

**THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR
COURT, JABALPUR**

NO. CGIT/LC/ R/13/2014

Present: P.K.Srivastava

H.J.S..(Retd)

**Shri Ashutosh Bramhadin Awasthi,
R/o 3-A, Ramanand Nagar, Lalghati,
BHOPAL (M.P.) – 462032**

Workman

Vs

**Zonal Manager,
Bank of Maharashtra, Zonal Office,
1/14, Admn. Zone, Arera Hills,
BHOPAL (M.P.)**

Management

(JUDGMENT)

(Passed on this 13th day of October, 2025)

As per letter dated 07/02/2014 by the Government of India, Ministry of Labour, New Delhi, the reference has been made to this Tribunal under ***Section-10 of Industrial Disputes Act, 1947*** (in short the 'Act') as per Notification ***No.L-12012/96/2013 (IR(B-II))*** dt. 07/02/2014. The dispute under reference relates to:-

“Whether the action of the management of Bank of Maharashtra, Bhopal in dismissing the services of workman Shri Ashutosh Bramhadin Awasthi w.e.f. 29.11.2012 is justified? What relief the workman is entitled to?”

After registering the case on the basis of reference, notices were issued to the parties. They appeared and filed their respective statement of claim in defense.

The case of the workman is mainly that when he was posted as a Computer Operator 'A' in Sehore Branch of the Bank, he was issued a charge sheet. The charges against the workman were mainly that he made unauthorized and fraudulent deposits by way of various instruments, in his Saving Bank account and thereafter, withdrew these amounts fraudulently by way of various withdrawal slips/instruments details mentioned in the charge sheet, thus committed misconduct under Clause-19.5(j) of The Bipartite Settlement. He was awarded the punishment of dismissal from service after a departmental inquiry. He workman challenged the departmental enquiry and punishment on various grounds which are namely that defense was denied proper opportunity to defend itself, principles of natural justice were not followed, the Enquiry Officer was acting under the direction of the Disciplinary Authority and taking decisions under the directions of the Disciplinary Authority, thus not acting independently and impartially, the prayer of the workman with regard to change of the Enquiry Officer was not decided, the crucial documents were not provided by the presenting Officer inspite of direction of the Enquiry Officer to supply them to the workman, a Police case on the basis of a First Information Report filed by the Bank with respect to the same incident was pending before Court and the Enquiry Officer did not wait the decision of the Court inspite of the fact that the charges and the evidence were the same in the criminal proceedings and the departmental enquiry. Also that the charges were held wrongly proved by the enquiry officer and the disciplinary authority as well appellate authority punishment is also disproportionate to the charges.

Management has rebutted the allegations with case that the enquiry was conducted as per Rules and Bipartite Settlement. Principles of natural justice were followed, workman was given full opportunity to defend itself. Hence, there is not illegality regarding substance or procedure in conducting the enquiry. Also that the findings of the enquiry officer and concurrence of Disciplinary Authority with respect to the proof of charges is correct on facts and law and also that the punishment is not disproportionate to the misconduct proved.

Following preliminary issue was framed on the basis of pleadings-

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

This preliminary issue was decided after hearing vide order dated 29.04.2024. The enquiry was held vitiated in law. Management was granted opportunity to prove the charges.

Thereafter, the management filed affidavit of its witness Mr. Kush Khare as his Examination-in-chief, he was cross-examined by workman side. The management further proved documents Ex-M/9 and Ex-M/10, which are certified statements of account of the workman, documents Ex-M/1 to Ex-M/9 are the documents related to charges, enquiry and punishment order proved during the hearing of preliminary issue as mentioned above. The workman has also filed his affidavit as his Examination-in-chief, he has been cross-examined by management. Documents Ex-W/1 to Ex-W/9 have been proved by the workman during hearing on preliminary issue, these are also the documents related to charges, enquiry and punishment order as well statement of witnesses, Sukhlal and S.I. Vijay Singh Rajpoot, recorded during the trial of criminal case relating to charges.

