* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Reserved on: 5th July, 2022**
Pronounced on: 1st August, 2022

\+ **W.P.(C) 1762/2013**

SH D.C. NARNOLIA ..... Petitioner

Through: Petitioner in person.

versus

CANARA BANK AND ORS ..... Respondent

Through: Mr. Saket Sikri, Mr. Ajay Pal Singh, Mr. Jasbir Bidhuri, Mr. Arun Sanwal and Mr. Sriwas, Advocates

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

J U D G M E N T

CHANDRA DHARI SINGH, J.

1. The instant civil writ petition under Article 226 of the Constitution of India has been filed by the petitioner seeking setting aside of the impugned orders dated 30th March, 2009, 15th April, 2010 and 16th April, 2012 passed by the respondent bank along with a direction to the respondent to reinstate the petitioner with full back wages with consequential relief and all attending benefits.

FACTUAL MATRIX

2. The background of the case is discussed as under: -

(I) The petitioner joined the respondent Bank on 18th October 1976 as a clerk, was promoted as Scale I officer on 28th March 1983 and to Scale II Manager on 20th April 1998 and discharged his duty in various roles.

(II) On 7th June 2006, the petitioner was issued explanation call letter No. DC/SSO/3252/2006 Def. 1297 by the respondent, to which, petitioner replied on 30th June 2006.

(III) The respondent Bank issued chargesheet No. IRS:DP:DL:CS:49/07 dated 1st October, 2007 to the petitioner in respect of irregularities in the following Group Accounts namely:

a) M/s Kumbh Steel (P) Ltd.
b) Maharaja Ispat (P) Ltd.
c) Karamvir Steels (P), Ltd.
d) Moskos Steel (P) Ltd.

The Charges against the petitioner are as follows:

(i) That the enhancement was recommended without properly assessing proposal and without verifying whether party has actually merit for enhancement. No additional security was insisted to cover up proposed enhancement.

(ii) The limit was recommended to be enhanced though account was having various adverse features such as account overdrawn, party frequently approaching for overdraft which were not regularized in time return of

discounted cheques, low turnover passed through the account & dealing of the party not satisfactory.

(iii) During the month of November, 2004, party was permitted overdrawings of huge value though DP in the account was not available. These overdrawings were beyond the delegated powers of the branch but no ratification was obtained.

(iv) The enhanced limit was released to the party without complying sanction terms and conditions.

(v) Though there were various adverse features in the account, but Petitioner being a Manager, instead of taking corrective steps, recommended an Ad-hoc limit for Rs. 50 lacs to the party on 7th March 2005 for three months. The Ad-hoc limit was released to the party even before getting the sanction from Circle Office.

(vi) The periodical inspection of the stock was not done properly as such there was no proper monitoring of the accounts. The stock statements were not certified/signed by the branch officials.

(vii) There was a misrepresentation of facts to Circle Office. The Ad-hoc limit for Rs.50 lacs was to be regularized on 18th June 2005. Branch, vide their letter dated 18th June 2005, reported to Circle Office that Ad-hoc limit has been regularized by discounting the cheque for Rs.50 lacs in his account. However, the cheque returned

unpaid on 22nd June 2005 and account became overdrawn again.

(viii) The account has slipped to Non-Performing Assets (hereinafter 'NPA') in September 2005, but was not classified as NPA. It was classified as NPA only in December, 2005. Branch thus concealed these facts.

(IV) The limit in all 4 accounts was enhanced to Rs.200 lacs during the year 2004.

(V) The Petitioner vide letter dated 10th October 2007, had denied all the charges levelled upon him. Vide letter dated 20th February, 2008, the respondent initiated the Inquiry proceedings against the petitioner.

(VI) Vide letter dated 20th February 2008, the Respondent had issued a letter to the Petitioner calling him to participate in the Preliminary Inquiry on 5th March, 2008. Thereafter on 25th March, 2008, the evidence of the respondent's witnesses were recorded and documents were exhibited.

(VII) Vide letter dated 29th April, 2008, Petitioner was supplied with the copy of finding of Inquiry Officer and representative of Petitioner submitted his reply to the Inquiry Authority.

(VIII) On 11th April, 2009, Petitioner had been removed from the services by imposing major penalty vide proceedings IRS:DP:DC:8614 dated 30th March, 2009.

