदर्भित पत्र आपके द्वारा नोटिस विभागीय जांच में उपस्थित होने संबंध में प्राप्त हुआ है, जबकि प्रार्थी पूर्व से प्रार्थना कर चुका है कि 10वीं बटालियन के किसी भी अधिकारी द्वारा विभागीय जांच नहीं कराना चाहता है इस संबंध में वरिष्ठतम् अधिकारियों को भी सूचित कर चुका है फिर भी संदर्भित नोटिस जारी हुआ है। इस तरह मनमानी की जा रही है, जबकि उच्चतम् न्यायालय द्वारा यह निर्देश जारी हुआ है कि विभागीय जांच में अधिकारी मनमानी नहीं कर सकेगा। इस संबंध में न्यायालय निर्णय डी.के. यादव बनाम् JMA इंडस्ट्रीज लिमिटेड ए. आई.आर. 1993 सुप्रीम कोर्ट 723 का अवलोकन करने की कृपा करें। छायाप्रति अवलोकनार्थ संलग्न है। इस संबंध में पुलिस मुख्यालय, पुलिस महानिदेशक भोपाल द्वारा आदेश जारी हुआ है कि जांच कर्ता अधिकारी कर्तव्य और परिसीमा के संबंध में निर्देश जारी हुए है, उसमें भी इस उच्चतम न्यायालय का निर्णय का उल्लेख है। कृपया पुलिस मुख्यालय भोपाल से आदेश बुलाकर अवलोकन करने की कृपा करें। आदेश की कापी अवलोकनार्थ संलग्न है।

अतः प्रार्थी को पूर्ण आशा है कि आपके द्वारा विभागीय जांच तब तक आरंभ न की जाए, जब तक की वरिष्ठतम अधिकारी भोपाल द्वारा निर्देश प्राप्त न हो जाय।

प्रतिलिपिः—

1. पुलिस महानिदेशक पत्र फेक्स द्वारा
2. पुलिस महानिदेश पो.आफिस पत्र द्वारा पत्र
3. पुलिस महानिरीक्षक रेंज वि.स.बल भोपाल
4. सुप्रीम कोर्ट के आदेश की प्रति
5. फेक्स पोस्ट आफिस रसीद की प्रतियां

दिनांकः— 8—7—013

आपका कृपा अभिलाषी
आरक्षक 65 रत्नेश गर्ग
सी. कम्पनी 10वी. बटालियन
सागर (म.प्र.)''

11. The petitioner had not made any allegation of personal bias against the enquiry officer but his contention was that no officer of 10th Battalion should be appointed as an enquiry officer. This general statement made by the petitioner cannot be accepted. No allegation of bias can be made against all the officers of 10th Battalion. Thus, it is clear that the petitioner deliberately did not participate in the departmental enquiry.

12. It is well established principle of law that the scope of judicial review in departmental enquiry is very limited. The High Court can interfere with the departmental proceedings only if the proceedings were conducted contrary to the well established principle of law or the enquiry report is based on no evidence or where the competence of Authority has been challenged. None of the ingredients are present in the present case.

13. 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.
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> **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:
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> (*i*) reappreciate the evidence;
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> (*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."

14. 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 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.""

15. Thus the counsel for the petitioner could not point out any infirmity in the procedure adopted in Departmental Enquiry.

16. As the petition sans merits, it is accordingly, **dismissed**.

(G.S. AHLUWALIA)
JUDGE

shubhankar