

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
JABALPUR (M.P.)

NO. CGIT/LC/R/57/2019

Present: P.K.Srivastava

H.J.S..(Retd)

**Shri Rohit Raghuvanshi,
S/o Shri R.S. Raghuvanshi,
C-150, Shahpura,
Bhopal(M.P.) 462039**

Workman

Vs

**1. Regional Manager,
Area-5, State Bank of India,
Regional Office,
Tilli Road,
Sagar (M.P.) 470002**

**2. Branch Manager,
State Bank of India,
Mandi Bamora Branch,
Sagar (M.P.)**



Management

(AWARD)

(Passed on this 14th day of July, 2026)

As per letter dated **07/01/2019** 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-12012/22/2019 (IR(B-1))** dt. **07/01/2019**. The dispute under reference relates to:-

“क्या प्रबंधन क्षेत्रीय प्रबंधक, क्षेत्र -5, भारतीय स्टेट बैंक, क्षेत्रीय कार्यालय, सागर म० प्र० । शाखा प्रबंधक, भारतीय स्टेट बैंक, मंडी बामोरा शाखा, सागर म० प्र० के द्वारा श्री रोहित रघुवंशी आत्मज श्री आर. एस. रघुवंशी,

भूतपूर्व सहायक, मंडी बमोरा शाखा, सागर म० प्र० को दिनांक 04.04.2018 से सेवा समाप्ति के दंड से दण्डित किये जाने की कार्यवाही न्यायोचित है? यदि नहीं तो, सम्बंधित आवेदक किस अनुतोष के हकदार है?"

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.

Case of the workman, as taken by him in his statement of claim is mainly that while he was posted as Assistant in Mandi Bamora Branch of the Bank in District Sagar, his colleague Abhinav Sahu, who was posted as Head Cashier in the branch, went on holidays from 25.04.2016 to 30.04.2016 and was on deputation in Bhopal on 02.05.2016. His workload was given to the workman by the Branch Manager for the period 22.04.2016 to 02.05.2016. When Abhinav Sahu came back, he was given back the charge of Head Cashier, the workman was placed on a separate cash counter under the supervision of Head Cashier. In the evening, while handing over the cash to the Head Cashier, mismatch of Rs. 5,00,000/- was found in cash book register, this incident was immediately reported to the Branch Manager. On verifying the account of the Bank, it was found that two withdrawal vouchers could not be posted in the system, which were posted thereon and the mismatch was cured. An internal enquiry was held by the Bank by appointing Shri Arvind Kumar Shrivastava, the then Chief Manager, S.B.I., Bina Main Office. The two account holders whose withdrawal vouchers were left to be posted on 03.05.2016, viz Shri Shishir Kumar Agarwal and Shri Jitendra Singh Dangi filed an affidavit that they had withdrawn the amount from their account for their personal use, the balance was also matched after posting of the amount on the same day i.e. 03.05.2016. The workman was placed on suspension on 16.05.2016, he remained under suspension for one year. He was not given full suspension allowance. He raised a dispute in this respect before the Assistant Labour Commissioner (Central), Jabalpur, the Bank deposited a sum of Rs. 1,53,792/- which

was transferred to the account of the workman against the amount claimed. The Departmental Enquiry was conducted in slipshod manner against the rules of natural justice, in an arbitrary way. The Enquiry Officer had submitted his enquiry report, recording his findings against evidence on record holding him guilty of the charge of misconduct of embezzlement of Rs. 5,00,000/-. The Disciplinary Authority passed the impugned punishment order after wrongly concurring the finding of the Enquiry Officer which is unjust, illegal and arbitrary. The punishment awarded is disproportionate to the charges, the workman has prayed that setting aside his termination order, he be reinstated with all back wages and benefits.