(IX) On 11th May, 2009, Petitioner preferred an appeal before the Appellate Authority under Regulation 17 of the Canara Bank Officers Employees (Discipline and Appeal) Regulation, 1976

against the dismissal order dated 30th March, 2009, through Registered Post.

(X) The Appellate Authority dismissed the appeal of Petitioner on 15th April, 2010, on the ground that the Respondent No. 3 has found no reason to interfere with the orders of the Disciplinary Authority.

(XI) Aggrieved by the orders passed by the Respondent bank, the Petitioner has preferred the instant writ petition.

SUBMISSIONS

3. The Petitioner appearing in-person submitted that he was issued explanation call letter No. DC/SSO/3252/2006 Dec 1297 dated 07th June, 2006 by the Respondent and Petitioner duly replied to the said letter on 30th June 2006, along with the explanation. But the Respondent Bank without considering the reply of the Petitioner, issued chargesheet No. IRS:DP:DL:CS:49/07 on 1st October, 2007. It is submitted that the petitioner vide letter dated 10th October, 2007, duly replied to the chargesheet, denying all allegations levelled against him.

4. The Petitioner submitted that he duly participated in the Preliminary Inquiry on 5th March 2008 and 25th March 2008. The charges levelled against the Petitioner were not discussed during the Inquiry Proceedings, and the Inquiry was closed as per their own accord without recording the facts submitted by him.

5. It is submitted that he had been removed from the services on 11th April 2009 by imposing major penalty vide, proceedings

IRS:DP:DC:8614 dated 30th March 2009, without giving any show cause notice, which is in violation of principles of natural justice.

6. The Petitioner further submitted that he had preferred an appeal before the appellate authority under Regulation 17 of Canara Bank Officers Employees (Discipline and Appeal) Regulation, 1976 mentioning that the charges levelled against him are wrong and baseless. On 28th November, 2003, the proposal was prepared by the Chief Manager duly counter signed by him, was declined by the Circle Office. The Circle Office has renewed the early limit ignoring the fact that the recommended limit was beyond Maximum Permissible Banking Finance (hereinafter 'MPBF') and the additional property offered by the party is valued on higher side.

7. The Petitioner further submitted that on the request of the borrower and at the instruction of Chief Manager, on 9th November, 2004, concerned officer submitted proposal duly counter signed by him and the Chief Manager to Circle Office for enhancement on the existing security as per credit Policy. It was further submitted that the above matter was well deliberated upon by the branch incumbent. The Petitioner always acted under the instructions of higher authority. The Inquiry Authority and the Disciplinary Authority have not taken into consideration the aforesaid facts.

8. The Inquiry Authority and the Disciplinary Authority, in their analysis, have not appreciated the following facts while passing the order(s):

(i) That the office note dated 2nd November 2004 put upto the Circle Office by the Chief Manager (the

recommending authority), included clear reference to all the features noted above. There was no concealment whatsoever, in stating the antecedent features in the account. Besides noting all these adverse features, the chief Manager and the sanctioning authority proceeded to accord sanction. It is for them to explain their conduct but it seems possibly the extraneous pressure of the director of the Bank became compelling for these functionaries which have not been taken care by the Disciplinary Authority.

(ii) The proposal was prepared under instructions of the Chief Manager who signed the same as recommending authority. These points were raised only when the account became NPA and thus needs to be rejected as being the after thoughts consideration. The allegations are wrongly proved as these fell within the power of incumbent of the branch. The Inquiring Authority and the Disciplinary Authority failed to appreciate that the excesses were allowed by the chief Manager and if any TOD was allowed by the petitioner that must have been recorded, on daily basis in the discretionary register maintained at the Branch level which was duly signed by the branch in-charge without any remarks. Therefore the process for action ratification does not relate to ambit of profile of the petitioner. Thus wrongly conceived and proved in utter violation of the Bank procedures and bank

hierarchy. The non-submission of form NF 482 does not imply that there was non-compliance of sanction of terms and conditions. It is simply a certificate of compliance under the sole authority of the branch incumbent. Non submission of the said form cannot be stretched too far to crystallize the same as non-compliance of the terms of sanction. There was no mention of any terms which were not complied with. Thus, the Disciplinary Authority wrongly appreciated the allegation of the charge against the petitioner.

