THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, JABALPUR

CGIT/LC/RC/08/2019
Present: P.K.Srivastava
H.J.S..(Retd)

Virendra Singh Chandel,
Head Cashier. Bankof India,
Branch Kaitha (9121) District Ujjain (MP)
Through:
General Secretary
Nationalised BankEmployees Organisation
K.K.F-1, Tripti Vihar, Ujjain (MP)

Workman

Versues

1. **Regional Manager,**
   Bankof India, Regional Office,
   C-2, Shipra Vihar, Nagjhiri, Ujjain (MP)

2. **The Chairman / Managing Director,**
   Bankof India, Head Office,
   Bandra Kurla (East) Complex,
   Mumbai-51

Management

AWARD

(Passed on this 17th day of July, 2026)

The case has proceeded on the basis of a petition , filed by the applicant workman u/s 2A (2&3) of the Industrial Disputes Act 1947, as amended by Amendment Act of 2010 (in short the 'Act') against termination of his services by the Bank by way of punishment with respect to a charge of misconduct, proved against him.

The case of the workman, as taken in the statement of claim, is mainly that he worked for as many as 33 years with the Bank. His service record has spotless throughout his service career . He was dismissed by the Management Bank on the basis of an inquiry with allegations of misconduct, said to be committed by him during his service time, which was not conducted in just and proper manner. The Inquiry Officer also wrongly recorded its findings with respect to prove of allegations. The Disciplinary Authority wrongly accepted the findings and passed the impugned punishment with respect to dismissal of his services without notice vide order dated 15.12.2017, which is disproportionate to the charge proved. He raised a dispute with the concerned Labour Commissioner u/s 2A of the Act, which could not be conciliated within 45 days hence got a certificate in this respect. He has filed this petition **u/s 2(A) (2&3) of the Act as amended by the Amendment Act, 2010.** He has prayed that he be reinstated with back wages and benefits.

The Case of Management Bankis mainly that, the workman was initially appointed as a sub-staff i.e. sepoy w.e.f. 28.12.1984. He was promoted as Clerk w.e.f. 01.12.2010 and was posted in Kayatha Branch Ujjain w.e.f. 03.12.2012. While working as a Head Cashier in the said Branch, during surprise cash verification by the then Branch Manager Ajay Anand Sharma on 27.06.2016, it was found that total cash at the counter was short by 62000/- rupees and the said shortfall amount was misappropriated by the workman who was working on that day as Head Cashier. Preliminary investigation revealed that in fact the workman had borrowed money from the BankCustomer Mr. Pawan Patidar, who was maintaining the current account with the Branch, when the money was demanded by the lender Pawan Patidar, the workman misappropriated the Bank's Cash from the bundle of Rs500/- notes and handed it over to Mr. Patidar. He then prepared a packet of 500/- notes with less number of notes. In this way total 124 notes of 500/- were found short in bundles of Rs. 500 notes. When the cash did not tally with the balance shown in the daily cash book as well as in the cash transaction report, the Workman pretended that in fact he was not aware of this shortage. The matter was reported to the Senior Manager and before him the workman accepted that he had parted with the cash to the customer for his personal reasons. A report was sent in this respect to the Zonal Office. Preliminary investigation was ordered in this respect and was conducted. The Investigating Officer submitted his report along with written submissions of the Branch Staff and the Customers. Thereafter, the workman was issued a charge sheet with allegations of misconduct on 09.03.2017 with list of documents and list of witness, marked as **Annexure M-1** to the written statement of defense. A Departmental Inquiry was conducted in terms of Clause 12 of Bi-partite Settlement dated 10.04.2002. Inquiry Officer and Presenting Officer were appointed. The Workman participated during the inquiry. The inquiry concluded and the Inquiry Officer submitted his inquiry report marked as **Annex. M-4** to the Written Statement of defense, holding the charge of misconduct as alleged, proved. A show cause notice was issued by the Disciplinary Authority with a copy of the Inquiry Report on 31.08.2017 marked as **Annex. M-5** to the Written Statement. The workman filed his reply to the show cause notice which is **Annex. M-6** to the written statement. After his reply was found not sufficient, the workman was issued another show cause punishment notice on 23.11.2017 marked as **Annex. M-7** to the written statement of defense. He was also given opportunity of personal hearing. The proceeding of personal hearing are **Annex. M-8** to the written statement. Thereafter, the Disciplinary Authority passed an impugned order of punishment dismissing the workman from service on 15.12.2017. An appeal against this order was also dismissed by Appellant Authority after hearing. According to Management, the inquiry was conducted in just, legal and proper manner. The charges were rightly found proved and the punishment is also not disproportionate to the charges proved.

Following preliminary issued was framed on the basis of the pleadings, vide order dated 24.08.2021 –

"Whether, the Departmental Inquiry conducted against the workman is just, legal and proper?"

On the basis of documents related to inquiry and evidence on record, this issued was decided vide order dated 06.08.2025, the Departmental Inquiry was held just and proper.This order is part of this judgment and Award.

