HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

LPA No.136/2025

Reserved on: 16.07.2026
Pronounced on: 18.08.2026
Uploaded on: 18.08.2026

Whether the operative part or full judgment is pronounced-**Full**

J&K Grameen Bank & Ors. .....Appellant/petitioner(s)

Through :- Mr. R.K.Jain, Sr. Advocate with
Mr. Paramveer Singh, Advocate.

v/s

Rachhpal Singh .....Respondent(s)

Through :- Mr. Abhimanyu Sharma, Advocate.

CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE

JUDGMENT

(Sekhri-J)

01. This intra-court appeal seeks to assail judgment dated 15.05.2025, passed by learned Single Judge of this Court in WP(C) No. 930/2023 whereby penalty imposed by the competent authority and reduced by appellate authority of the appellant -Bank upon the respondent came to be quashed.

CASE BEFORE THE WRIT COURT

02. Case set out by the respondent before the writ Court was that he joined the appellant-Bank in the year 1982 as Cashier-cum-Clerk and came to be promoted as Scale-I Officer. He came to be transferred and posted at Simbal Morh Branch of the Bank which was running in losses and had deposits of Rs.

23 crores against advances of Rs. 5.47 crores. According to the respondent, on taking over the said Branch, he started aggressive lending, but within the norms and guidelines of the Bank and brought the Branch to a profitable stage of more than Rs. 50 lakhs as on 31.03.2020.

2.1 On 16.04.2021, he came to be served with a charge-sheet by the Bank alleging, *inter-alia*, that while working as Senior Manager of the Branch, he had extended undue favour and sanctioned loans to selected borrowers by misusing his official position and in violation of the operational guidelines and norms of the Bank. It was alleged that he had exceeded the powers delegated to him by the Bank, thereby exposing the Bank's funds to risk.

2.2. He submitted a detailed reply to the charge-sheet on 08.06.2021, by contending that by the time he left the aforesaid Branch, the advances which stood at Rs. 5.47 crores was increased to Rs. 19.92 crores, business of the Branch increased from Rs. 28.90 crores to Rs. 54 crores and NPA was reduced from 12.37% to 3.51%. According to the respondent, the Branch which was running in loss of Rs. 10.47 crores, was brought to a profit of Rs. 34.40 lakhs. It was also submitted by the respondent that most of the regularities, on account of routine mistakes and heavy workload had already been rectified.

2.3. The appellant-Bank, however being dissatisfied with the reply of the respondent appointed an Inquiry Officer to inquire into the charges. The Inquiry Officer submitted his report dated 03.02.2022, whereby he came to conclude that except for the charge under Article 3, which was partially proved, rest of the charges were proved against the respondent.

2.4. Consequent upon the conclusion of the inquiry, respondent came to be served with a notice dated 28.02.2022 by the disciplinary/competent authority whereby he was called upon to show cause as to why he should not be reduced to the lowest stage in the pay scale of Officer Scale-II and why his superannuation benefits be not released on the reduced pay. The show-cause notice came to be responded by the respondent on 30.03.2022, whereby he sought personal hearing by stating that neither he committed malfeasance nor he intentionally caused any pecuniary loss to the Bank. The competent authority, however, accepted the findings recorded by the Inquiry Officer and vide order dated 23.05.2022 imposed penalty of reducing the respondent to the lowest stage in the pay scale of Officer Scale-II and also directed that all his superannuation benefits be released on the reduced pay.