The Inquiry Office, the Disciplinary Authority and the Appellate Authority have also ignored consideration of the following important facts:-

a. The excesses over, the sanctioned limit were permitted by the Chief-Manager, which is sufficient to exonerate to the Petitioner.
b. The request of adhoc limit was within the purview of the Chief Manager. He permitted the excess ad-hoc amount in his power to which the Petitioner cannot be held accountable.
c. The ad hoc limit of Rs. 50 lacs was sanctioned by Circle Office pursuant to recommendation by the Chief Manager.

9. The petitioner submitted that the Disciplinary Authority totally failed to bring home any such fact on record. All the facts indicate that there was no lapse on the part of the Petitioner as these were within the

jurisdiction of the Chief Manager and the petitioner cannot be held responsible for the alleged fault. There is no correlation between the allegations and the findings of the Inquiry Officer, Disciplinary Authority and Appellate Authority. It is submitted that periodical inspection of stocks was also not done properly and there was no proper monitoring of accounts, whereas the appreciation of Disciplinary Authority erroneously indicates that the petitioner should have allotted the godown to other officers and could have mentioned about regular checking of godowns and getting the records updated. The Investigating Officer and Disciplinary Authority have no jurisdiction to enlarge the scope of chargesheet.

10. Petitioner submitted that Inspection Report/Audit Report/ Investigation Report cannot be read as evidence that is merely the opinion of an officer. Hence the opinion cannot be considered as evidence for punishing him.

11. It is submitted that after submission of documents by the Presenting officer, the Inquiry Authority proceeded further without procuring the originals. Thus, the Petitioner has been deprived of his vital right of self defence on the objections to the documents, which clearly shows that the Inquiry Officer, too, was biased and prejudiced against the Petitioner and acted malice by allowing the Inquiry to proceed unlawfully and as per whims of the Presenting Officer.

12. It is further submitted that CBI initiated proceedings against the petitioner being Case No. 111/2016 (Old No.01/2010) titled as State Vs. Savita Devi & Ors and Case No. 143/2016 (Old No. 14/2012) titled as State Vs. Raj Kumar & Ors which were tried by the Court of Special CBI

Judge, North West, Rohini Courts, Delhi. After a long trial, the Special CBI Judge vide orders dated 28th April, 2018 and 30th January 2018 acquitted the Petitioner from all the charges levelled against him.

13. It is submitted that in light of all the aforesaid submissions, the impugned orders dated 30th March 2009, 15th April, 2010 and 16th April, 2012, passed by the Inquiry Officer, Disciplinary Authority and Appellate Authority may be set aside and the Respondent Bank may be directed to re-instate the Petitioner with full back wages with consequential and all attending benefits.

14. *Per contra,* learned counsel appearing on behalf of Respondent/Bank submitted that the Inquiry was held as per the rules and procedure laid down in Canara Bank Officer Employees Regulations, 1976 and the petitioner had fully participated in the Inquiry.

15. Learned counsel appearing on behalf of the Respondent submitted that in exercise of the power conferred under Section 19 of the Banking Companies Act, the Respondent Bank, in consultation with the Reserve Bank of India and with the previous sanction of Central Government, has promulgated Canara Bank Officer Employees (Conduct) Regulations, 1976 & Canara Bank Officer Employees (Discipline & Appeal) Regulation, 1976, which deals with the conduct, discipline and appeal provisions of the officer employees of Respondent Bank and on the basis of these regulations the impugned orders were passed against the Petitioner.

16. It is submitted that the Petitioner had been found guilty of charges levelled against him and the misconduct proven on the part of him, which resulted in huge financial loss to the Respondent Bank. Moreover, the

Charges levelled against the Petitioner have been duly proved in Inquiry with all the evidences; therefore, the punishment imposed upon him is in consonance with the charges proved.

17. It is submitted that the Impugned orders dated 30th March 2009, 15th April, 2010 and 16th April, 2012 have been passed by the competent authorities of the Respondent in consonance with the principles of natural justice. It is submitted that the Petitioner had not raised the contention of not providing the documents to him or inspect documents in any prior proceedings conducted by the Respondent Bank.

18. It is submitted that Departmental proceedings were initiated against the Petitioner by issuing the charge sheet dated 1st October 2007, wherein the Disciplinary Authority considering the nature of charges, imposed the punishment to the Petitioner "*Removal from Service which shall not be a Disqualification for future employment*" only in lieu of the irregularities committed on the part of the Petitioner impending the bank to huge financial loss.

