



**HIGH COURT OF JUDICATURE FOR RAJASTHAN  
AT JODHPUR**

S.B. Civil Writ Petition No. 6260/2021

CNR: RJHC010247432021 | URN: CW / 11003U / 2021

Vedprakash S/o Ramdhan, Aged About 41 Years, Gali No.4,  
Poonam Colony, Kota Junction.

-----Petitioner

Versus

1. Chittorgarh Central Coop. Bank Ltd., Chittorgarh Through  
Its Managing Director.
2. Board Of Director, Chittorgarh Central Cooperative Bank  
Limited, Chittorgarh Through Its Chairman.

-----Respondents

For Petitioner(s) : Mr. Manoj Bohra  
For Respondent(s) : Dr. Pratishtha Dave

**HON'BLE MR. JUSTICE KULDEEP MATHUR**

**ORDER**

**17/09/2026**

1. By way of the instant writ petition under Article 226 of the Constitution of India, the petitioner has assailed the order dated 25.02.2020 passed by the Managing Director of the Chittorgarh Central Cooperative Bank Ltd., whereby the petitioner was dismissed from service pursuant to the departmental proceedings initiated against him, as well as the order dated 05.03.2021 whereby the departmental appeal preferred by the petitioner came to be rejected.
2. The petitioner was appointed as Banking Assistant with the respondent-Bank on 30.12.2011. While serving with the Bank, a memorandum dated 14.02.2018 was issued to him under Rule 16 of the Rajasthan Civil Services (Classification, Control and Appeal)



Rules, 1958 (hereinafter, 'the Rules of 1958'), containing 37 charges relating principally to alleged embezzlement of Bank funds during the period from 04.01.2012 to 05.04.2017. The petitioner denied the allegations and specifically asserted that he had never been promoted as Manager or entrusted with the charge of Manager and that his maker ID No.172 had been misused for carrying out the transactions in question.

3. The petitioner submitted his explanation to the charges and participated in the departmental proceedings. He specifically maintained that his ID was a maker ID, whereas the Manager possessed the checker ID required for passing the transactions, and that his ID and password could have been misused by the Manager or the contractual employee, Shri Bhanu Prakash Sharma. The petitioner also denied having derived any benefit from the alleged transactions. An Inquiry Officer was appointed on 02.08.2018. The petitioner appeared before the Inquiry Officer and submitted a detailed written defence on 23.10.2018.

4. The Inquiry Officer submitted his report dated 07.02.2019 holding the petitioner guilty of the charges. The petitioner's specific case before this Court is that during the course of inquiry no departmental witness was examined and the documents and reports relied upon by the department were not tendered and proved in the manner contemplated by the Rules of 1958. The disciplinary authority furnished the inquiry report to the petitioner and, after receiving his representation dated 15.02.2019, passed the order dated 25.02.2020 imposing upon him the penalty of dismissal from service. The petitioner preferred a departmental



appeal under Rule 23 of the Rules of 1958, which came to be rejected by order dated 05.03.2021.

5. Learned counsel for the petitioner submitted that the departmental inquiry was conducted in disregard of the mandatory procedure prescribed under Rule 16 of the Rules of 1958. It was contended that the petitioner was not furnished with the list of prosecution witnesses and documents in the manner prescribed, nor was the evidence in support of the charges recorded through examination and cross-examination of witnesses or by tendering and proving the documentary material. Learned counsel submitted that the petitioner was thereby deprived of an effective opportunity to defend himself. Reliance was placed upon the judgment of the Hon'ble Supreme Court in **State of U.P. & Ors. Vs. Saroj Kumar Sinha, (2010) 2 SCC 772**. Learned counsel has also placed reliance on the order dated 24.03.2015 passed by this Court in **S.B. Civil Writ Petition No.3254/2002, 'Ganga Das Bohra Vs. State of Rajasthan & Ors.'** as affirmed by the Division Bench of this Court in **D.B. Spl. Appl. Writ No.1089/2015**.

6. *Per Contra*, learned counsel for the respondents submitted that the petitioner was afforded sufficient opportunity during the inquiry and that the relevant material was available to him. It was contended that the petitioner, being a computer engineer and an employee of the Bank, was responsible for maintaining the confidentiality of his ID and password and that the transactions resulting in the alleged embezzlement had been carried out through his ID. It was further submitted that the findings recorded by the disciplinary authority were findings of fact and did not





warrant interference in exercise of jurisdiction under Article 226 of the Constitution of India.

7. Heard. Perused the material available on record.

8. The controversy arising for consideration is not as to whether this Court, in exercise of its writ jurisdiction, should re-appreciate the evidence or substitute its own conclusion for that of the disciplinary authority. The question is whether the departmental inquiry, on the admitted factual and procedural background placed before this Court, was conducted in the manner mandated by Rule 16 of the Rules of 1958 and whether the petitioner was afforded the opportunity of defence contemplated thereunder.