2.5. Aggrieved of the aforesaid order of the disciplinary/competent authority, respondent preferred an appeal before respondent no. 2-the appellate authority/Board of Directors of the Bank, on 30.06.2022. The said appeal came to be disposed of vide order dated 02.11.2022, whereby order passed by the competent authority came to be modified in the following terms:-

> *"2. That the Basic pay of CSO is reduced to lowest stage (1st stage of pay ie. Rs 48,170/-) in the Pay Scale of Officer Scale I and all his superannuation benefits shall be released on the reduced pay; however, in accordance to punishment order no. JKGB/H.O./ DISP/ ORDER/ 16-300 dated 16.04.2016, the superannuation benefits shall be released only after the smooth recovery/ adjustment of all the loan accounts mentioned in Charge sheet dated 15.04.2015. The withheld amount under reference be kept in the shape of FDR under lien to the Chairman, Head Office, Jammu, of the bank;*
>
> *3. That CSO shall extend all his best cooperation to the bank in effecting smooth recovery/adjustment of all the loan accounts mentioned in the charge sheet dated 16.04.2021 and proved & established against him and in case the bank suffers any pecuniary/ financial loss in respect of these loan accounts the same shall be recovered from monthly pension/family pension of the CSO."*

03. Both the aforesaid orders i.e., order dated 23.05.2022 passed by the competent authority and order dated 02.11.2022 passed by the appellate authority, were assailed by the respondent before the writ Court primarily on the ground that penalty imposed upon him was contrary to Regulation 39 of the Jammu and Kashmir Bank (Officers and Employees) Service Regulation, 2010 (hereinafter referred to as "Regulation of 2010").

APPELLANT'S STAND

04. The Appellant-Bank opposed the writ petition primarily on the ground that during the inquiry proceedings, the respondent not only admitted his misconduct while discharging duties as Branch Head of the Bank, but it was also brought to the notice of the Inquiry Officer that respondent had already been charge-sheeted and punished twice during his service career for various acts of omission and commission.

4.1 It was contended by the appellant before the writ court that respondent had sanctioned loans/advances to the selected borrowers in utter disregard to the guidelines contained in Circular (03) dated 02.04.2019 and Circular (08) dated 03.04.2020, governing the functioning of the officers of the Bank and prescribing their powers for sanctioning loans and advances. It was further contended that, by his repeated acts of omission and commission, the respondent jeopardized financial interest of the Bank, which necessitated initiation of disciplinary proceedings against him. It was submitted that the appellate authority, by taking a lenient view of the matter, had already reduced the penalty awarded by the competent authority and imposed appropriate punishment.

THE WRIT COURT VERDICT

05. The writ petition came to be allowed and both the orders passed by the competent authority and appellate authority came to be quashed by learned Single Judge in terms of the impugned judgment by holding that appellant Bank did not suffer any financial loss on account of alleged acts of omission and commission of the respondent; that respondent did not derive any pecuniary gain therefrom; and most of the alleged irregularities had already been rectified by him. Learned Single Judge is thus of the view that punishment imposed upon the respondent was not only harsh but disproportionate to the misconduct attributed to him.

GROUNDS OF CHLLANGE

06. Appellant-Bank is aggrieved of the impugned judgment primarily on the ground that learned Single Judge has failed to appreciate the scope of judicial review in such matters and ignored the material aspect that during the inquiry proceedings, the respondent himself admitted his misconduct of overstepping the delegated powers while performing his duties as Branch Head of the Bank.

6.1. It is contention of the appellant that it is not permissible for the writ court to re-appreciate the evidence considered by the competent authority and assume the role of the appellate authority. According to the appellant, since the competent authority and the appellate authority considered the allegations against the respondent consistent with the rules and principles of natural justice, the question as to what punishment would meet the ends of justice is a matter within the exclusive domain of the disciplinary authority and writ court lacks jurisdiction to interfere with the said findings.

RIVAL CONTENTIONS & ANALYSIS

07. Having heard learned counsels for the parties, we have gone through the record.

08. Mr. Jain, learned senior counsel for the appellant-Bank, at the foremost has taken exception to the observation of learned Single Judge that since appellant-Bank did not suffer any financial loss and acts of the respondent were not tainted with any *mala fide* intention, punishment imposed upon him was disproportionate to the misconduct attributed to him.

8.1. Mr. Jain has relied upon **Disciplinary Authority-Cum-Regional Manager vs. Nikunja Bihari Patnaik; 1996(3) Supreme 710,** to submit that acts of omission and commission on the part of a Bank employee cannot be condoned on the specious ground that it was not actuated by ulterior motives or extraneous considerations. Mr. Jain has vehemently argued that the very act on the part of the respondent acting beyond his authority by itself amounts to misconduct.