19. In support of his arguments, learned counsel appearing on behalf of Respondent bank, relied on the following judgments:

a) In the case of ***State Bank of India Vs Ram Lai Bhaskar & Another,*** **(2011)10 SCC 249,** the Hon'ble Supreme Court has held as under:-

> *"12. This Court has held in State of A. P. Vs. S. Sree Rama Rao (AIR PP. 1726-27, para 7)*
>
> > *"7....The High Court is not constituted in a proceeding under Article 226 of the Constitution a court of appeal over the decision of the authorities holding a*

departmental Inquiry against a public servant; It is concerned to determine whether the Inquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which Inquiry has accepted and which evidence may reasonably supported the conclusion that the delinquent officer Is guilty of the charge. It is not function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an Independent finding on the evidence".

13. Thus, in a proceeding under Article 226 of the Constitution, the High Court does not sit as an appellate authority over the findings of the disciplinary authority and so long as the findings of the disciplinary authority and so long as the findings of the disciplinary authority are supported by some evidence the High Court does not reappreciate the evidence and come to a different and independent finding on the evidence. This position of law has been reiterated in several decisions of this Court which we need not refer to, and yet by the impugned Judgment the High Court has reappreciated the evidence and arrived at the conclusion that the findings recorded by the Inquiry officer are not substantiated by any material on record and the allegations leveled against Respondent No 1 do not constitute any misconduct and that Respondent 1 was not guilty of any misconduct.

14. We, therefore, set aside the impugned order of the High Court and allow the appeal with no order as to costs".

b) ***State of U.P. & Anr vs. Manmohan Nath Sinha & Anr.*, 2009 (8) SCC 310**, the Hon'ble Supreme Court has held as under:-

> *"15. The legal position is well settled that the power of judicial review is not directed against the decision but is confined to the decision making the process. The court does not sit in judgment on merits of the decision. It is not open to the High Court to re-appreciate and reappraise the evidence led before the inquiry officer as a court of appeal and reach its own conclusion. In the instant case, the High Court fell into grave error in scanning the evidence as if it was a court of appeal. The approach of the High Court in consideration of the matter suffers from manifest error and, in our thoughtful consideration the matter requires fresh consideration by the High Court in accordance with law. On this short ground, we send the matter back to the High Court".*

c) In ***Oriental Bank of Commerce vs. R.K. Uppal*** reported in **2011 (8) SCC 695**, the Hon'ble Supreme Court has held as under:-

> *"22. It is now fairly well settled that the requirements of natural justice must depend on the circumstances of the case, the nature of the inquiry, the rules under which the tribunal is acting, the subject-matter that is being dealt with and so forth. In the words of Ramaswami, J. (Union of India y. P.K. Roy) the extent and application of the doctrine of natural Justice cannot be imprisoned within the straitjacket of a rigid formula. The application of the doctrine depends upon the nature of jurisdiction conferred on the administrative authority, upon the character of the rights of the persons affected, the scheme and policy of the statue and other relevant circumstances disclosed in the particular case.*

23. A right of the appeal is not an inherent right. None of the facets of natural Justice requires that there should be a right of appeal from any decision. The extent of power of an appellate forum and the mode and manner of its exercise can always be provided in the provision that creates such a right. Insofar as the provision of appeal in regulation 17 of the 1982 Regulations is concerned, it must be stated that the said provision affords to an employee right of appeal against an order imposing upon him any of the penalties specified in Regulation 4 or against the order of suspension referred to in Regulation 12. It provides for limitation within which the appeal is to be preferred. As per the said provision, the appeal must be addressed to the appellate authority and submitted to the authority whose order is appealed against. The authority whose order is appealed against is required to forward the appeal together with its comments and also the record of the case to the appellate authority. The appellate authority then proceeds with the consideration of the appeal and considers whether the findings are justified; whether the penalty is excessive or inadequate and passes appropriate order confirming, enhancing, reducing or setting aside the penalty or remitting the case to the authority that imposed the penalty or to any other authority with such direction as it deem fit in the circumstances of the case."

20. In view of above facts and circumstances, it is submitted that the Petitioner had been found guilty of charges levelled on him which are serious in nature. It is therefore prayed that the instant petition is liable to be dismissed as it is devoid of any merit.