9. Rule 16(6)(a) of the Rules of 1958 prescribes the procedure to be followed where the Government Servant pleads not guilty to the charges. The same reads as under:

*"(6) (a) Where the Government Servant has pleaded not guilty to the charges, at the commencement of the enquiry, the Inquiring Authority shall ask the Presenting Officer appearing on behalf of the Disciplinary Authority to submit the list of witnesses and documents within 10 days, who shall also simultaneously send a copy to the Government Servant. Delinquent Officer, within ten days of the receipt of the list of prosecution witness and documents, shall submit the list of documents required by him for his defence. The Inquiring Authority shall then summon the documents of both sides and ask the parties to admit or deny them. It shall then summon such evidence as is necessary, giving opportunity to the presenting officer for examination-in-chief and also to the Government Servant or his assisting officer, whosever may be present, for cross-examination. The Presenting Officer shall be entitled to re-examine the*





*witness on any point on which they have been cross-examined but not on any new matter, without the leave of the Inquiring Authority, after the close of the prosecution evidence the Government Servant shall be called upon to submit the list of the witnesses within 10 days which he would like to produce in his defence. The Inquiring Authority after considering the relevancy of the witnesses and the documents shall summon only the relevant witnesses and the documents and record the evidence thereof, while giving opportunity of Examination-in-Chief and cross-examination/re-examination to the parties and then close the evidence. The Inquiring Authority shall consider the relevancy of the witnesses and the documents called for by both the parties and in case of his refusal to summon any witnesses or documents, he shall record the reason in writing. The Inquiring Authority may also put such questions to the witnesses of the parties, as it thinks fit, in the interest of justice. An opportunity for hearing the arguments shall be given to the parties.”*

10. The aforesaid provision lays down a complete procedural framework for conducting an inquiry where the delinquent employee has denied the charges. It requires the Presenting Officer to submit the list of witnesses and documents and simultaneously furnish a copy thereof to the delinquent employee; thereafter, it contemplates submission of the defence list of documents, summoning and admission or denial of documents, recording of evidence with an opportunity of examination-in-chief and cross-examination, submission and consideration of the list of defence witnesses, recording of defence evidence, and, finally, an opportunity of hearing arguments. Thus, the opportunity contemplated by the Rule is not confined to permitting the



delinquent employee to submit a written explanation; it extends to participation in each of the material stages of the inquiry.

11. In the present case, the petitioner had pleaded not guilty to the charges and had specifically disputed the allegations concerning misuse of his ID. The factual and procedural history placed before this Court shows that the petitioner was called upon to appear before the Inquiry Officer and ultimately submitted his written defence on 23.10.2018. However, the inquiry was not proceeded with by following the successive stages prescribed under Rule 16(6)(a). In particular, there is no material demonstrating that the prosecution witnesses and documents were dealt with in the manner contemplated by the Rule, that the departmental witnesses were examined in the inquiry with an opportunity to the petitioner to cross-examine them, that the defence witnesses and documents were dealt with in the prescribed manner, or that the petitioner was afforded the contemplated opportunity of leading defence evidence and thereafter addressing arguments.

12. The respondents seek to justify the proceedings by contending that the relevant documents were available to the petitioner and that, having regard to the nature of banking transactions, examination of witnesses was not necessary. Such contention cannot be accepted as a substitute for compliance with the procedure expressly prescribed by Rule 16(6)(a). The Rule does not leave it to the disciplinary authorities to dispense with the stages of examination, cross-examination, defence evidence or hearing of arguments merely because the department considers the documentary or electronic material sufficient. Where the





charges are denied, the procedure prescribed by the Rule is required to be followed.

13. The distinction is material in the present case because the petitioner's defence was not a mere denial. He specifically asserted that his ID was a maker ID, that the Manager possessed the checker ID, and that his ID had been misused by other persons. The respondents, on the other hand, relied upon the use of the petitioner's ID as a circumstance establishing his responsibility. Such a disputed factual issue could not be conclusively dealt with merely by referring to the electronic record or other internal material without subjecting the departmental case to the procedure prescribed under Rule 16(6)(a). The failure to follow that procedure deprived the petitioner of a meaningful opportunity to test the departmental case and to substantiate his own defence.

14. Rule 16(7) thereafter requires the Inquiring Authority, at the conclusion of the inquiry, to prepare a report recording its findings on each charge together with reasons thereof. The stage contemplated by Rule 16(7) necessarily follows the completion of the inquiry in accordance with the procedure prescribed under Rule 16(6)(a). A finding of guilt cannot cure the failure to conduct the inquiry in the mandatory procedure prescribed by the CCA Rules. This requirement is particularly significant where the penalty imposed is a major penalty including but not limited to dismissal from service.

15. In the facts and circumstances of the present case, this Court is of the considered opinion that the departmental inquiry conducted against the petitioner cannot be sustained, as the



procedure prescribed under Rule 16(6)(a) was not followed in its entirety and the petitioner was consequently not afforded the adequate and effective opportunity of defence/hearing contemplated by the Rules of 1958. The impugned order dated 25.02.2020 and the consequential appellate order dated 05.03.2021, therefore, cannot be sustained and are liable to be quashed and set aside.

16. Resultantly, the instant writ petition is allowed. The order dated 25.02.2020 passed by the disciplinary authority and the order dated 05.03.2021 passed in appeal are quashed and set aside.

17. The respondents shall, however, be at liberty to proceed afresh against the petitioner, if so advised, in accordance with law, after following the entire and complete procedure prescribed under Rule 16(6)(a) and thereafter Rule 16(7) of the Rules of 1958, and after affording the petitioner due opportunity of defence.

18. All pending applications, if any, also stand disposed of.

**(KULDEEP MATHUR),J**

50/Dineshsuthar/-