

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
JABALPUR

NO. CGIT/LC/R/103/2012

Present: P.K.Srivastava

H.J.S..(Retd)

1-Balwantsingh Gaur

**Pradhan Rokidya, State Bank of India,
Branch Etawah 302648 District Ujjain (M.P.)**

**Deceased died during the proceedings, hence
Represented by his Legal Representative**

1/1-Smt. Mukta Gour

W/o Late Shri Balwant Singh Gour

**Through: General Secretary,
Nationalised Bank Employees' Association,
K.K.E.-1, Tripti Vihar, Ujjain (M.P.)**

Workman

Versues

**The Chief General Manager,
State Bank of India,
Local Head Office, Hoshangabad Road,
Bhopal (M.P.)**

Management

(AWARD)

(Passed on this 18th day of March, 2026)

As per letter dated 09/10/2012 by the Government of India, Ministry of Labour, New Delhi, the reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act') as per Notification No. L/12011/42/2012 (IR(B-I) dt. 09/10/2012. The dispute under reference relates to:

"Whether the action of the management of State Bank of India in imposing the punishment of Dismissed without notice upon Shri Balwant Singh Gaur vide their order dated 30/04/2010, is legal and justified? To what relief the workman is entitled?"

The case of the workman is mainly that, he was first appointed in State Bank of Indore as a Clerk on 13.09.1982. He was issued a charge-sheet 21/04/2009 during service while he was working as a Cashier with the Bank, containing allegations of various misconducts. He did submit his reply denying the charges.

An inquiry was ordered against him after considering his representations, filed by him on 02.05.2009 with respect to the charge-sheet dated 21.04.2009. Inquiry Officer and management representative were appointed by the order of management dated 13.05.2009. The inquiry was conducted against the workman without following the established procedure in this respect and without following the rules of natural justice. The workman was refused the services of legal practitioner as his defense assistant. He was allowed to engage the Secretary of his union as his defense representative but was not continued on the ground that the Secretary himself was an employee of the Bank terminated for misconduct. The workman was not supplied with the documents. He was not allowed to have his defense before the Inquiry Officer. **The charges were wrongly** held proved and the punishment was also disproportionate to the charges. The workman requested that holding his termination illegal, he be reinstated with back wages and benefits.

Case of management is that, inquiry was conducted by the Inquiry Officer in accordance with the principles of the natural justice awarding full opportunity to the workman to defend himself and did avail this opportunity.

Management has further pleaded that the charges were rightly held proved and the punishment is also proportionate to the charges and

previous service record of the Workman. Management has prayed that the reference be answered against the Workman.

Vide order dated **22.06.2016**, following issues were framed on the basis of pleadings -

1. *Whether, the enquiry conducted against the Workman is proper & legal?*
2. *Whether, the charges alleged against the Workman were rightly held proved from the evidence in enquiry proceedings?*
3. *Whether, the punishment of dismissal of Workman is just, proper and legal?*
4. *If not, to what relief the workman is entitled to?*

Issue No. 1-

Issue No. 1 was taken as preliminary issue and was decided vide order dated 16.07.2025. The Departmental Enquiry was held just, legal and proper and not vitiated in law. This order is the part of this Judgment and Award. सत्यमेव जयते

Parties were granted opportunity to file their evidences on remaining issues. None of the parties filed any evidence, hence argument of Learned Counsel Mr. Arun Patel from the Workman side and Mr. Pranay Choubey from the side of Bank were heard. The Management side has filed written submissions also, which are part of record. I have gone through the Written Submissions as well the record.

Issue No. 2 –

The charges against the workman are as follows.

1. *That, while applying for examination being conducted by Bank for promotion from Clerk Grade to Junior*

Management Grade in 2007, the workman submitted wrong information with respect to his previous Departmental Enquiries and punishments vide his consent letter dated 30.06.2007, though he was punished departmentally by Bank for a charge relating to charge of misconduct on the basis of two charge-sheets issued on 25.05.1992 and 15.10.1995, thus committed misconduct.