8.2. Mr. Abhimanyu Sharma, learned counsel for the respondent on the other hand has vehemently argued that record bears testimony to the fact that by the time respondent left the Simble Morh Branch of the appellant-Bank, the business of the Branch had increased from Rs. 28.90 crores to 54 crores and NPA was reduced from Rs. 12.37% to 3.51%. Mr. Sharma, submits that since the said branch, which was running in loss of 10.47 crores, was brought to a profit of Rs. 34.40 lakhs, and most of the irregularities allegedly committed by the respondent on account of routine mistakes and heavy workload had already been rectified, impugned judgment of learned Single Judge, taking a lenient view of the matter, does not call for interference. He has relied upon a verdict of Karnataka High Court reported in **2018(3) SLJ 131**.

09. Hon'ble Supreme Court in **Nikunja Bihari Patnaik** (supra), has clearly ruled that an act of a Bank official acting beyond his authority, even if it yields profit and causes no loss to the Bank by itself amounts to misconduct and such an act of indiscipline cannot be condoned on the premise that it was not actuated by ulterior motives or extraneous considerations.

9.1. Relevant excerpt of the judgment captured in para 4, for the ease of reference is extracted below:-

> ***"07.It may be mentioned that in the memorandum of charges, the aforesaid two regulations are said to have been violated by the respondent. Regulation 3 requires every officer/employee of the bank to take all possible steps to protect the interests of the bank and to discharge his duties with utmost integrity, honesty,***

devotion and diligence and to do nothing which is unbecoming of a bank officer. It requires the officer/employee to maintain good conduct and discipline and to act to the best of his judgment in performance of his official duties or in exercise of the powers conferred upon him. Breach of Regulation 3 is 'misconduct' within the meaning of Regulation 24; 'The findings of the Inquiry Officer which have been accepted by the disciplinary authority, and which have not been disturbed by the High court, clearly show that in a number of instances the respondent allowed overdrafts or passed cheques involving substantial amounts beyond his authority. True, it is that in some cases, no loss has resulted from such acts. It is also true that in some other instances such acts have yielded profit to the Bank but it is equally true that in some other instances, the funds of the Bank have been placed in jeopardy; the advances have become sticky and irrecoverable. It is not a single act; it is a course of action spreading over a sufficiently long period and involving a large number of transactions. In the case of a bank - for that matter, in the case of any other organisation - every officer/employee is supposed to act within the limits of his authority. If each officer/employee is allowed to act beyond his authority, the discipline of the organisation/bank will disappear; the functioning of the bank would become chaotic and unmanageable. Each officer of the bank cannot be allowed to carve out his own little empire wherein he dispenses favours and largesse No organisation, more particularly, a bank can function properly and effectively if its officers and employees do not observe the prescribed norms and discipline. Such indiscipline cannot be condoned on the specious ground that it was not actuated by ulterior motives or by extraneous considerations. The very act of acting beyond authority - that too a course of conduct spread over a sufficiently long period and involving innumerable instances - is by itself a misconduct. Such acts, if permitted, may bring in profit in some cases but they may also lead to huge losses. Such adventures are not given to the employees of banks which deal with public funds. It What we hear about the reasons for the collapse of Barings Bank is true, it is attributable to the acts of one of its employees, Nick Leeson, a minor officer stationed at Singapore, who was allowed by his superiors to act far beyond his authority. As mentioned hereinbefore, the very discipline of an organisation and more particularly, a bank is dependent upon each of its employees and officers acting and operating within their allotted sphere. Acting beyond one's authority is by itself a breach of discipline and a breach of

> ***Regulation 3. It constitutes misconduct within the meaning of Regulation 24. No further proof of loss is really necessary though as a matter of fact, in this case there are findings that several advances and overdrawals allowed by the respondent beyond his authority have become sticky and irrecoverable. Just because, similar acts have fetched some profit - huge profit, as the High court characterises. it - they are no less blameworthy. It is wrong to characterise them as errors of judgment.........."***

9.2. Hon'ble Supreme Court in **Chairman & Managing Director, United Commercial Bank & Ors. vs. P.C. Kakkar; 2003 AIR (SC) 1571,** made it clear that a bank employee who is guilty of financial irregularities with public money does not deserve any leniency.

