



2026:AHC:81720

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 38777 of 2015

Sachin Kumar and 2 others

.....Petitioner(s)

Versus

Union of India and 3 others

.....Respondent(s)

Counsel for Petitioner(s)	: Ashok Khare, Siddharth Khare
Counsel for Respondent(s)	: Ashutosh Mishra, A.S.G.I., Jayant Banerji, Satish Chaturvedi, Shyam Singh Sengar

AFR

Reserved on:13.3.2026

Delivered on:15.04.2026

Court No. - 73

HON'BLE VIKRAM D. CHAUHAN, J.

1. Heard Sri Siddharth Khare, learned counsel for petitioners and Sri Ashutosh Mishra, learned counsel for respondent-Bank
2. The writ petition is preferred by petitioners challenging the order dated 17.1.2014 passed by respondent no.4-Regional Manager, State Bank of India, Regional Business Office, Meerut and order dated 11.3.2015 passed by respondent no.3-Deputy General Manager (B&O), Administrative Office, Noida.
3. The brief facts of the case are that:
 - (i) An advertisement dated 8.8.2009 was issued by respondent Bank for recruitment to the post of Clerk in State Bank of India. In pursuance

to said advertisement, petitioner no.1-Sachin Kumar and petitioner no.2-Sanjeev Kumar applied under general category, while petitioner no.3-Vipin Kumar applied under Schedule Caste category. In pursuance to above-mentioned advertisement, petitioners appeared in written examination. Call letters of petitioners are annexed as Annexure Nos.2A, 2B and 2C to the writ petition. The result of written examination was declared on 3.3.2010 and petitioners were declared successful in aforesaid written examination. Thereafter, petitioner no.1 appeared for interview on 1.5.2010, while petitioner no.3 appeared for interview on 27.4.2010 and petitioner no.2 also appeared for interview. Final result of above-mentioned recruitment process was declared on 29.9.2010 wherein petitioners were selected for appointment on the above-mentioned post.

(ii) In pursuance to above-mentioned selection of petitioners, petitioner no.1 submitted his joining on 18.12.2010 as Assistant in Baraut main branch, while petitioner no.2 submitted his joining at Agrawal Mandi, Tatri, District Baghpat and petitioner no.3 submitted his joining at Kotana Branch, District Baghpat. Initially, petitioners were appointed on probation for six months, however, after completion of aforesaid period, petitioners were confirmed in service.

(iii) On 9.10.2013, a notice was issued to petitioner nos. 1 and 3 to the effect that a complaint has been received with regard to fraudulent appointment in the bank. The petitioner nos.1 and 3 submitted reply denying the allegations of complaint. Petitioner nos.1 and 3 were thereafter suspended by means of order dated 16.1.2013, while petitioners no.2 was suspended by means of order dated 15.5.2012. The suspension of petitioners were based on allegation of fraudulent appointment in bank service by adopting unfair means.

(iv) Petitioner nos.1 and 3 being aggrieved by above-mentioned suspension order had preferred Writ-A No.19868 of 2013 (Sachin Kumar and 2 others Vs. S.B.I. Thru Chairman and 2 others). The aforesaid writ petition was disposed of by means of order dated 12.4.2013, whereby,

this Court issued directions to the respondent-Bank that the disciplinary proceedings against petitioners be concluded preferably within three months from the date of presentation of certified copy of the order.

(v) Petitioners were issued charge-sheet dated 11.7.2013 in disciplinary proceedings. Charge against petitioners were with respect to obtaining appointment in Bank service by adopting unfair means/impersonation while attempting an examination which was held on 8.11.2009. Petitioners thereafter preferred reply to the above-mentioned charge-sheet denying allegations. Petitioners also sought for details of the complainant and copy of the complaint in respect of which disciplinary proceedings were initiated against petitioners. Petitioners also sought for cross-examination of complainant as well as the invigilator before whom petitioners appeared in written examination. Thereafter, respondents appointed an Enquiry Officer to enquire into allegations against petitioners.

(vi) Petitioners participated in disciplinary/enquiry proceedings. Thereafter, a show cause notice was issued to petitioners, which was replied by petitioners. Respondents by impugned order dated 17.1.2014 dismissed the petitioners from service. Petitioners being aggrieved by above-mentioned order dated 17.1.2014 preferred an appeal before respondent no.3. The aforesaid appeal of petitioners were rejected by order dated 11.3.2015 passed by respondent no 3.