2. *That, the workman filed a Contempt Petition No. 383/2007 dated 06.09.2007, which he withdrew on 13.01.2009. He filed his counter affidavit on 15.12.2007 in the said Contempt Petition stating that he had served one communication dated 23.08.2007 to one Bank employee O.P. Mishra and also produced a receipt of Service containing signature of O.P. Mishra, which were in fact not done by him, hence he fabricated or got fabricated the signature of the O.P. Mishra in the said receipt and used it in Court proceeding, thus committed misconduct.*
3. *That, while applying for examination being conducted by Bank for promotion from Clerk Grade to Junior Management Grade in 2008, the workman submitted wrong information with respect to his previous Departmental Enquiries and punishments vide his consent letter dated 30.06.2008, though he was punished departmentally by Bank for a charge relating to charge of misconduct on the basis of two charge-sheets issued on 25.05.1992 and 05.01.1995, thus committed misconduct.*

4. *That, he filed for reimbursement of fees, said to be paid by him with regards to education of his daughter Chandni Gour for the year 2005-06, 2006-07 and 2007-08, B.Com. (1st year, 2nd year and 3rd year) showing that she had studied in Vadia college of Commerce, Pune as a regular student and stayed in the hostel. For this, he filed false and forged receipts, which were in fact not issued by the college because no college in the name of Vadia College of Commerce existed in Pune and the hostel receipts were also forged. Thus, he committed misconduct on this score.*
5. *That, he filed an application for reimbursement on 30.09.2008, seeking reimbursement of Tuition fees for the year 2008-09, regarding his daughter Shradha Gour, showing her to be studying in St. Gracious Senior Secondary School, Udaipur and filed receipts in this respect, which were not in fact issued by the school, thus committed misconduct.*

Enquiry Officer has held all the charges proved in his enquiry report. Learned Counsel for Workman has submitted that finding of the Enquiry Officer and congruence of the Disciplinary as well Appellate Authority with respect to prove of charges is nothing but perverse, it is recorded without any evidence on record, hence cannot stand the scrutiny of law.

These findings have been defended by Learned Counsel for Management Bank with an argument that standard of proof with respect to charges in Departmental proceedings does not requires that the

charges be proved beyond reasonable doubt, rather they are to be proved at the level of probability.

Before entering into discussion on this point, the settled preposition of law laid down by various Judgments requires to be mentioned here.

Scope of disciplinary proceedings and scope of criminal proceedings are quite distinct, exclusive and independent of each other. Standards of proof in the two proceedings are also different. Ref. T.N.C.S. Corpn. Ltd. vs. K. Meerabai, (2006) 2 SCC 255

*Standard of proof in a departmental enquiry which is quasicriminal/quasi-judicial in nature: Disciplinary proceedings, however, being quasi-criminal in nature, **there should be some evidence to prove the charge.** Although the charges in a departmental proceedings are not required to be proved like a criminal trial i.e. beyond all reasonable doubts, we cannot lose sight of the fact that the enquiry officer performs a quasijudicial function, who upon analyzing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record. While doing so, he cannot take into consideration any irrelevant fact. He cannot refuse to consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witnesses only on the basis of surmises and conjectures. Ref: (i) *Nirmala J. Jhala Vs. State of Gujarat & Another, AIR 2013 SC 1513 (paras 10, 11, 12 & 13).* (ii) *M.V. Bijlani Vs. Union of India, (2006) 5 SCC 88 (Para 25)**

In the cases of (i) NOIDA Entrepreneurs Association Vs NOIDA & others, AIR 2007 SC 1161 (i4i) State Bank of India Vs. R.B. Sharma, (2004) 7 SCC 27 (iii) Kendriya Vidyalaya Sangathan Vs. T. Srinivas, (2004) 7 SCC 442 (iv) Depot Manager, APSRTC Vs. Mohd. Yousuf Miya, (1997) 2 SCC 699 (v) Captain M. Paul Anthony Vs. Bharat Gold Mines Limited (1999) 3 SCC 679 and (vi) State of Rajasthan Vs. B.K. Meena, (1996) 6 SCC 417 (vi) Pratap Singh Vs. State of Punjab, AIR 1964 SC 72 (vii) Jang Bahadur Singh Vs. Baij

Nath, AIR 1969 SC 30, it has been laid down by the Hon'ble Supreme Court that "the purpose of departmental enquiry and of prosecution are two different and distinct aspects. Departmental Enquiry is to maintain discipline in the service and efficiency of public service. Crime is an act of commission in violation of law or of omission of public duty. The enquiry in a departmental proceeding relates to the conduct or breach of duty by the delinquent officer to punish him for his misconduct defined under the relevant statutory rules or law. It is the settled legal position that the strict standard of proof or applicability of the Evidence Act stands excluded in a departmental proceeding. Criminal Proceedings and the departmental proceeding under enquiry can go on simultaneously."

In the case of T.N.C.S. Corporation Ltd. Vs. K. Meerabai, (2006) 2 SCC 255, it has been held by the Hon'ble Supreme Court that the scopes of the disciplinary proceedings and of criminal proceedings are quite distinct, exclusive and independent of each other. Standards of proof in the two proceedings are also different.