I have heard argument of Learned Counsel for workman Mr. Praveen Yadav and Mr. Avinash Yadav for management Bank. Parties have also filed the written arguments, which are part of record. I have gone through the written arguments and record as well.

Following Issues arises on perusal of the record, in light of arguments:-

- 1) ***Whether the charges against the workman are proved?***
- 2) ***Whether the punishment awarded is proportionate to the charges proved?***

Issue No.1,

The charge against the workman was doing acts prejudicial to interest of the Bank or gross negligence involving the Bank into serious loss, which is misconduct under Clause 19.5(j) of Bipartite Settlement. These charges relate to three transactions, which are following in substance:-

- i. He unauthorisedly passed on benefits of huge amount to his own seven bank accounts by crediting account, by way of entering fake bank numbers in the system and thus misappropriated Bank funds.*
- ii. He unauthorisedly passed on benefits of huge amount to his accounts and misutilization of Bank funds for personal use.*
- iii. He unauthorisedly passed on benefits of clearing amount to his own accounts without any authority and jurisdiction and withdrew the same amount for personal use and thereafter, managed to part way with the credits/debit voucher of the said transactions.*

The settled proposition of law, with respect to proof of charges in a departmental proceeding, crystallized through various pronouncements is that the charges in departmental proceedings are not required to be proved beyond reasonable doubt. As it is required in the criminal trial following judgments have been reproduced in this respect:-

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. "

Now testing the evidence of the aforesaid three management witnesses on the aforesaid settled principles with respect to prove of charge, it comes out that there is sufficient evidence to involve and infer that the workman was a party to the unauthorized transactions and was a beneficiary also because some of the amounts were credited in the account of her husband, hence, charges as levelled in the charge sheet are held proved against the workman.

The management witness Mr. Kush Khare, who has been the Branch Manager of the Branch, where the incident occurred, has stated in his affidavit that he had been posted in the said Branch as Branch Manager and is conversant with the records. He further stated that Various Branches in District Sehore did not have facility of cheque clearance. Therefore, the cheques presented at those Branches used to be sent to Sehore Branch of the Bank where Shri Awasthy was posted as Computer Operator "A". From Sehore Branch, the cheques were required to be sent to Clearing House at State Bank of India, Sehore. After clearance of the cheques, the amount was to be credited to CHP Account (Clearing House Payable account) at Sehore Branch. Thereafter, the concerned Clerk (in this case Shri Awasthy) was

required to prepare batches of cheques which was to be authorized by the officer of the Branch. Thereafter, the batch was again sent back to concerned clerk who was required to remit the amount to the concerned Branch. However, after having received the batch of cheques after authorization from officer, Shri Awasthy, instead of remitting the amount to the concerned Branch, defalcated the amount by crediting the same in his own Saving Bank Account and Employees' Cash Credit Account, by entering false cheque numbers. In order to hide his act, after some time he used to remit the amount to concerned Branch by adjusting the same with some other entry.

He further stated that while posted at Sehore Branch, Shri Awasthy lodged cheque no.008832 for Rs.1,16,795/- drawn on Jila Sahakari Kendriya Bank Ltd. Sehore and another cheque no.99863 of Rs.1457/ drawn on Union Bank of India, totaling Rs.1,18,252/- received from Dewadia Branch in clearing for collection. But after realization, the amount of Rs.38,252/- was credited in his own Saving Bank Account No.20120161235 by entering false cheque no.465218 in the system and Rs.80,000/- in his Employees' Cash Credit Account No.20120104833 by entering false cheque no.12345 in the system/modifying in the CBS System.

Also, this witness stated that Shri Awasthy later on withdrew Rs.80,000/- from his above Employees Cash Credit Account on 09.01.2010 and Rs.15,000/- on 23.01.2010 from his aforesaid Saving Bank account. Later, he managed to part away with the credit/debit vouchers of the transactions. He remitted the funds of Rs.1,18,252/- to Dewadia Branch vide MT No.705252 on 17.02.2010 and intentionally did not remit the funds immediately so as to enable him to use the same for his personal benefit.