4. It is submitted by learned counsel for petitioners that petitioners were working on the post of Clerk in the respondent-Bank after having been duly selected. A complaint was received by respondent-Bank against petitioners and on the aforesaid basis, disciplinary proceedings were initiated against petitioners and a charge sheet was issued on the ground that petitioners had adopted unfair means and impersonation while attempting the written examination, which was held on 8.11.2009. Petitioners filed their reply denying the aforesaid allegations and disciplinary proceedings were held. The department produced handwriting expert report to substantiate the charge against petitioners

that petitioners were not the person, who had appeared in the written examination held on 8.11.2009.

4-A. Learned counsel for petitioners submits that in the departmental proceedings no departmental witness was produced and the order of dismissal from service was passed against the petitioners. Thereafter, petitioners had filed an appeal. In the appeal, a specific ground was raised by petitioners that the handwriting expert was never permitted to be cross-examined. However, appellate authority has denied the aforesaid on the ground that the authenticity and genuineness of the handwriting expert report was not denied by petitioners as such there was no requirement for cross-examining the handwriting expert. The report of handwriting expert is only an opinion. The written examination was conducted by recruitment department of Bank and invigilator was present and admit card was signed in presence of invigilator, as such, it was imperative for department to have examined the invigilator as a department witness.

4-B. It is further submitted by learned counsel for petitioners that invigilator was never examined, who was the best person to substantiate the allegations. There was thumb impression on the admit card, which was also taken in presence of invigilator and aforesaid would have also been an indicative factor to be considered whether the petitioners had participated in the written examination. Mere relying upon report of handwriting expert, who was never cross-examined and was never produced as department witness would not be tenable under law. The request for examination of invigilator was also made, however, the same has also been turned down. In the facts and circumstances of the case, the manner in which the departmental proceedings have been proceeded is surrounded with suspicious circumstances as the department could have produced the invigilator, who was present at the time of examination, who was employee of Bank and examination was conducted by the recruitment department of the Bank and as such mere relying upon the handwriting expert report is not sustainable.

4-C. Learned counsel for petitioners has relied upon the judgment of this Court in **Ran Vijay Singh and others Vs. Union of India and others, 2018 (6) ADJ 369, Union of India and others Vs. Devendra Kumar Chaudhary and others, 2018 (9) ADJ 570** and **order dated 15.11.2022 passed in Writ-A No.8534 of 2018, (Ravi Kumar Yadav Vs. Union of India and 4 others).**

4-D. Learned counsel for petitioners submits that while submitting reply to charge sheet, specific stand was taken for cross-examination of the invigilator, who was present at the time of examination. The punishment order mechanically relies upon the handwriting expert report without recording its independent finding.

5. Learned counsel for respondent-Bank has opposed the writ petition and submits that the handwriting expert report was the evidence found against petitioners in the disciplinary proceedings and on the aforesaid basis, the petitioners' services have been dispensed with and the appeal has been rejected. Petitioner have accepted the authenticity and genuineness of the handwriting expert report, as such, once the document has been accepted as authentic and genuine, then requirement of cross-examination of handwriting expert would not arise.

6. Petitioners had appeared in a recruitment drive initiated by the respondent Bank for the post of Clerk in State Bank of India. Petitioners participated in written examination held on 18.11.2009 and were issued call letter for written examination which are Annexure Nos.2A, 2B and 2C to the writ petition. A perusal of the aforementioned call letter for written examination would go to show that call letter contained signature of petitioners as well as of Invigilator. The aforesaid call letter also carried thumb impression of petitioners made in the presence of Invigilator (as per call letter). The call letter also contained photograph of petitioners. Petitioners after the written examination were declared successful and, thereafter, were called for interview. The final result was declared on 29.9.2010 wherein all the petitioners stood selected for appointment. Petitioners were issued appointment letter and, thereafter,

submitted their joining in the year 2010. Petitioners completed their probation successfully and after completion of probation period were confirmed in service by order dated 9.5.2011.