The management has taken a case in their written statement of defense that while the workman was posted as Work Assistant in Mandi Bamora Branch, Abhinav Sahu was posted as Head Cashier in the said Branch, Abhinav Sahu was on leave from 25.04.2016 to 30.04.2016 and the workman was given the charge of the Head Cashier also Abhinav Sahu returned on 03.05.2016 and joined as Head Cashier. While taking over the charge of cash from the workman, Rs. 5,00,000/- was found short. Abhinav Sahu reported this matter to the Branch Manager vide his letter dated 03.05.2016 on the same date. The Branch Manager called the workman. The workman accepted his mistake and requested for two days time to deposit the amount. The Branch Manager refused to grant him time, then the workman managed to get withdrawal from two account holders of the Bank Shri Shishir Kumar Agarwal and Shri Jitendra Singh Dangi, they withdrew Rs. 1,45,500/- and Rs. 3,00,000/- from their accounts and gave the amount to the workman, the workman added Rs. 45,000/- and deposited the amount of Rs. 5,00,000/- on the same date and this is how the balance was matched against the shortage of the cash. The workman was asked to furnish his explanation in this respect vide letter of the Branch Manager dated 04.05.2016 with regards to illegal removal of cash from the Bank. The workman did not submit his explanation, rather

absented himself from duty, the matter was reported to the Regional Office on 04.05.2016 itself. The workman filed a letter on 07.05.2016 requesting two days time for explanation, he filed his explanation dated 09.05.2016 admitting unlawful removal of cash of Rs. 5,00,000/- from the Bank, but tried to justify the same by stating that he did this act as instructed by the Branch Manager. This reply of the workman was sent to the Regional Office, the workman was thereafter suspended by order dated 16.05.2016, a charge sheet of misconduct alleging the two misconducts against him under one charge was issued to the workman on 07.04.2017, he filed his reply on 02.05.2017, finding his reply unsatisfactory, a departmental enquiry proceeded against him. Chief Manager, Shri Arvind Kumar Shrivastava was appointed as Enquiry Officer, the enquiry was conducted as per law and rules, granting the workman full opportunity to defend himself. The Enquiry Officer submitted his enquiry report holding the charge of misconduct proved against the workman vide his report dated 03.11.2017. The Disciplinary Authority concurred with the finding and issued a show cause notice to the workman with copy of the enquiry report vide his letter dated 07.11.2017. The workman submitted his explanation on 09.11.2017. After the explanation was found not satisfactory, the Disciplinary Authority passed an order of punishment on 19.03.2018 imposing punishment of removal from service with superannuation benefits which shall not be disqualification for future employment. According to the management Bank, the Enquiry Officer correctly recorded his finding, the Disciplinary Authority committed no mistake in concurring with the finding and punishment is also proportionate to the charges. Management has prayed that the reference be answered against the workman.

The workman filed his rejoinder in which he has stated that the Enquiry Officer specifically mentioned that the incident was found to have been proved but since there was no shortage in the cash in final closing, the charges have been partially proved. Regarding rest of the pleadings, the workman has reiterated his allegations and has stated that

his work experience was only for three years at the time otherwise he had a clean service record.

Following preliminary issue was framed on the basis of pleadings.

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

On the basis of evidence on record, this preliminary issue was decided vide order dated 08.01.2016, the departmental enquiry was held just, legal and proper. This order is part of this Judgment and Award.

Following Additional Issues arises on perusal of record in light of rival arguments:-

- 1) ***Whether the finding of the Enquiry Officer with respect to proof of charges and its concurrence by the Disciplinary Authority is correct?***
- 2) ***Whether punishment awarded is proportionate to the charges?***

Parties were granted liberty to lead their evidences on additional issues. The workman filed his affidavit on Additional Issues. No affidavit was filed by management Bank.

I have heard argument of Learned Counsel for workman, Mr. Mehul Bharadwaj, Learned Counsel Mr. Pranay Choubey for management Bank. Both the sides have filed their written submissions which are part of record. I have gone through the written submissions and record as well.