21. Both the parties have filed their respective counter affidavit and rejoinder affidavit.

22. Heard the petitioner appearing in person and learned counsel appearing on behalf of the respondents at length and perused the record.

FINDING AND ANALYSIS

23. At the outset, it is required to be noted that in the departmental proceedings, the misconduct alleged against the petitioner regarding irregularities in four group accounts have been proved. Thereafter, disciplinary authority passed an order of dismissal, dismissing the petitioner from service. Having gone through the evidence recorded by the Inquiry Officer in the Departmental Inquiry and order of Appellate Authority, it emerges that the finding were given by the Inquiry Officer after giving appropriate opportunities to the Petitioner to defend his case and the Inquiry Officer had perused the entire record available before him at the stage of Inquiry before reaching on the conclusion that the Petitioner is guilty for the charges which have been levelled against him.

24. During the arguments, much stress has been given by the Petitioner on the acquittal of the Petitioner by Criminal Court. Even from the judgment and order passed by the Criminal Court, it appears that Criminal Court acquitted the Petitioner on the ground that the prosecution failed to prove the case against him beyond reasonable doubt. On the contrary, in the departmental proceedings, the misconduct of the Petitioner has been established and proved. As per the Principles of Law, an acquittal in criminal trial has no bearing or relevance on the disciplinary proceedings, since both the cases are different in nature and proceedings operate in different fields with different objectives.

25. In the instant case, in disciplinary proceedings, the findings on charges of the Inquiry Officer were accepted by the disciplinary authority after re-appreciating the evidence. In appeal, the Appellate Authority did not find any error or illegality in the finding of Inquiry Officer and Disciplinary Authority. It is settled law that the High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into re-appreciation of the evidence. The High Court can only see whether:

(a) the Inquiry is held by a competent authority;

(b) the Inquiry is held according to the procedure prescribed in that behalf;

(c) there is violation of the principles of natural justice in conducting the proceedings;

(d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;

(e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;

(f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;

(g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;

(h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;

(i) the finding of fact is based on no evidence.

26. Under Articles 226/227 of the Constitution of India, the High Court shall not:-

(i) re-appreciate the evidence;

(ii) interfere with the conclusions in the Inquiry, in case the same has been conducted in accordance with law;

(iii) go into the adequacy of the evidence;

(iv) go into the reliability of the evidence;

(v) interfere, if there be some legal evidence on which findings can be based.

(vi) correct the error of fact however grave it may appear to be;

(vii) go into the proportionality of punishment unless it shocks its conscience.

27. In the case of ***State of Andhra Pradesh vs. S. Sree Rama Rao*, AIR 1963 SC 1723**, the Hon'ble Supreme Court held as under:-

> *"7. ... The High Court is not constituted in a proceeding under Art. 226 of the Constitution a Court of appeal over the decision of the authorities holding a departmental Inquiry against a public servant : it is concerned to determine whether the Inquiry is held by an authority competent in that behalf and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the Inquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for writ under Art. 226 to review the evidence and to arrive at an independent finding on the evidence.*

The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of Inquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the Inquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based the adequacy or reliability of that evidence is not matter which can be permitted to be canvassed before the High Court in a proceeding for writ under Art. 226 of the Constitution."

28. In the case of ***State of Andhra Pradesh and Ors. vs. Chitra Venkata Rao*** **(1975) 2 SCC 557**, the Hon'ble Supreme Court held as under:-

"21. The scope of Article 226 in dealing with Departmental inquiries has come up before this Court. Two propositions were laid down by this Court in State of Andhra Pradesh v. S. Sree Rama Rao, First, there is no warrant for the view that in considering whether a public officer is guilty of misconduct charged against him, the rule followed in criminal trials offence is not established unless proved by evidence beyond reasonable (sic) to the satisfaction of the Court must be applied. If that rule be not applied by a domestic Tribunal of

Inquiry the High Court in a petition under Article 226 of the Constitution is not competent to declare the order of the authorities holding a departmental Inquiry invalid. The High Court is not a Court of Appeal under Article 226 over the decision of the authorities holding a Departmental Inquiry against a public servant. The Court is concerned to determine whether the Inquiry is held by an authority competent in that behalf and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Second, where there is some evidence which the authority entrusted with the duty to hold the Inquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court to review the evidence and to arrive at an independent finding on the evidence. The High Court may interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of Inquiry or where the authorities have disabled themselves from reaching a fair derision by some consideration extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion. The departmental authorities are, if the Inquiry is otherwise properly held, the sole judges of facts and if there is some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226.