7. The respondent-Bank initiated disciplinary proceedings against the petitioners on the ground that petitioners had adopted unfair means and impersonation while attempting written examination for the post in question with the respondent-Bank. Petitioners denied the allegations made in the charge-sheet issued to the petitioners. The employer relied upon the report of handwriting expert dated 19.11.2012 to substantiate charges against petitioners with regard to unfair means and impersonation. The handwriting expert compared signature of petitioners on call letter for written examination with other signature and thereafter came to conclusion that signature on call letter was not written by the same person as the other signature.

8. It is not in dispute between the parties that except for above-mentioned handwriting expert report, no departmental witness was examined nor other material was relied upon by employer in support of the charges. The dismissal order dated 17.1.2014 was passed against petitioners solely relying upon handwriting expert report issued by the Forensic Science Laboratory.

9. The primary submission of learned counsel for petitioners is to the effect that the handwriting expert report was only an opinion and it was imperative on the part of department to have relied upon substantive evidence with regard to allegation to corroborate the conclusion arrived by the handwriting expert.

10. Learned counsel for respondent submitted that the handwriting expert report was the only evidence found against petitioners in the disciplinary proceeding and the same was enough for passing the dismissal order against petitioners.

11. A handwriting expert's report is a document prepared by a specialist, analysing handwriting or documents to help resolve disputes. Its nature as evidence is opinion-based. The opinion of handwriting expert is based on familiarity resulting from frequent observation and experience. The science of handwriting recognition is not a perfected proposition. The Hon'ble Supreme Court in **Murari Lal Vs State of Madhya Pradesh, AIR 1980 SC 531** with regard to the value of a handwriting expert has observed as under :-

“We are firmly of the opinion that there is no rule of law, nor any rule of prudence which has crystalized into a rule of law, that opinion-evidence of a handwriting expert must never be acted upon, unless substantially corroborated. But, having due regard to the imperfect nature of the science of identification of handwriting, the approach, as we indicated earlier, should be one of caution. Reasons for the opinion must be carefully probed and examined. All other relevant evidence must be considered. In appropriate cases, corroboration may be sought. In cases where the reasons for the opinion are convincing and there is no reliable evidence throwing a doubt, the uncorroborated testimony of an handwriting expert may be accepted. There cannot be any inflexible rule on a matter which, in the ultimate analysis, is no more than a question of testimonial weight. We have said so much because this is an argument frequently met with in subordinate courts and sentences torn out of context from the judgments of this Court are often flaunted.”

12. In view of above mentioned, handwriting expert opinion is not a perfected proposition and is based on science of comparison and observation. In disciplinary proceedings, the question to be probed is targeted towards finding as to whether the employee is guilty of misconduct as would merit punishment. The standard of proof is based on preponderance of probability. It will depend on the facts and circumstances of each case, which are sufficient for the employee to be punished. The question whether the report of handwriting expert itself can be enough to proceed against the employee and disciplinary proceedings will depend on the facts and circumstances of each case.

13. It is admitted case that in the disciplinary proceedings, handwriting expert was never examined. The aforesaid expert further was not permitted to be cross-examined by the employee/petitioners. Further, the call letter on which the disputed signature of petitioners was examined by the handwriting expert also contained the photograph,

thumb impression of petitioners. The aforesaid call letter for written examination, also stated that thumb impression of petitioners was made in the presence of Invigilator and signature of petitioners on call letter was also obtained in the presence of invigilator. Further, invigilator has also certified that signature of petitioners was obtained in his presence and photograph of petitioners on call letter for written examination was verified by invigilator.

14. No explanation is offered by counsel for respondent-Bank as to why the invigilator was not witnessed in departmental proceedings. The respondent-Bank has also not disputed the fact that signature & thumb impression of petitioners were obtained in presence of invigilator (as has been stated in the call letter). Further, counsel for respondent-Bank has not explained the fact that the photograph of petitioners has been verified by invigilator (as has been noted in the call letter itself). No dispute has been raised before this Court by counsel for respondent-Bank that the photograph of call letter does not belong to petitioners. It is important to note that recruitment to the post in question was carried on by the respondent-Bank itself through it's recruitment department.