Additional issue No. 1

Charge against the workman is that while he was working as a Cash Officer in the Mandi Bamora Branch of the Bank and handed over charge to Abhinav Sahu, Head Cashier on 03.05.2016, Rs. 5,00,000/- (ten packets of Rs. 500/-) were found short which he deposited after getting money from somewhere when this shortage was noticed, his this act is gross misconduct. The settled proposition of law with respect to proof of charges in the departmental enquiry is

that the charges need not be proved beyond reasonable doubt as it is required in criminal trials.

*“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. "

Perusal of enquiry proceedings shows that the case of the management is that the workman made good the shortage of Rs. 5,00,000/- in the cash by way of getting money Rs. 1,45,500/- and Rs. 3,00,000/- from two account holders, Shri Shishir Kumar Agarwal and Shri Jitendra Singh Dangi after making them to withdraw these amounts from their accounts on the same day and after adding the remaining amount, he deposited it with the cash. Though, Learned Counsel for the management has submitted that the workman has himself admitted the misconduct but case of the workman is that he did so only under duress because he was told that there was a shortage of Rs. 5,00,000/- in the cash. Case of the workman is that it was found that two withdrawal vouchers regarding Rs. 3,00,000/- by Jitendra Singh Dangi from his account on the same date and Rs. 1,45,500/- by Shri Shishir Kumar Agarwal from his account could not be posted in the ledger book/system after these two withdrawal vouchers were posted in the system, the so

called shortage in cash disappeared and the cash matched with the cash book.

Case of the management is that the management managed to get these two account holders to withdraw amounts as stated and after adding remaining amount, he deposited it with the Bank in the cash. Learned Counsel for the workman has referred to affidavits of these two account holders in which they have stated that they are businessman, they required money during course of their business on the date of incident i.e. 03.05.2016, they withdrew the amount for their own use, the workman had not asked them to withdraw the amount and give it to him. They used the withdrawn amount for their own use. It also comes out that Abhinav Sahu the Head Cashier has been examined during the enquiry proceedings at PW/4, he has stated that when he came back on 03.05.2016 he received the charge back from the workman. The workman told him that there was some mismatch with regards to case thereafter he asked the workman to get the mismatch rectified and then the workman showed him two withdrawal vouchers and told him that they could not be posted. These vouchers were posted after 06:00 pm and after the vouchers were posted the mistake was rectified by itself. These two vouchers were posted after 06:00 pm. The witness further stated that after posting the vouchers, the cash matched with the ledger book. This witness further stated that he had himself handed over the amounts in these withdrawal vouchers to the respective account holders Shri Shishir Kumar Agarwal and Shri Jitendra Singh Dangi. He further states that when all the vouchers were posted the mismatch in the cash disappeared. The two witnesses who are account holders clearly stated against the case of the management that they paid any amount withdrawn by them to the workman rather they have specifically stated that they withdrew the amount for their own use, there is evidence on record during the enquiry that after all the vouchers were posted, the mismatch disappeared. It also comes out from perusal of record that these amounts were in fact withdrawn by the two account holders during the course of the day and

it is not that these amounts were withdrawn at the fag-end of the day, this fact is apparent in Annexure-A/5 which is the statement with regard to voucher verification report and vault register. Hence, this fact also militates against the charge that after the mismatch was discovered the workman got to manage the amount.

Thus, from the above discussion, it is abundantly clear that in the case in hand, the matter was not shortage of cash rather it was regarding not posting of all the vouchers, nothing was added in the cash rather the mismatch in case and on the cash book disappeared after all the withdrawal vouchers were posted. **In these circumstances, the finding of Enquiry Officer that the charge of misconduct against the workman is proved is held to have been recorded perversely and is liable to be set aside. The charges are held not proved against the workman in the enquiry.**

Additional Issue No. 1 is answered accordingly.