22. Again, this Court in Railway Board, Representing the Union of India New Delhi and Anr. v. Niranjan Singh (2) MANU/SC/0507/1969 : (1969)IILLJ743SC said that the High Court does not interfere with the conclusion of the disciplinary authority unless the finding is not supported by any evidence or it can be said that no reasonable person could have reached such a finding. In Niranjan Singh's case (supra) this Court held that the High Court exceeded its powers in interfering with the findings of the disciplinary authority on the charge that the respondent was instrumental in compelling the shut-down of an air compressor at about 8-15 a.m. on 31 May, 1956. This Court said that the Inquiry Committee felt that the evidence of two persons that the respondent led a group of strikers and compelled them to close down their compressor could not be accepted at its face value. The General Manager did not agree with the Inquiry committee on that point. The General Manager accepted the evidence. This Court said that it was open to the General Manager to do so and he was not bound by the conclusion reached by the Committee. This Court held that the conclusion reached by the disciplinary authority should prevail and the High Court should not have interfered with the conclusion.

23. The jurisdiction to issue a writ of certiorari under Article 226 is a supervisory jurisdiction. The Court exercises it not as an Appellate Court. The findings of fact reached by an inferior court or Tribunal as a result of the appreciation of evidence are not re-opened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may

appear to be. In regard to a finding of fact recorded by a Tribunal, a writ can be issued if it is share that in recording the said finding, the Tribunal had erroneously refused to admit admissible evidence which has influenced the impugned finding. Again if a finding of fact is based on no evidence, that would be regarded as error of law which can be corrected by a writ of certiorari. A finding of fact recorded by the Tribunal cannot be challenged on the ground that the relevant and material evidence adduced before the Tribunal is insufficient or inadequate to sustain a finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal See Syed yakovb. v. K.S. Radhakrishnan and Ors. 1963 5 S.C.R. 64.

24. The High Court in the present case assessed the entire evidence and came to its own conclusion. The High Court was not justified to do so. Apart from the aspect that the High Court does not correct a finding of fact on the ground that the evidence is not sufficient or adequate, the evidence in the present case which was considered by the Tribunal cannot be scanned by the High Court, to justify the conclusion that there is no evidence which would justify the finding of the Tribunal that the respondent did not make the journey. The Tribunal gave reasons for its conclusions. It is not possible for the High Court to say that no reasonable person could have arrived at these conclusions. The High Court reviewed the evidence, re-assessed the evidence and then rejected the evidence as no evidence. That is precisely what the High Court in exercising jurisdiction to issue a writ of certiorari should not do."

29. In the case of ***Chennai Metropolitan Water Supply and Sewerage Board v. T.T. Muarli Babu*** **(2014) 4 SCC 108**, the Hon'ble Supreme Court has also applied the same principles which have been held in the cases of ***S. Sree Rama Rao*** and ***Chitra Venkata Rao*** **(Supra)**.

30. Now I have to conclude the relevant findings for proper adjudication. The relevant findings of Inquiry Officer are as under:-

> *"As per proceedings No. IRS:DC:7039/2008 dated 30.2.2008, I was appointed as Inquiry Authority to enquire into the allegations leveled against the Subject officer vide the charge sheet referred above. Shri B.B. Sharma, Officer Circle Office Delhi was appointed as Presenting Officer. The preliminary Inquiry was held on 5.3.2008 and the regular Inquiry was held on 25.3.2008 and concluded on the same day. The charges pertain to 4 accounts and which are of the similar in nature dealt with by the Grouping together'.*
>
> 1. *M/s Kumbh Steel (P) Ltd.*
> 2. *M/s Maharaja Ispat (P) Ltd.*
> 3. *M/s Karamvir Steel (P) Ltd.*
> 4. *M/s Moskos Steel (P) Ltd.*
>
> *<u>CHARGE I</u>*
> *The enhancement was recommended without properly assessing the proposal and without verifying whether the party actually merits above enhancement. No additional property was insisted to cover the proposed enhancement portion.*
> ***
> *<u>FINDINGS</u>*
> *When the proposal was originally sent on 28.11.2003 for enhancement, the proposal was declined by Circle Office and it was also informed to the branch*

that the recommended limit was beyond MPBF and the additional property offered by the party is valued higher. Circle Office instructed the branch to visit the premises personally and made discrete enquiries about the value and also to take the enhancement proposal after observing the conformance of the company for coming financial year. However, while recommending the enhancement proposal on 9.11.04 the CSO has failed to give his views on these matters and recommended for enhancement of limit without any additional security. HENCE, I HOLD THAT THIS CHARGE IS PROVED.