15. It is important to note that while passing the impugned order dated 17.1.2014, findings are based on handwriting expert report without there being any independent finding being recorded by the Enquiry Officer or the disciplinary authority. The disciplinary authority while passing the impugned order further has not taken into consideration the effect of thumb impression and the photograph of petitioners on call letter.

16. The examination for recruitment in the Banks is required to be free and fair. If the examination is found to be unfair then it was for the examining body to have reported the same. Various mechanisms were embedded in the examination process to verify the identity of candidate as the call letter contained photograph of petitioners (verified by Invigilator), thumb impression and signature of petitioners. The impugned order of dismissal has been passed relying on mismatch of signature of petitioners on call letter with sample signatures based on

report of handwriting expert. The other two factors (photograph and thumb impression) which were also the factor of identification of petitioners, had not been considered while passing the impugned order.

17. In disciplinary proceedings, "preponderance of probability" is the legal standard of proof used to determine if an employee is guilty of misconduct. It means that, based on the evidence presented, it is more likely than not that the alleged incident occurred. The decision is to be based on a careful weighing of all available facts and circumstances. The scales are to be perfectly balanced and all evidences, facts and circumstances must be considered to come to finding of misconduct.

18. It was imperative for respondent-Bank to have verified participation of petitioners in written examination by verifying all factors/modes of identification of petitioners with regard to his presence at the time of written examination. The respondent-Bank by doubting the candidature of petitioners is in fact challenging its own examination process and the verification conducted by invigilator appointed by respondent-Bank. It is not the case of respondent-Bank that the recruitment department has reported any fault in the examination process.

19. The handwriting expert was not examined in disciplinary proceedings. The report of handwriting expert, which is not subjected to cross-examination by employee is a weak piece of evidence, more particularly when the call letter provides other modes of identification i.e. thumb impression and photograph, which were verified by invigilator. The circumstances and facts of the present case do not warrant that a mere handwriting expert report be concluded as conclusive evidence in respect of passing the impugned order against petitioners. The disciplinary proceedings scope should have been wide enough to have considered all the evidences, material, facts and circumstances with regard to identification of petitioners to have participated in the written examination conducted by Bank, however, in the present case handwriting expert report has only been considered,

which is in the nature of the opinion and was not even subjected to cross-examination.

20. One of arguments raised by learned counsel for respondent-Bank was to the effect that the cross-examination of handwriting expert was not required as the petitioners admitted the authenticity and genuineness of handwriting expert report.

21. It is to be seen that accepting the authenticity of handwriting expert report would only mean that the handwriting expert report has been submitted by the authority concerned and the aforesaid would not have effect to have admitted the contents of handwriting expert report. It is settled law that if a party admits to the documents authenticity and genuineness thereby accepts that the document, was signed by the person it claims to be signed by, and is not a forgery. However, the aforesaid would not amount to admitting that the information, allegations, contents or statements written in the document are true or accurate. Petitioners were not given any opportunity by respondent-Bank to cross-examine the handwriting expert, who has submitted the report. The acceptance of the authenticity and genuineness of the handwriting expert report would not have the effect that the department would not give opportunity to delinquent employee to cross examine the hand writing expert.

22. The right to cross-examine the witnesses is an essential part of the doctrine of fairness and principles of natural justice. It is settled law that departmental proceedings should be fair, just and reasonable. The principle of natural justice is required to be followed at each step in departmental proceeding so that right of an employee to defend may not be prejudiced. Even in the memo of appeal preferred by petitioners, they had raised the issue with regard to non-production of handwriting expert for cross-examination before appellate authority, however, the appellate authority has brushed aside the aforesaid contention of petitioners on the ground that petitioners have admitted the genuineness and authenticity of handwriting expert report. The aforesaid finding of appellate authority is

not sustainable in the eyes of law in view of the reasoning given hereinabove.

23. The fact that handwriting expert was not cross-examined coupled with the fact that other factors of identification of petitioners, which were available were not part of disciplinary proceedings and further such factors and circumstances were not considered by disciplinary authority and only relying upon the handwriting expert report, which is not the perfect science, the drawing of conclusion by respondent authorities would not be fair more particularly when the petitioners had already been appointed and were working in the Bank after due verification of the records and no complaint has been sent by the recruitment department of the Bank that the recruitment process was tainted by the petitioners. Further the respondent-Bank has not examined the invigilator in disciplinary proceeding, who was present at the time of examination and has identified the petitioners.