Additionally, that on 12.01.2010, he lodged cheque no.130802 for Rs. 1,00,000/- drawn on State Bank of India in clearing for collection. But after realization the amount of Rs.1,00,000/- credited his Employees' Cash No.20120104833 by false cheque No.012356 by modifying in the CBS system.

He further states that later on he withdrew Rs. 1,20,000/- from his above Employees Cash Credit Account on 21.01.2010. Rs. 10,000/-

on 30.01.2010. He managed to part away with the credit/debit vouchers of the transactions. Instead of remitting realized funds to the branch immediately he has utilized the Bank's fund for his personal use for considerable period. He remitted the funds to respective branch on 21.01.2010 and intentionally did not remit the funds immediately so as to enable him to use the same for his personal benefit.

Furthermore, Shri Awasthy lodged 5 cheques bearing no.6280 for Rs.10,000/-, Cheque No.30148 for Rs. 10,000/-, Cheque No.5570 for Rs.5000/-, cheque no.5571 for Rs.5,000/- and cheque no.1497616 for Rs.22,000/--totally for Rs.52,000/- received from Khachrod Branch, in clearing for collection. But after realization the amount of Rs.11,085/- credited in his Saving Bank Account No.20120161235 by false cheque no.01222 by modifying in the CBS system and remaining amount of Rs.20,915/- was credited in G/L CHP account by false cheque no.14566 and Rs.20,000/- by false cheque no.514288 in G/L CHP account.

Moreover, later on Shri Awasthy withdrew Rs. 1,20,000/- from his employees Cash Credit Account on 21.01.2010. He managed to part away with the credit/debit vouchers of the transactions. Instead of remitting the realized funds to the Branch immediately, he utilized the Bank's fund for his personal use for considerable period. He remitted the funds to Khachrod Branch on 17.02.2010 and intentionally did not remit the funds immediately so as to enable him to use the same for his personal benefit.

It has been stated by him that again on 09.02.2010, he lodged another cheque of Rs.1,00,000/- received from Pandhana Branch in clearing for collection. But after realization, the amount of Rs.1,00,000/- was credit by him in his Saving Bank account No.2012061235 by false cheque no. 15964 by modifying in the CBS system. On same date, he withdrew Rs.1,00,000/- from his above Saving Bank Account. Later he managed to part away with the credit/debit vouchers of the transactions. Instead, of remitting the realized funds to the branch immediately, he has utilized the Bank's fund for his personal use for considerable period. He has remitted the funds to Pandhana Branch on 18.02.2010 by MT No.705257 and

intentionally did not remit the funds immediately so as to enable him to use the same for his personal benefit.

Also, that again on 17.02.2010, he lodged a cheque of Rs.2,00,000/- received from Dewadia Branch in clearing for collection. But after realization, the amount of Rs.29,748/- account was credited by him in his Saving Bank No.2012061235 by false cheque no.12345, Rs.52,000/- in G/L/ CHP account and remaining Rs.1,18,252/- in G/L CHP account by false cheque, by modifying in the CBS system. He withdrew Rs.1,20,000/- from his above Saving Bank Account on 20.02.2010. Later he managed to part away with the credit/debit vouchers of the transactions. Instead of remitting the realized funds to the branch immediately, he has utilized the Bank's fund for his personal use for considerable period. He intentionally did not remit the funds immediately so as to enable him to use the same for his personal benefit.

Also, again on 18.02.2010, he lodged a cheque of Rs.4,92,022/- received from Dewadia Branch in clearing for collection. But after realization, the amount of Rs.87,022/- was credited by him in his Saving Bank account No.2012061235 and remaining Rs.4,05,000/- in G/L CHP account by false cheque by modifying in the CBS system. He withdrew Rs.1,20,000/- from his above Saving Bank Account on 20.02.2010. Later, he managed to part away with the credit/debit vouchers of the transactions. Instead of remitting the realized funds to the branch immediately, he has utilized the Bank's fund for his personal use for considerable period. He intentionally did not remit the funds immediately so as to enable him to use the same for his personal benefit.