Following additional issues were framed thereafter.

1. Whether, the findings of the Inquiry Officer and congruence of the Competent Authority on prove of misconduct is perverse?

2. Whether, the punishment is proportionate to the misconduct proved?

Parties were given opportunity to lead evidence on these additional issues. None of the parties filed any evidence. I have heard argument of Learned Counsel Mr. Arun Patel who appeared with Learned Counsel Mr. Rupesh Singh Thakur for workman and Mr. Neeraj Kewat Learned Counsel for Bank. The workman side has filed written submissions also, which are part of record. I have gone through the written submissions.

<u>Additional Issue No. 1 –</u>

Charge against the workman is as follows –

"***On 27.06.2016, you removed and pocketed cash aggregating to Rs. 62,000/-while performing your duty as Head Cashier at Bank's Kayatha Branch in as much as***

you removed 124 notes aggregating to Rs. 62,000/- from two (02) bundles of Rs. 500/-denomination. After removing Rs. 62,000/- in the aforementioned manner, you prepared packets of Rs. 500/- denomination with a shortfall of 124 currency notes in two (02) bundles of Rs. 500/- denomination to cover up your misdeeds. On 27.06.2016, after surprise cash verification at the branch, shortage of Rs. 62,000/- was detected in two (02) bundles of Rs. 500/- denomination. Upon confrontation on 27.06.2016, you vide your letter dated 29.06.2016 admitted having pocketed Rs. 62,000/-. On 27.06.2016 you recouped the entire loss of Rs. 62,000/- caused to the Bankby your aforesaid acts.

Your aforesaid act of pocketing cash of Rs. 62,000/- from the Branch, if proved, would amount to your acts of gross misconduct in terms of clause 5(j) of Memorandum of Settlement dated 10.04.2002 which reads as under:

Doing any act prejudicial to the interest of the Bankor gross negligence or negligence involving or likely to involve the Bankin a serious loss."

The settled proposition of law with respect to prove of charge in a Departmental Inquiry is that the charges need not to be proved beyond reasonable doubt as it is required in the Criminal Trials, rather they are to be proved to the extent of probability. ***Following judgments are being referred to 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. "*

It has been submitted on behalf of the workman that charge sheet was issued to him on the basis of compliant of the account holder Pawan Patidar, who was never cross examined by the Management during the trail. On 07.06.2016 there was a shortage of 124 currency notes of Rs. 500/- each in the bundles of Rs. 500/- currency notes which was found complete after tally and this fact is confirmed by the Cash summary of the Bank for the date 27.06.2016, which discloses that the total cash was Rs. 24,63,365/- which was tallied with the cash shown with the Bank. He further submits that the so called admission of charges, relied upon by the Management and Inquiry Officer as a proof of misconduct, was in fact got from the workman by exerting pressure and threatening him. He had stated this fact during the inquiry. Except this show called admission, there is no other evidence supporting the charges, hence the finding of the Inquiry Officer with respect of prove of charges is nothing but perverse.

Learned Counsel for Management Bank has submitted that the workman submitted his apology letter admitting the charges during the Departmental Inquiry, though he had admitted writing this apology cum admission letter during the preliminary inquiry. There was no evidence during the inquiry that said letter was written by the workman under threat or pressure. His this admission is corroborated by other evidence in inquiry. Hence, the finding of the Inquiry Officer is not incorrect.

On the perusal of the Inquiry records, it comes out that two Management witness MW-1 Amit Kumar, Senior Branch

Manager & MW-2 Razzak Khan, were cross-examined by Management. MW-1 said that ME-4 which is the D.C.B. (Daily cash book) dated 27.0.2016 relating to the Kayatha Branch, it is mentioned that there was shortage of 124 notes of Rs. 500/- notes in two bundles. In the first bundle there was shortage of 07 notes each in 07 packets of Rs. 500/- denomination notes, two notes each in two packets of Rs. 500/- denomination notes, total shortage was 54 notes of denomination and in the second bundle, there was a shortage of 10 pieces each in 07 bundles of Rs. 500 denomination notes, total shortage in bundle two was 70 notes of Rs. 500 denomination. Hence, total shortage in two bundles was of 124 notes of each of Rs. 500 denomination which amounts to total Rs. 62,000/-. He further verified the statement of the Branch Manager Ajay Anand Sharma, who had made surprise inspection and has found this shortage. This statement of Ajay Anand Sharma was recorded during the preliminary investigation. He also stated that in statement of the workman, he admitted that he had paid these 62,000/- to account holder Pawan Patidar and assured that such mistake will not be repeated. This witness further confirmed **ME-7,** which was the memo dated 08.04.2016, issued to the workman relating mismatch, in which he further accepted his guilt. In cross-examination, this witness stated that at the time of surprise inspection, he was not there in the Branch rather he was in field and was informed by the Branch Manager Ajay Anand Sharma about the cash shortage. He also admits that statements of different persons, with respect to the incident were recorded two days after the incident i.e. on 29.06.2016 and he was not present at the time when these witness were recorded.