In the cases of Mohd. Saleem Siddiqui Vs. State of UP & others, (2011) 2 UPLBEC 1575 (Allahabad High Court) and Ajeet Kumar Naag Vs. General Manager Indian Oil Corporation Ltd. Haldia, JT 2005 (8) SC 425, the distinction between departmental enquiry and criminal proceedings has been drawn as under: "The two proceedings i.e. criminal and departmental are entirely different. They operate in different fields and have different objectives. The object of criminal proceedings is to inflict appropriate punishment on offender and the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance service rules the rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of accused beyond reasonable doubts, he cannot be convicted by a court of law. In departmental enquiry, on the other hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of preponderance of probability. Procedure with respect to standard of proof in criminal case and departmental enquiry are different. In the case of departmental enquiry the technical rules of evidence have no application and the

doctrine of "proof beyond doubt" has also no application in the departmental enquiry. Criminal prosecution is launched for an offence for violation of a duty the offender owes to the society or for breach of which law has provided that the offender shall make satisfaction to the public. So crime is an act of commission in violation of law or of omission of public duty. The departmental enquiry is to maintain discipline in the service and efficiency of public service. There would be no bar to proceed simultaneously with departmental enquiry and trial of criminal case. "

As regards Charge No. 1 and 3, the findings of the Enquiry Officer is supported by the document, which is the Consent Form filed and signed by the Workman in which he has mentioned in ***Column No. 17 of the Form, whether any Disciplinary Case has been/was initiated and has marked on option 'No'***. This is also established from the evidence collected during enquiry as well from the statement of claim itself that there were different Departmental Proceedings against the workman before, in which he was duly punished.

Hence, the charge of misconduct by way of actively concealing information with regard to Departmental Enquiries and punishments earlier has been correctly held proved by the Enquiry Officer.

As regards the other three charges, there is on record in the Enquiry Proceedings, the statement of the Officer who made preliminary enquiries in this respect. He has said before the Enquiry Officer that he visited the Educational Institutions and found that there was no Vadia College of Commerce rather it was Ness Vadia College of Commerce. Also were informed by the Officers of the College and Hostel, whose name these witness do not disclose, that in fact the Daughter of the Workman Chandini Gour was a private student and the hostel receipt was not genuine. He did not record statement of any witness on these points. No witness or document in this respect was produced during the

enquiry. Almost, same is the case with respect to alleged false claim of reimbursement regarding second daughter Shradha Gour. There is on record, the statement of the Enquiry Officer, who conducted preliminary enquiry and stated during the Departmental Enquiry that the Officers and Principal told him, but no document or any recorded statement or any person who told the Officers conducting Preliminary enquiry was produced/examined.

S.C. Girotra vs. UCO Bank, 1995 Supp (3) SCC 212 - held that

Where a Manager in the United Commercial Bank (Chandigarh) was dismissed from service and during the departmental enquiry the presenting officer had submitted several exhibits, most of which were in the form of certificates, inspection-cum-investigation report prepared by two senior officers of the then division office and although they were examined by the Bank to prove those documents but opportunity to cross-examine those senior officers/witnesses was not given to the delinquent, it has been held that such omission amounted to denial of reasonable opportunity of defence. Natural justice says that reasonable opportunity to cross-examine such witnesses by the delinquent ought to have been granted. The enquiry was directed by the Supreme Court to be conducted afresh from the stage of enquiry report after opportunity of cross-examination of witnesses to the delinquent.

Nirmala J. Jhala Vs. State of Gujarat & Another, AIR 2013 SC 1513 (paras 23 & 25) - held that

The purpose behind holding preliminary enquiry is only to take a prima facie view, as to whether there can be some substance in the allegation made against an employee which may warrant a regular enquiry. The evidence recorded in preliminary inquiry cannot be used in

regular departmental enquiry as the delinquent is not associated with it, and opportunity to cross-examine the persons examined in such inquiry is not given. Using such evidence would be violative of the principles of natural justice.

Thus, with regards to the charges regarding reimbursement there is statement of the Officers who conducted Preliminary enquiry and their evidence is also based on hearsay evidences. No document was proved in this respect.

Hence, the finding of Enquiry Officer with respect to proof of these two charges regarding reimbursement is held to be perverse, recorded on the basis of no admissible evidences. These charges are held not proved.

As regard to the other charge, regarding alleged forging signature of one O.P. Mishra, this O.P. Mishra was never examined during the enquiry proceedings, only report of a private Hand-writing Expert was filed, which indicated that the signature of the person O.P. Mishra on the purported document do not match with his admitted signature. In absence of non-examination of the Hand-writing Expert or the said Employee O.P. Mishra whose signatures are alleged to have been forged by the Workman, this charge also cannot be held to have been proved in law.