Further it has been stated that again on 23.02.2010, he lodged a cheque of Rs.5,21,980/- in clearing for collection. But after realization, the amount of Rs.29,958/ was credited by him in his Saving Bank Account No.2012061235 and remaining Rs.4,92,022/- in G/L CHP account by false cheque by modifying in the CBS system. He withdrew Rs.20,000/- & Rs.20,000/- from his above Saving Bank Account on 26.02.2010 and Rs. 10,000/- from his Employees' Cash Credit account on 23.02.2010.. Later he managed to part away with the credit/debit vouchers of the transactions. Instead of remitting the realized funds to

the branch immediately, he has utilized the Bank's fund for his personal use for considerable period. He intentionally did not remit the funds immediately so as to enable him to use the same for his personal benefit.

This witness has also stated that all the aforesaid cheques were deposited by Shri Awasthy with his signatures. Shri Awasthy used to cover up the fraudulent entry with some other entry and used to remit the long pending amount so that his misdeed is not noticed by anybody. Shri Awasthy, by misusing his position in the Bank committed following serious misconduct:

- i. He un-authorizedly credited the amount to his Saving Bank account without any authority and justification and thereafter withdrew the amount from his account and utilized the same.
- ii. He destroyed the Bank's property in the form of credit/debit vouchers in respect of aforesaid transaction by removing the same from Bank's record. This was done by him in order to hide his aforesaid misconduct.
- iii. By his aforesaid acts, he acted prejudicial to the Bank's interest because of which the order of punishment passed against him is perfectly justified.

This witness has filed and proved the certified copy of the statements of seven Bank accounts and Cash Credit (C.C.) accounts of the workman as Ex-M/9 and Ex-M/10.

In his cross-examination, this witness was shown a document which is photocopy of statement of account to which he stated that he is not sure about the signature of Mr. P.P. Joshi, the then Branch Manager on this document. He admitted that Mr. P.P. Joshi was posted in the branch as Officer. The workman was assigned with the job of data entry, amount transactions, preparation of vouchers for cheque clearing, he did not have passed the power at that time. Any amount to be credited or debited from any account is only after clearance by the Officer Mr. P.P. Joshi.

He further stated that every officer and employee of the Bank including the workman was allotted separate user IDs. At that time there was no biometric authentication in Login and that one can Login using user ID of other employee also that, every employee was allotted pass-code but employees did use their pass-codes in good faith. Further, this witness has stated that the officer used to pass/approve transactions in good faith without verifying at that time due to shortage of staff and ex-worker and also that stitching and typing of vouchers was the job of Daftari, it was the responsibility of the officers to compare vouchers with the scrolls.

The documents Ex-M/9 and Ex-M/10 shows that certain amounts as mentioned in these documents were transferred from different accounts to the account of the applicant workman.

The case of the applicant workman he has stated in his evidence is that all these transactions have been done through the ID of Mr. P.P. Joshi and he is not concerned with the transactions. He also states that he himself come to know about the unauthorized transaction and deposit in his accounts when the charge sheet was issued to him.

Striking feature of this case is that undisputedly, unauthorized transactions were done and amounts were deposited in the accounts of the workman. Even if, it is taken that these transactions were not done through the ID and Password of the workman, and were done through the ID of Officer Mr. P.P. Joshi, point further arise is that if these deposits have been done by Mr. P.P. Joshi himself, he could have transferred the amounts in his own account or in accounts of someone other who would withdraw these amounts and pay to Mr. P.P. Joshi. This is also improbable that the workman, who himself is a banker, posted in the same branch in which he holds these accounts, did not come to know at any point of time about the unauthorized huge deposits all on different dates as mentioned on the statements of account. This is also a bit improbable that the workman came to know about these deposits only when the charge sheet was issued to him.

Hence, in light of above discussion, the facts and circumstances in case in hand, probabalise all these unauthorized deposits done by

the workman himself, using the user IDs of others by deceit or by misguiding them.