24. Learned counsel for petitioners has further raised argument that the request was made to the Enquiry Officer for examination of the invigilator, however, aforesaid request was not accepted by the Enquiry Officer. The invigilator verified the photograph, thumb impression as well as signature of petitioners on the call letter of written examination and as such, he was the best person to have certified the presence of petitioners at the time of written examination. In reply submitted by petitioners, a specific stand was taken for cross-examination of invigilator, however, the aforesaid fact was ignored in the enquiry proceedings.

25. It is to be seen that the disciplinary proceedings are initiated to enquire into the alleged misconduct of an employee and come to a fair finding of fact with regard to the misconduct alleged to have been conducted by the employee. The employer is expected in the disciplinary proceeding to bring the best available evidence to prove the charge of misconduct against an employee. In the present case, neither invigilator was examined as a witness in support of departmental charge-sheet nor

impugned order of dismissal has taken into consideration the endorsement of invigilator on the call letter for written examination that the thumb impression, photograph and signature were verified by invigilator. Although in counter affidavit filed by respondent-Bank, it is stated that in the case of petitioner no.2-Sanjeev Kumar, fingerprint expert report was obtained, however, the aforesaid report is not part of disciplinary proceedings and as such, the same could not have been relied upon before this court for the first time.

26. A perusal of impugned order would further go to show that no independent finding has been recorded by disciplinary authority as to why handwriting expert report has been accepted by the disciplinary authority and further no reasons have been recorded in the impugned order as to why other identification marks (thumb impression and photograph verified by Invigilator) were not considered by disciplinary authority when the same has not been disputed by respondent-Bank.

27. The judgment of **Lalit Popli Vs Canara Bank, 2003(3) SCC 583** relied upon by counsel for respondent-Bank in the facts of said case other evidence were also read as has been stated in paragraph 4 of the aforesaid judgment and further the court in aforesaid judgment especially recorded that disciplinary authority took pains to carefully consider the handwriting expert report and also looked at the documents to arrive at its own conclusion and, therefore, the aforesaid judgment relied upon by counsel for respondent-Bank is distinguishable from the facts and circumstances of present case. In the present case, it is not disputed by counsel for respondent-Bank that during enquiry proceedings no opportunity was given to the petitioners to cross-examine the handwriting expert, who has prepared the handwriting expert report. Further, no independent finding is recorded by disciplinary authority in the impugned order as to why report of handwriting expert is found acceptable despite the fact that in disciplinary proceedings the employer has not doubted the thumb impression and photograph of petitioners on call letter which was verified by invigilator.

28. The only material relied upon by respondent-Bank while passing the impugned order of dismissal against petitioners is the report of handwriting expert. The aforesaid handwriting expert was not subjected to any cross-examination and as such, there was no opportunity for petitioners/employees to have demolished the handwriting expert report in the cross examination. Not providing an opportunity of cross-examination to petitioners on the pretext that handwriting expert report genuineness and authenticity was not disputed is not tenable under law as even if the document execution is not disputed the contents of document can always be subject matter of cross-examination to demolish the conclusion of handwriting expert and the same is essentially part of principles of natural justice. There was other material available on the basis of which the identity or presence of petitioners at the time of written examination could have been established as has been detailed herein above. The aforesaid factors have neither been considered in the impugned order nor any evidence in this respect is led in the disciplinary proceeding.

29. In view of the above-mentioned reasoning, the impugned order dated 17.1.2014 passed by respondent no.4 and order dated 11.3.2015 passed by respondent no.3 are hereby set aside. The nature of allegation made against petitioners are serious in nature and as such, liberty stands granted to respondent-Bank to hold disciplinary proceeding afresh against petitioners and respondent-Bank shall also be at liberty to place the petitioners under suspension after reinstatement of petitioners. If the respondent-Bank takes a decision to hold the enquiry afresh then all the materials with regard to identity of petitioners at the time of written examination including photograph, thumb impression and signature would be taken into consideration.

30. The writ petition is **allowed** with aforesaid directions.

(Vikram D. Chauhan,J.)

April 15, 2026
D.Tamang