9.3. Again, Supreme Court in **Divisional Controller, KSRTC (NWKRTC) vs. A.T. Mane; 2004 AIR(SC) 4761,** commenting upon the quantum of punishment in such cases observed that it is not the amount of money misappropriated which is a factor for awarding punishment, but it is the loss of confidence which is the prime factor to be taken into consideration.

9.4. Relevant observation contained in para 12 reads as below:-

> ***"12. Coming to the question of quantum of punishment, one should bear in mind the fact that it is not the amount of money misappropriated that becomes a primary factor for awarding punishment, on the contrary, it is the loss of confidence which is the primary factor to the taken into consideration. In our opinion, when a person is found guilty of misappropriating corporation's fund, there is nothing wrong in the corporation losing confidence or faith in such a person and awarding a punishment of dismissal."***

<u>SCOPE OF JUDICIAL REVIEW</u>

10. The scope of judicial review in the matter of quantum of punishment imposed upon a bank employee has vexed the Courts more often than not and has been subject matter of consideration in various decisions of Hon'ble Supreme Court.

10.1. In **Damoh Panna Sagar Rural Regional Bank vs. Munna Lal Jain; 2005 AIR (SC) 584**, in which the delinquent Bank officer subsequently informed the Head office about his misconduct and deposited back the amount unauthorisedly withdrawn by him for his own use, it was held that Court cannot interfere with the quantum of punishment imposed upon a bank employee unless it is found to be shockingly disproportionate and to hold that punishment shocks the conscience of the Court, sufficient reasons are required to be recorded by a speaking order. Carrying the enunciation further, pertinently, Supreme Court ruled that the mere fact that a bank officer later informed the Head Office and deposited back the amount unauthorisedly withdrawn by him for his own use and benefit does not absolve him.

10.2. Relevant abstract of the judgment contained in para 17, reads as below:-

> ***"17.A Bank officer is required to exercise higher standards of honesty and integrity. He deals with money of the depositors and the customers. Every officer/employee of the Bank is required to take all possible steps to protect the interests of the Bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and to do nothing which is unbecoming of a Bank officer. Good conduct and discipline are inseparable from the functioning of every officer/employee of the Bank. As was observed by this Court in Disciplinary Authority-cum-Regional Manager v. Nikunja Bihari Patnaik, 1996(2) SCT 760 (SC): (1996 (9) SCC 69), it is no defence available to say that there was no loss or profit resulted in case, when the officer/employee acted without authority. The very discipline of an organisation more particularly a Bank is dependent upon each of its officers and officers acting and operating within their allotted sphere. Acting beyond one's authority is by itself a breach of discipline and is a misconduct. The charges against the employee were not casual in nature and were serious. These aspects do not appear to have been kept in view by the High Court."***

10.3. Again, Supreme Court in **State Bank of India & Ors. vs. Ramesh Dinkar Punde; 2006(7) SCC 212,** held that it is not permissible for the High Court to re-appreciate the evidence which has been considered by the Inquiry Officer, the Disciplinary Authority and the Appellate Authority. It was held that if there was an inquiry consistent with the rules and principles of natural justice, what punishment would meet the ends of justice is a matter within the exclusive domain of the competent authority.

10.4. Relevant observation in Para 06 of the judgment reads as below:-

> ***"6. Before we proceed further, we may observe at this stage that it is unfortunate that the High Court has acted as an appellate authority despite the consistent view taken by this Court that the High Court and the Tribunal while exercising the judicial review do not act as an appellate authority. Its jurisdiction is circumscribed and confined to correct errors of law or procedural error, if any, resulting in manifest miscarriage of justice or violation of principles of natural justice. Judicial review is not akin to adjudication on merit by re-appreciating the evidence as an Appellate Authority. (See Govt. of A.P. and Ors. (appellant) v. Mohd. Nasrullah Khan (respondent) (2006) 2 SCC 373 at page SCC 379."***

10.5. Again, Supreme Court, in **Bank of India vs. T. Jogram;2007(7) SCC 236,** ruled that High Court cannot sit in appeal over the findings recorded by the Inquiry Officer and assume the role of the Appellate Authority.