Thus, in light of the settled proposition of law as mentioned above, the workman cannot come out clean with the charges, undoubtedly, he is somewhere involved in the transactions and deposits. Hence, the charges against the workman are held proved.

Issue No. 1 is answered accordingly.

Issue No. 2,

The charges proved are more than one transaction. They are acts of moral turpitude. There is provision for punishment of dismissal from service for these charges.

The settled proposition of law, in this respect is that until and unless, the punishment shocks the conscience of the Tribunal, it need not to be interfered with, following judgments have been referred to in this respect:-

Hon'ble Apex Court in *B.C. Chayurvedi v. Union of India*, (1995) 6 SCC 749 while discussing about the scope of judicial review, in disciplinary matters, has observed as under:

“The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mold the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, imposed appropriate punishment with cogent reasons in support thereof.”

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 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.

Needless to point out that the act of fraud speaks ill of the honesty and integrity of the workman concerned. This is definitely an act prejudicial to the interest of the Bank, which leads to loss of faith

in the workman. In *Air India Corporation Bombay vs. V.A. Ravellow* 1972 (25) FLR 319 (SC) it has been observed that:

“Once the employer has lost the confidence in the employee and the bona fide loss of confidence is affirmed, the order of punishment must be considered to be immune from challenge, for the reason that discharging the office of trust and confidence requires absolute integrity, and in a case of loss of confidence, reinstatement cannot be directed.”

In *Knhaiyalal Agarwal and others vs. Factory Manager, Gwalior Sugar Co. Ltd.* AIR 2001 SC 3645 Hon'ble Apex court laid down the test for loss of confidence to find out as to whether there was bona fide loss of confidence in the employee, observing that:

“(i) the workman is holding the position of trust and confidence; (ii) by abusing such position, he commits an act which results in forfeiting the same; and (iii) to continue him in service/establishment would be embarrassing the inconvenient to the employee, or would be detrimental to the discipline or security of the establishment. Loss of confidence cannot be subjective, based upon the mind of the management. Objective facts which would lead to a definite inference of apprehension in the mind of the management, regarding trust worthiness or reliability of the employee, must be alleged and proved.”

In *State Bank of India and another v. Bela Bagchi and others* AIR 2005 SC 3272, repelled the contention that even if by the misconduct of the employee the employer does not suffer any financial loss, he can be removed from service in a case of loss of confidence.

17. Thus, the Bank being a financial institution dealing with the public money, the employees of the Bank are required to exhibit utmost honesty and integrity in day to day transaction/functioning. The act of dishonesty or fraud or misappropriation lowers down the reputation of Bank in public. The public lose their confidence in Bank, which affects Bank's business and finally the national economy.

18. Hon'ble Apex Court in (2011) 1 Supreme Court Cases (L&S) 721 has observed that:

"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 inquiry 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, the courts will not interfere with findings of fact recorded in departmental inquiries, 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 findings, 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."

19. In the instant case the charge of gross misconduct was found to be proved and principles of natural justice were properly observed while conducting the departmental inquiry; and also the findings of the Inquiry Officer are not found to be perverse; In the instant case the workman,

committed gross misconduct. He made unauthorized and fraudulent deposits by way of various instruments, in his Saving Bank account and thereafter, withdrew these amounts fraudulently by way of various withdrawal slips/instruments details mentioned in the charge sheet. This act of the workman was prejudicial to the interests of the Bank, shows lack of honesty and integrity which is the core value of service. Hence the punishment cannot be said to be disproportionate or harsh to the proved misconduct, at any stretch of imagination.

In light of above facts and proposition of law, the punishment awarded is held not disproportionate to the charges proved.

Issue No. 2 stands answered accordingly.

In light of above discussion and findings, the reference is answered as follows.-

AWARD

Holding the action of the management of Bank of Maharashtra, Bhopal in dismissing the services of workman Shri Ashutosh Bramhadin Awasthi w.e.f. 29.11.2012, legal and justified, workman is held entitled to no relief."

No order as to cost.

DATE:- 13-10-2025

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