Courts can interfere with the findings of facts recorded in the enquiry reports under any of the following conditions:

- (i) When finding of fact in the enquiry report is beyond record i.e. based on no evidence;**
- (ii) when finding of fact is based on any irrelevant or extraneous factors;**
- (iii) when finding of fact has been recorded by ignoring material evidence;**

- (iv) **when finding of fact appears to be mala-fide;**
- (v) **when finding of fact is perverse. See: United Bank of India versus Biswanath Bhattacharjee, 2021 LiveLaw (SC) 109.**

In *DG, RPF vs. Sai Babu (2003) 4 SCC 331*, Hon'ble Apex Court has observed that:

“6..... Normally, the punishment imposed by a disciplinary authority should not be disturbed by the High Court or a tribunal except in appropriate cases that too only after reaching a conclusion that the punishment imposed is grossly or shockingly disproportionate, after examining all the relevant factors including the nature of charges proved against, the past conduct, penalty imposed earlier, the nature of duties assigned having due regard to their sensitiveness, exactness expected of an discipline required to be maintained, and the department/establishment which the delinquent person concerned works.”

In *United Commercial Bank vs. P.C. Kakkar (2003) 4 SCC 364* Hon'ble Apex Court on review of a long line of cases and the principles of judicial review of administrative action under English law summarized the legal position in the following words:

“11. The common thread running through in all these decisions is that the court should not interfere with the administrators' decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in *Wednesbury* case the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision to that of the administrator. The scope of judicial review is judicial review is limited to the deficiency in decision-making process and not the decision.

12. To put it differently, unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the court/tribunal, there is no scope for

interference. Further, to shorten litigation it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof.

In *Union of India vs. S.S. Ahluwalia* (2007) 7 SCC 257 Hon'ble Supreme Court reiterated the legal position as follows:

"8. The scope of judicial review in the matter of imposition of penalty as a result of disciplinary proceedings is very limited. The court can interfere with the punishment only if it finds the same to be shockingly disproportionate to the charges found to be proved."

In *State of Meghalaya v. Mecken Singh N. Marak* (2008) 7 SCC 580 Hon'ble Supreme Court stated that:

"The punishment imposed by the disciplinary authority or the appellate authority unless shocking to the conscience of the court, cannot be subjected to judicial review."

15. Hon'ble Apex Court in *Administrator, Union Territory of Dadra and Nagar Haveli vs. Gulbhia M. Lad* (2010) 2 SCC (L&S) 101 has observed that -

"The legal position is fairly well settled that while exercising the power of judicial review, the High Court or a Tribunal cannot interfere with the discretion exercised by the disciplinary authority, and/or on appeal the appellate authority with regard to the imposition of punishment unless such discretion suffers from illegality or material procedural irregularity or that would shock the conscience of the court/tribunal. The exercise of discretion in imposition of punishment by the disciplinary authority or appellate authority is dependent on host of factors such as gravity of misconduct, past conduct, the nature of duties assigned to the delinquent, responsibility of the position that the delinquent holds, previous penalty, if any, and the discipline required to be maintained in the department or establishment he works. Ordinarily the court or the tribunal would not substitute its opinion on reappraisal of facts."

Finding of Enquiry Officer with respect to this charge also is held perverse, and this charge also is held not proved.

In the light of above discussion and findings, the findings of the Enquiry Officer with respect to prove of Charges No. 1 and 3 with regards to alleged active concealment of acts in the Consent Form of Departmental Examination is held proved and rest three charges are held not proved.

Issue No. 2 is answered accordingly.

Issue No. 3& 4 –

Since these two issues are identical and interconnected, these two issues are taken together.

As the record reveals, the Workman has been dismissed by Disciplinary Authority for all the charges. Learned Counsel for Workman side has submitted that a record reveals that the Workman was permitted to appear in the Departmental Examination under orders of Hon'ble High Court. The said two charges of active concealment also get diluted. Hence, the extreme punishment of removal from service is disproportionate to the charge proved.