11. The common thread running through afore-quoted decisions of the Apex Court is that scope of judicial review in matters relating to quantum of punishment to Bank employees is very limited. Court can interfere with the findings of the competent authority and the appellate authority only if punishment is shockingly disproportionate and it no longer *res integra* now that in the banking sector, the very act of acting beyond one's delegated authority by itself constitutes a gross breach of discipline and misconduct. The absence of actual financial loss or the fact that Bank earned a profit does not absolve the employee because Banks deal with public money and procedural discipline must be absolute.

FINDINGS

12. Back to the case on hand, learned Single Judge has quashed both the orders; of the competent authority and that of Appellate Authority on the ground that appellant-Bank has not suffered any financial loss on account of acts of omission and commission alleged against the respondent; said acts were neither tainted by *mala fide* intentions nor respondent derive any pecuniary gain therefrom; and most of the irregularities had been rectified by him.

12.1. If the present case is approached in the light of principles of law enunciated by the Apex Court, we have no doubt in our mind that learned Single Judge has failed to appreciate the controversy in its correct perspective and embarked upon judicial review of the findings recorded by the competent authority and the appellate authority as a Court of appeal, which is not countenanced in law.

12.2. Charge against the respondent is that while working as a Branch Head, he extended undue favor and sanctioned loans to selected borrowers by misusing his official position and in violation of the operational guidelines and norms of the Bank. Though, respondent opposed the charge-sheet by contending that during his tenure as Senior Manager of Branch Office Simble Morh, business of the branch had increased from Rs. 28.90 crores to 54 crores and NPA was reduced from Rs. 12.37% to 3.51% and branch, which was running in loss of Rs. 10.47 crores, was brought to a profit of Rs. 34.40 lakhs, but during the course of disciplinary inquiry he admitted his misconduct while discharging his duties as Branch Head of the Bank. It also surfaced that act of omission and commission on the part of the respondent was not an exception but he had already been charge-sheeted and punished twice during his service career for various acts of omission and commission.

12.3. Be that as it may, a perusal of the record reveals that out of the loans stated to have been sanctioned by the respondent, the appellant-Bank has been made to settle 24 accounts under OTS scheme, while 10 accounts were declared non-performing assets, recovery in the remaining 14 accounts is stuck and is likely to be declared NPA.

13. Mr. Abhimanyu Sharma, learned counsel for the respondent, has relied upon **Inspector Prem Chand vs. Govt. of N.C.T. of Delhi & Ors.; 2007 (4) SCC 566,** to submit that, in the peculiar facts and circumstances of the present case, acts of negligence or innocent mistakes on the part of the respondent would not constitute misconduct.

13.1. In departmental disciplinary proceedings, the presence of *mens rea* is not a prerequisite to prove misconduct of an employee. An unauthorised act, even if committed with good intentions, is still a violation of the service rules. As analysed in the afore-quoted judgments involving public sector Banks, officers are strictly mandated to protect the interests of the Bank within the permitted limits. Any unauthorised sanctioning of credit or crossing the financial limits automatically triggers the liability. Supreme Court has explicitly noted that discipline of a banking organisation depends entirely upon its employees and officers, who are supposed to perform their official duties strictly within their allotted sphere, because banks operate as fiduciaries, handling public deposits, and their employees and officials are held to a higher standard of institutional honesty, uprightness and procedural compliance than the employees of other commercial sectors. The act of a bank employee exceeding his authority by itself would constitute serious misconduct, even if Bank suffered no financial loss or made a profit and the employee acted without malice or ulterior motives. In other words, the absence of actual financial loss or the fact that Bank earned a profit would not absolve the employee of the Bank, because the absence of malice or *mens rea* in departmental proceedings is irrelevant.