This witness also states that the workman did not give Rs.62,000/- as alleged in the charge to the account holder Pawan Patidar in his presence.

Another witness examined by the Management to prove the charge is Razzak Khan. He read over the document ME-5 which is said to be statement of account holder Pawan Patidar, recorded during the preliminary investigation. He further said that his ME-5 was signed by the account holder and also that he does not known the account holder personally. He came to know about him on being told by one Satyaprakash Madhukar that this person was Pawan Patidar.

The account holder Pawan Patidar was not examined during the Departmental Inquiry. Hence his earlier statement, if any recorded during the preliminary investigation in absence of the workman cannot be read in support of charge.

The surprise inspection was not done in present of MW-1. He himself accepts it. The Officer, who made the surprise inspection, was not examined in the Departmental Inquiry. So, there is only one evidence which may be considered in support of charge, which is alleged admission written and signed by the Workman. The case of the workman is that this admission was got written and signed under threat and duress. But there is no evidence to support this stand of the workman.

As stated above, the charges need not be proved beyond reasonable doubt rather **there should be some evidence** to prove the charge on level of probability. Even if the statement of the Management witness and other facts above recorded, may not be sufficient to prove the charge but the admission letter of the workman itself proves the charge.

Hence, holding the charges proved, the finding of the Inquiry Officer is held to have been recorded correctly in law.

Additional Issue No. 1 is answered accordingly.

<u>Additional Issue No.2 –</u>

It has been submitted on behalf of the workman that he has otherwise blemished service record of 33 years. He was of the edge of the retirement, hence it was not just and proper on the part of the Management Bank to award him maximum punishment for one fault that to proved on the basis of his alleged admission of guilt which he has always challenged, hence as submitted by Learned Counsel the punishment is excessive and requires to be interfered with.

On the other hand, Learned Counsel for the Bank has submitted that the charge proved is gross misconduct under clause 5(j) of the Bi- partite Settlement 2002, for which dismissal without notice is one of the punishments, as mentioned in clause 6(1) of the Bi-partite Settlement 2002. The misconduct proved is an act of moral turpitude, hence even on the basis of the one such charge, punishment of dismissal without notice cannot be said to be disproportionate.

Following Judgments in this respect are being referred to as follows –

Hon'ble Apex Court in ***B.C. Chaturvedi 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 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.

Hon'ble Apex Court in *Administrator,* ***UnionTerritory 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.

This extract is taken from ***State Bank of Bikaner & Jaipur v. Nemi Chand Nalwaya*****, (2011) 4 SCC 584 : (2011) 1 SCC (L&S) 721 : 2011 SCC OnLine SC 416 at page 587**

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 enquiry 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, courts will not interfere with findings of fact recorded in departmental enquiries, 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 finding, 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. (Vide B.C. Chaturvedi v. Union of India [(1995) 6 SCC 749 : 1996 SCC (L&S) 80 : (1996) 32 ATC 44] , Union of India v. G. Ganayutham [(1997) 7 SCC 463 : 1997 SCC (L&S) 1806] , Bank of India v. Degala Suryanarayana [(1999) 5 SCC 762 : 1999 SCC (L&S) 1036] and High Court of Judicature at Bombay v. Shashikant S. Patil [(2000) 1 SCC 416 : 2000 SCC (L&S) 144] .)

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, Gwaliar 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:

"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 the case in hand, it is undisputed that otherwise the workman has unblemished service career, also it is not disputed that he had put as many as 33 years in service of Management Bank at the time of his removal. Nature of the evidence taken as a basis of proof of the charge is only his admission of guilt which he has disputed during the inquiry and also thereafter. On the ground that it was got recorded from him under threat and duress.

No doubt one single gross misconduct of moral turpitude, particularly involving lack of integrity, may be sufficient for maximum punishment of removal but, the other factors viz; previous service record, tenure of service left, nature of evidence are also required to be considered while deciding the quantum of punishment, the Disciplinary Authority himself has to satisfy on the point as to why other punishments except removal will not be sufficient.

Keeping in view, the otherwise unblemished service career of the workman, which is not disputed, and also tenure of his services including the fact that he was almost at the edge of superannuation at the time of punishment, nature of the evidence and the fact that this was a first lapse on his part during his whole service career and also that the shortage was made good on the same day, the punishment of dismissal from service without notice is held to be disproportionate to the misconduct proved.

After considering all the facts and circumstances of the case in hand, ***the removal of workman from service with superannuation benefits will meet the ends of justice in the case in hand which is imposed on the workman.***

Issue No. 2 is answered accordingly.

AWARD

The action of Management Bank in awarding punishment of dismissal from service without notice to the workman Virendra Singh Chandel vide order dated 17.12.2017 is held excessive and unjust. Setting aside this punishment, the workman is punished with removal from service with superannuation benefits w.e.f. 17.12.2017 .

No order as to cost.

DATE:- 17/07/2026

(P.K.SRIVASTAVA)
PRESIDING OFFICER