Additional Issue No.2

In the referred case itself, Hon'ble High Court has referred to a judgment of Hon'ble Supreme Court in the case of Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya & others (2013) 10 SCC 324

The relevant paragraphs of the said judgment are being reproduced as follows:

The Supreme Court in the said case has observed as under:-

"The propositions which can be culled out from the aforementioned judgments are:

i) In cases of wrongful termination of service, reinstatement with continuity of service and back wages is the normal rule.

ii) The aforesaid rule is subject to the rider that while deciding the issue of back wages, the adjudicating authority or the Court may take into consideration the length of service of the employee/workman, the nature of misconduct, if any, found proved against the employee/workman, the financial condition of the employer and similar other factors.

iii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full

back wages, then it has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was not employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.

iv) The cases in which the Labour Court/Industrial Tribunal exercises power under Section 11-A of the Industrial Disputes Act, 1947 and finds that even though the enquiry held against the employee/workman is consistent with the rules of natural justice and/or certified standing orders, if any, but holds that the punishment was disproportionate to the misconduct found proved, then it will have the discretion not to award full back wages. However, if the Labour Court/Industrial Tribunal finds that the employee or workman is not at all guilty of any misconduct or that the employer had foisted a false charge, then there will be ample justification for award of full back wages.

v) The cases in which the competent Court or Tribunal finds that the employer has acted in gross violation of the statutory provisions and/or the principles of natural justice or is guilty of victimizing the employee or workman, then the concerned Court or Tribunal will be fully justified in directing payment of full back wages. In such cases, the superior Courts should not exercise power under Article 226 or 136 of the Constitution and interfere with the award passed by the Labour Court, etc., merely because there is a possibility of forming a different opinion on the entitlement of the employee/workman to get full back wages or the employer's obligation to pay the same. The Courts must always be kept in view that in the cases of wrongful/ illegal termination of service, the wrongdoer is the employer and sufferer is the employee/workman and there is no justification to give premium to the employer of his wrongdoings by relieving him of the burden to pay to the employee/workman his dues in the form of full back wages.

vi) In a number of cases, the superior Courts have interfered with the award of the primary adjudicatory authority on the premise that finalization of litigation has taken long time ignoring that in majority of cases the parties are not responsible for such delays. Lack of infrastructure and manpower is the principal cause for delay in the disposal of cases. For this the litigants cannot be blamed or penalised. It would amount to grave

injustice to an employee or workman if he is denied back wages simply because there is long lapse of time between the termination of his service and finality given to the order of reinstatement. The Courts should bear in mind that in most of these cases, the employer is in an advantageous position vis-à-vis the employee or workman. He can avail the services of best legal brain for prolonging the agony of the sufferer, i.e., the employee or workman, who can ill afford the luxury of spending money on a lawyer with certain amount of fame. Therefore, in such cases it would be prudent to adopt the course suggested in Hindustan Tin Works Private Limited v. Employees of Hindustan Tin Works Private Limited (supra).

vii) The observation made in J.K. Synthetics Ltd. v. K.P. Agrawal (supra) that on reinstatement the employee/workman cannot claim continuity of service as of right is contrary to the ratio of the judgments of three Judge Benches referred to hereinabove and cannot be treated as good law. This part of the judgment is also against the very concept of reinstatement of an employee/workman."

In the light of the above proposition of law, keeping in view the findings recorded above, the workman is held entitled to be reinstated with all back wages and consequential benefits, deeming him to be in continuous services of the Bank from the date of termination of his services till date. Management Bank is directed to pay the workman his dues within 90 days from the date of Award, failing which interest @6% per annum from the date of Award till payment.

Additional Issue No.2 is answered accordingly.

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

AWARD

Holding the action of Regional Manager, Area-V, State Bank of India Regional Office Sagar (M.P.) in terminating the workman R.S. Raghuwanshi, the then Assistant at Mandi Bamora Branch Sagar, w.e.f. 04.04.2018 is held unjust, illegal and arbitrary. The workman is held entitled to be reinstated with all back wages and consequential benefits, deeming him to be in continuous services of the Bank from the date of

termination of his services till date. Management Bank is directed to pay the workman his all dues within 90 days from the date of Award, failing which interest @6% per annum from the date of Award till payment.

No order as to cost.

DATE:- 14-07-2026

(P.K.SRIVASTAVA)
PRESIDING OFFICER