13.2. It is not and cannot be the case of the respondent that being a Senior Manager or a Class-I Officer he was not aware of the limits of his authority. As a matter of fact, during the course disciplinary inquiry, he admitted misconduct on his part and it was brought to the notice of the Inquiry Officer that respondent had already been charge-sheeted and penalized twice during his service career for various acts of omission and commission. Thus, the misconduct on the part of the respondent, we have no doubt in our mind, is unpardonable.

14. It may be recalled, though at the cost of brevity, that aggrieved of the findings of the competent authority dated 23.05.2022, whereby penalty of reducing him to the lowest stage in the pay-scale of Officer Scale-II was imposed, he preferred an appeal before the Appellate Authority/Board of Directors-respondent no. 2. During the appeal proceedings, the respondent not only admitted misconduct on his part while acting as Branch Head, but also prayed for a lenient view in his favor and the findings of the competent authority came to be modified by the appellant authority by providing that basic pay of the respondent is reduced to the lowest stage (1st stage of pay i.e., Rs. 48,170/-) in the pay scale of Officer Scale-I instead of Officer Scale-II, as imposed by the competent authority. In addition to the reduction of the pay scale of Officer Scale-I, the appellate authority also directed that his superannuation benefits on the reduced pay shall be released only after smooth recovery/adjustment of all the loan accounts mentioned in the charge-sheet, with a further stipulation that till such time, the withheld amount under reference shall be kept in the shape of FDR under lien to the Chairman of the Bank and respondent was directed to extend his best cooperation to the Bank in effecting smooth recovery/adjustment of the loan accounts and that, in case Bank suffers any financial loss in respect of such loans, same shall be recovered from his monthly pension and family pension.

15. The only question for consideration of this Court in the circumstances of the present case is whether withholding of superannuation benefits of the respondent by the appellate authority till recovery/adjustment of the loan accounts is justified and permissible in law.

15.1. Mr. Abhimanyu Sharma, learned counsel for the respondent, has relied upon **Jyotirmay Ray vs. The Field General Manager, Punjab National Bank & Ors; 2023 A4 SCR 2346, T.B. Mohanan vs. Canara Bank & Ors (writ petition no. 16934/2021 decided on 09.09.2022** and **UCO Bank & Ors. vs. Anju Mathur; 2013 SCC (Online) 5014,** to submit that forfeiture of gratuity provident fund and pensionary benefits of a bank employee in the absence of quantification of loss and opportunity of hearing is not permissible in law.

15.2. There cannot be two opinions to the settled position of law that forfeiture of superannuation benefits can be directed to the extent of damage or loss so caused or destruction of property belonging to the Bank and, whenever forfeiture of such benefits is ordered, there has to be quantification of loss and an opportunity of hearing must be given to the employee.

15.3. Neither the competent authority nor the appellate authority in the present case has quantified the loss caused to the Bank. Therefore, superannuation benefits of the respondent cannot be withheld till the recovery of the loan accounts mentioned in the charge-sheet because appellant Bank has an efficacious alternative remedy to recover the loan amounts against the borrowers by filing recovery suits.

ORDER

16. For what has been observed and discussed above, present appeal is allowed and impugned order passed by learned Single Judge is set-aside. Consequently, while order passed by the appellate authority regarding reduction of the respondent to the lowest stage (1st stage of pay, i.e., Rs. 48,170/-) in the pay scale of Officer Scale-I is upheld, the said order withholding superannuation benefits of the respondent is set-aside. Appellants are directed to immediately release superannuation benefits of the respondent, however they shall be at liberty to recover the loan amounts by availing the appropriate remedy.

17. Disposed of.

(Rajesh Sekhri)
Judge

(Sindhu Sharma)
Judge

JAMMU
18.08.2026.
Abinash

Whether the judgment is speaking? ***Yes***
Whether the judgment is reportable? ***Yes***