

ORDER SHEET

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL – Cum – LABOUR COURT,
JABALPUR (M.P.)

Date of Order of Proceeding	Order Or Proceeding with Signature of Presiding Officer	Remark
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Case No. CGIT/LC/R/76/2019

Shri Vijay Narvaria V/S Punjab National Bank, Bhopal

31.12.2024

Order on preliminary issue.

The preliminary issue, framed vide is as follows :-

Whether the departmental enquiry conducted against the workman is just proper and legal ?

Case of the Workman on preliminary issue is mainly that he was appointed on 19.04.1999 as a Clerk with the Bank on compassionate ground and worked to the satisfaction of his superior. He was served a Suspension Letter dated 25.03.2014 while he was posted as a Single Window Operator (Assistant Cashier) at Indira Complex Branch of the Bank, in Indore followed by a charge-sheet of the Disciplinary Authority vide letter dated 10.04.2014. Charge leveled against him was that, while serving as Single Window Operator in the Indira Complex Branch of the Bank at Indore, he delivered stamped challans to Customers after receiving from them money for deposit, on three days i.e. 23/11/2013, 1/10/2013 and 9/11/2013 but did not enter it in the Log Book or Cash Register of the Bank nor did he deposit the money received thus misappropriated the money received which was total Rs. 1,00,050/-, hence committed misconduct. He was asked to submit his explanation on the Charge-sheet within 7 days, he did submit his explanation vide letter dated 17/04/2014 and Management decided to conduct regular Departmental Enquiry against him. It is the case of the Workman that an Enquiry was conducted contrary to procedure laid down in the Bipartite Settlement without affording him any opportunity to defend himself. The Enquiry Officer, without adopting any procedure, of Departmental Enquiry, adopted 'unprocedural' way by examining the Charge-sheeted Employee (Workman) first, before examining the Bank Witness acted in violation of principles of Natural Justice. The documents submitted by management during the Enquiry were Marked Exhibits when examining any witness. The

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	<p>Disciplinary Authority wrongly accepted the findings of Enquiry Officer ignoring the illegality committed by the Enquiry Officer in conducting the enquiry and issued a show-cause notice on the Enquiry Report.</p> <p>Case of the Management, on preliminary issue is mainly that while working as a Single Window Operator, in the branch, the Workman received different amounts on different dates mentioned in the charge-sheet total Rs. 1,00,050/- from different depositors and issued deposits slips stamped by him as a token of receipt of money but never deposited the money so received with the Bank nor did he make any entry in the Bank registers in this respect, thus committed mis-conduct. Complaints were received by Management from the depositors and a Workman was suspended. Pending Enquiry. He was issued a charge-sheet on the 10/04/2014. After finding his reply on charge-sheet not satisfactory, Management decided to conduct a regular Departmental Enquiry regarding the allegations vide order dated 23.04.2014. The Workman was given opportunity to be represented by his representation in the Enquiry. During Enquiry Management produced documents which were admitted by Workman, hence marked exhibits. The Workman also submitted discriminatory evidence, admitted by Management and they were also marked exhibits none of the parties laid any oral evidence. The Enquiry Officer submitted Enquiry Report dated 25.07.2014 holding the charges proved. A copy of the Enquiry Report was sent to the Workman with a show-cause notice dated 11/09/2014. After finding reply of the Workman on the Show-cause notice, Management passed the punishment order of dismissal of workman. According to Management, there is no illegality or material irregularity with record to substance of procedure committed during enquiry.</p> <p>In evidence on this preliminary issue, Workman filed his affidavit as his examination-in-chief he was not cross-examined by Management though opportunity was given.</p>	

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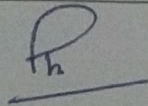
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Workman filed enquiry papers (photocopy).

At the time of argument, none was present for management hence argument of Learned Counsel for the Workman Mr. Amandeep Gupta was heard. He has filed written arguments also which are part of record.

I have gone through the Written Arguments and have perused the record. Main argument from the side of Workman is that he was not given ample opportunity to defend himself in the enquiry. And enquiry was conducted in violation of principles of Natural Justice. Learned Counsel has referred to Clauses 1, 2, 5 and 12 of Bipartite Settlement which require that a person against whom disciplinary action has been proposed, shall be informed of the charges and shall be given appropriate opportunity to explain himself. Final order shall be passed only after due consideration of all the relevant facts. Learned Counsel further submits that no witness were examined by Management and documents were marked exhibits without examining the witness. He is relied on judgment of Hon'ble Supreme Court reported in **AIR 1964 SC, 364** in which it has been laid down that nor suspension should not be allowed to take place to prove even in domestic enquires. Learned Counsel has further referred to any judgment of Hon'ble Supreme Court in the case of **Union of India Verses J.Ahmed, AIR 1976, SC 1022** which lays down that mis-conduct means mis-conduct arising from ill motive. Acts of negligence, errors of judgment or innocent mistake did not constitute mis-conduct. It further lays down that in absence of standing orders on the satisfactory worked cannot be held mis-conduct. He is further referred to any judgment of Hon'ble Supreme Court in the case of **Inspector Premchand vs. Government of NCT of Delhi, 2007 (4) SCC 566** which deals with mis-conduct.

Whether the Workman has committed mis-conduct as defined in the Bipartite Settlements is not a point to be seen on this stage. Only the issue of legality of the enquiry is under



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consideration at this stage.

Perusal of enquiry proceedings, filed by the workman himself reveals that the documents filed by Management were admitted by defense, and the documents filed by defense were admitted by Management. Since documents filed by one party were not disputed by other party, none examination of any witness to prove the documents does not invalidate proceedings. It also comes out that principle of Natural Justice have been followed in conducting the enquiry.

To sum-up, I do not find any illegality or material irregularity in the Enquiry proceedings. The arguments from the side of workman that the charges are vague also not substantiated from record.

In the light of above discussion and findings, holding the departmental enquiry just, legal and proper. The preliminary issue is answered against the Workman.

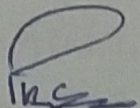
Following additional issue are framed :

- 1) **Whether the findings of Enquiry Officer that the Charges are proved are perverse?**
- 2) **Whether punishment is proportionate to the charge?**

Parties are directed to laid evidence if any on additional issue.

List on for hearing on additional issues/final argument.

Upload this order.



Presiding Officer