

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL  
GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.  
208 ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-  
110002.**

**ID. NO. 19/2009**

**Rajpal Singh**

....Workman

**Vs.**

**Syndicate Bank**

.. Management.

**ORDER DATED 25 March, 2022**

This order is intended to decide a preliminary issue framed by order dated 08.11.2012 regarding the legality and fairness as well as adoption of principles of natural justice, in the domestic enquiry conducted against the workman/ claimant

The facts leading to the filing of Industrial dispute and relevant for answering the preliminary issue are that the claimant being ex-army man was appointed as a probationary attainer on 04.10.1983 with Syndicate bank and was confirmed in the post of attainer w.e.f 04.04.1984 initially he was working in the rural banking training centre (RBTC) Gurgaon and was later on transferred to head district office Gurgaon. While working there on 22.11.1986 he was suspended from service on the allegation that between 9.10.1986 to 24.10.1986 he removed /destroyed to cheque worth Rs. 74000/- for his own wrongful gain. A complaint was lodged against him at the police station Parliament Street, New Delhi as FIR No. 995/1986. That criminal case continued for years together and considering the long pendency the suspension of the claimant was revoked by order dated 27.02.1998 . During this period of suspension no domestic enquiry was initiated against him. That criminal case remained pending in the court of the Metro Politian Magistrate till 06.07.2000 a judgment was passed holding the claimant was not guilty and acquitting him of the charges. No appeal was preferred by the management against the judgment of the Metropolitan magistrate. The claimant thus, made representation demanding that for the period of suspension he be paid full salary deducting the subsistence allowance already paid. The management at that point of time and after lapse of one and half year since the date of acquittal initiated a domestic enquiry against him. A charge sheet at a belated date i.e 22.11.2001 was served on the claimant. On 31.12.2001 the claimant submitted his reply to the charge sheet. On 02.1.2002 the enquiry officer was appointed who in a biased manner conducted the inquiry and submitted a report holding that the charge against the claimant stands proved. The report of the enquiry was then communicated to the claimant asking him to show cause as to why the proposed punishment shall not be imposed on him. Though the claimant submitted his show cause, the same was not considered and the Disciplinary authority passed the order dated 31.12.2002



terminating the service of the claimant. The departmental appeal was also decided against him by order dated 29.3.2003 and the management by letter dated 08.5.2003 asked the claimant to returned the amount of the mis-utilised cheque. Being aggrieved the claimant approached the Hon'ble High court of Delhi and then the Hon'ble Supreme Court in all those forum his plea was not accepted and he was directed to approach the appropriate forum. He then raised Industrial Dispute before the conciliation officer. On failure of conciliation the appropriate govt. refer the matter to this Tribunal to adjudicate if the punishment of termination of service imposed on the claimant after acquittal from the criminal case is just fair and legal. To what relief the claimant is entitled to.

The management filed written statement admitting that the claimant was initially appointed as attainer, on later stage confirmed in the post. But his service record was not at all good. During his appointment in the District head office he had mis-utilised his power and managed to remove some cheques from the clearing house and handed over the same to be drawn in his account. When the said cheque was received in the clearing the mischief was detected and the concerned branch lodged FIR at the police station. The claimant was immediately placed under suspension since he further continuance was detrimental to public interest. During the period of suspension he was allowed subsistence allowance as per rule. For condition agreed under the Bipartite Settlement the initiation of the departmental proceeding was kept on hold till the termination of the criminal trial. However, during the pendency of criminal trial he was reinstated into service. The criminal trial ended on 06.07.2000 and the claimant was acquitted being extended with the benefit of doubt. Thereafter, the domestic enquiry was initiated and charge sheet was served on the claimant. During the enquiry the claimant duly participated and all fair chances to defend himself were allowed.

At the end of the enquiry the charge was found established and the enquiry officer proposed the punishment which was ultimately accepted by the Disciplinary authority.