Learned Counsel for Management has submitted that punishment is exclusive domain of the Department and interference by Tribunals is not warranted because the Tribunal is not an Appellate Authority. He has referred to Judgment of Hon'ble Supreme Court in the case of *Union of India and Anr. vs. G. Ganayutham (1997 [7] SCC 463)*, this Court summed up the position relating to proportionality in paragraphs 31 and 32, which read as follows: "The current position of

proportionality in administrative law in England and India can be summarized as follows:

(1) To Judge the validity of any administrative order or statutory discretion, normally the Wednesbury test is to be applied to find out if the decision was illegal or suffered from procedural improprieties or was one which no sensible decision-maker could, on the material before him and within the framework of the law, have arrived at. The court would consider whether relevant matters had not been taken into account or whether irrelevant matters had been taken into account or whether the action was not bona fide. The court would also consider whether the decision was absurd or perverse. The court would not however go into the correctness of the choice made by the administrator amongst the various alternatives open to him. Nor could the court substitute its decision to that of the administrator. This is the Wednesbury (1948 1 KB 223) test.

(2) The court would not interfere with the administrator's decision unless it was illegal or suffered from procedural impropriety or was irrational - in the sense that it was in outrageous defiance of logic or moral standards. The possibility of other tests, including proportionality being brought into English administrative law in future is not ruled out. These are the CCSU (1985 AC 374) principles.

(3) (a) As per Bugdaycay (1987 AC 514), Brind (1991 (1) AC 696) and Smith (1996 (1) All ER 257) as long as the Convention is not incorporated into English law, the English courts merely exercise a secondary judgment to find out if the decision maker could have, on the material before him, arrived at the primary judgment in the manner he has done.

(3)(b) If the Convention is incorporated in England making available the principle of proportionality, then the English courts will render primary judgment on the validity of the administrative action and find out if the restriction is disproportionate or excessive or is not based upon a fair balancing of the fundamental freedom and the need for the restriction thereupon.

(4)(a) The position in our country, in administrative law, where no fundamental freedoms as aforesaid are involved, is that the courts/tribunals will only play a secondary role while the primary judgment as to reasonableness will remain with the executive or administrative authority. The secondary judgment of the court is to be based on Wednesbury and CCSU principles as stated by Lord Greene and Lord Diplock respectively to find if the executive or administratively to find if the executive or administrative authority has reasonably arrived at his decision as the primary authority.

(4)(b) Whether in the case of administrative or executive action affecting fundamental freedoms, the courts in our country will apply the principle of "proportionality" and assume a primary role, is left open, to be decided in an appropriate case where such action is alleged to offend fundamental freedoms. It will be then necessary to decide whether the courts will have a primary role only if the freedoms under Articles 19, 21 etc. are involved and not for Article 14. Finally, we come to the present case. It is not contended before us that any fundamental freedom is affected. We need not therefore go into the question of "proportionality". There is no contention that the punishment imposed is illegal or vitiated by procedural impropriety. As to "irrationality", there is no finding by the Tribunal that the decision is one which no sensible person who weighed the pros and cons could

have arrived at nor is there a finding, based on material, that the punishment is in "outrageous" defiance of logic. Neither Wednesbury nor CCSU tests are satisfied. We have still to explain "Ranjit Thakur (1987 [4] SCC 611).

He has further submitted that, the common thread running through in all these decisions is that the Court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the Court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in the Wednesbury's case (supra) the Court would not go into the correctness of the choice made by the administrator open to him and the Court should not substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in decision-making process and not the decision

Learned Counsel further submits that only because co-delinquent has been granted lesser punishment, it cannot be a ground to interfere in the punishment and has referred to *Judgment of Hon'ble Supreme Court in the case of Chairman and Managing Director, United Commercial Bank Vs. P.C. Kakkar (2003) 4 SCC 364.*

Next submission from the Management is that, the Workman has been previously punished for misconducts. This factor also cannot be ignored.

It has been found that, three of the five charges were wrongly held proved and in fact they are not proved in accordance with law. Now remains the charge of active concealment of fact regarding Departmental Enquiries/Punishments while submitting Consent Form in 2007 and 2008 for Departmental Examination. This is also undisputed that the Workman was permitted to appear in the Departmental examination

under order of Hon'ble High Court. In my considered view, the maximum punishment of removal from service of a Workman who had putting more than 20 years in service of the Bank for these charges is nothing but disproportionate and shocks the conscience of this Tribunal. After evaluation material on record, I am of the considered view that the punishment of compulsory retirement of the Workman for these charges will be adequate and proportionate to the charges. Punishment order requires to be modified accordingly.

Issue No. 3 and 4 is answered accordingly.

No other point was pressed.

On the basis of above discussion and findings, the reference is answered as follows.

AWARD

Holding the action of Management of State Bank of India, in imposing the punishment of dismissed without notice upon the deceased Workman Balwant Singh Gour vide order dated 30.04.2010 is unjustified in law, the punishment is modified from dismissal without notice to compulsory retirement with benefits.

DATE:- 18.03.2026

**(P.K.SRIVASTAVA)
PRESIDING OFFICER**