On these rivals pleading issue was framed it was ordered that the legality of the domestic enquiry shall be taken up as a preliminary issue. During the hearing of preliminary issue the claimant testified himself as WW1 and subjected to cross examined by the management. He also filed several documents which have been marked in a series of Exht. WW1/1 to WW1/13. On the other hand the management bank examined one of its retired official as MW1 who proved a series of document as Exht. MW1/1 to MW1/52. These documents include the letter of appointment, letter of confirmation the charge sheet and the domestic enquiry proceedings. The witness examined is none but the enquiry officer of the domestic proceeding.

It is a settled principle of law that the Tribunal authorized to decide the dispute relating to punishment inflicted on a workman pursuant to a domestic enquiry is required to consider at the 1<sup>st</sup> instance if the domestic enquiry was held



properly and the same is valid. The departmental enquiry being a quasi judicial proceeding the same as per the different pronouncement is required to be done in an unbiased manner following the principles of natural justice.

During course of argument on behalf of the claimant it was submitted that the enquiry officer in a hasty manner concluded the enquiry and he was not allowed to set up a proper defense. The enquiry officer omitted to consider the material documents leading to his acquittal in the criminal case. Placing reliance in the case of Allahabad Bank and others Vs. Krishna Narayan Tiwari reported in AIR 2017 Supreme Court page 330, it is submitted that if the order of Disciplinary authority is an outcome of non application of mind, for that reason the enquiry has been vitiated for violation of the principles of natural justice. It was also argued that the claimant was working as attainer having least knowledge about the procedure of domestic enquiry . The enquiry officer had never explained the procedure to the claimant at the beginning. The counter argument of the management is that the claimant had actively participated in the enquiry and the domestic enquiry clearly shows that the claimant had at every stage had replied to the charge, to the show cause notice etc. Not only that all the relevant document was supplied to him and he was called upon to engage a defense assistance. On behalf of the management the copy of the Disciplinary enquiry proceeding, copy of the charge, order passed by D. A have been placed on record.

The Ld. Counsel for the management while placing reliance in the case of Badarpur Thermal Power Station Vs. CGIT and Anr. , 2015(218) DLT 792 submitted that the nature of proof required in the criminal trial and the domestic enquiry being different it cannot be said that prejudice would be caused to the workman if the domestic enquiry is suspended till conclusion of the domestic enquiry. Whereas, in a criminal trial the prosecution is required to prove the guilt of the accused beyond reasonable doubt, in a domestic enquiry the department has to prove the charge of misconduct by preponderance of evidence and the delinquent has to disprove the same. Enquiry cannot be held vitiated merely because there was a delay after the termination of the criminal trial. He also submitted that acquittal in criminal trial cannot be a ground for aborting the domestic enquiry.

As seen in this case the claimant had actively participated in the domestic enquiry and the claim statement he has nowhere disputed the correctness of the procedure adopted during the said enquiry. In the case of Debatoshpal Chaudhary Vs. PNB it has been held that fulfillment of the requirements in conduct of the enquiry was purely procedural in character. Unless in the given situation the aggrieved party can make out a case of prejudice and injustice, mere infraction from the procedure at some point of time will not vitiate the entire enquiry.

On a careful perusal of the enquiry proceeding the report of the enquiry officer and the order of Disciplinary authority if emerges that all the detailed procedure of domestic enquiry were followed and the claimant was given due



opportunity of defending himself. Not only that the record show that the copy of the enquiry report was served on the claimant calling him to show cause as to why proposed punishment shall not be imposed on him. Nothing has been elicited from the witness examined by the management to view the proceeding as irregular or illegal. Thus, taking all these aspects into consideration it is held that the enquiry was conducted following the procedure and principle of natural justice and thus held to be proper. The issue is accordingly answered against the claimant and in favour of the management. The parties are at liberty of advancing argument on the proportionality of punishment. Call on 11-05-2022 for the purpose.

*[Handwritten signature]*  
11/5/2022

Presiding Officer  
March 25, 2022