CHARGE 2

The limit was recommended to be enhanced though account was having various adverse features such as accounts overdrawings, party frequently approaching for overdraft which was not regularized in time, Return of discounted cheques, low turn over passed through the account and the dealings of the parties was not satisfactory.

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FINDINGS

When the dealings of the party were not satisfactory and frequent overdrawings/ return of thecheques were observed, the enhancement in the limit should not have been recommended to the Circle office, hence I hold that charge is proved.

CHARGE 3

During the months of November 2004 party was permitted overdrawing of huge value though DP in the account was not available. These overdrawings were beyond the delegated power of the branch but no ratification was obtained.

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FINDINGS

As per ME6, ME10, ME16 and ME 19, statement of A/c of all the four accounts and subsequently with the sanction of enhanced limit the liability has been brought within the regular limit. But overdrawings in the A/c has been allowed beyond drawing power. HENCE HOLD THAT THIS CHARGE IS PROVED.

CHARGE 4
The enhanced limit was resisted to the party without complying sanction terms & conditions.

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FINDINGS

It is the Bank's procedure that whenever a loan limit is sanctioned, once the loan papers are obtained, NF 482 is sent alongwith compliance of all the terms and conditions mentioned in the sanction proceedings. HENCE I HOLD THAT THIS CHARGE IS PROVED

CHARGE 5
In spite of various adverse features Sri D.C. Narnolia, instead of taking corrective steps, recommended an adhoc limit ofRs.50 lacs to the party in March, 2005 for 3 months. The adhoc, limit was released to the party even before getting the sanction from the Circle Office.

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FINDINGS:

As per ME6, ME 10, ME 16 and ME 19 the adhoc limits were made available to the parties even before

the sanction of the same from Circle Office. HENCE I HOLD THAT THIS CHARGE IS PROVED.

CHARGE 6

The periodical inspection of stock was not done properly, as such there was no proper monitoring of the accounts. The stock statements were not certified/signed by the branch officials.

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FINDINGS

As a Manager Credit, Sri D.C, Narnolia should have allotted the godown to other officers and could have monitored about the regular checking of the godown & getting the records updated. HENCE I HOLD THAT THIS CHARGE IS PROVED.

CHARGE 7

There as a misrepresentation of facts to Circle Office. The adhoc limit for Rs.50 lacs was to be regularized on 10.06.2005. Branch on 18.06.2005 informed to Circle Office that adhoc has been regularized by discounting cheques for Rs.50 lacs in the account. However, the cheque returned unpaid on 22.06.2005.

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FINDINGS

While branch has informed to sanctioning authorities about the regularization of adhoc limits by discounting the cheques, in the similar way when the cheque was returned on 22.06.05 should also have been promptly informed to the sanctioning authority. However, the fact of these cheques being returned

were informed only on 16.08.05 (exhibit.DE12). As such the branch could have reported the regularization of the adhoc limit after realization of the cheques in view of adverse features noticed in these accounts. HENCE I HOLD THAT THIS CHARGE IS PROVED.

CHARGE 8

The account has shifted to NPA as at Sept. 2005 but was not classified as NPA. It was classified as NPA only in December, 2005. Branch has concealed the fact.

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FINDINGS:

Though the adhoc limits were regularized by discounting of cheques on 18.06.05, the cheques were subsequently returned and the branch should have taken into a/c the fact that it amounts to non regularization of adhoc and the accounts should have been classified as NPA in September, 2005. AS SUCH I HOLD THAT THIS CHARGE IS PROVED

II- M/S KARAMVIR STEEL PVT. LTD.

CHARGE

Diversion of fund were allowed in the account. On 6.12.2004, an amount of Rs.l7 lacs was allowed to be transferred to the account of M/s Maharaja Ispat Pvt. Ltd. a sister allied concern.

***

FINDINGS

With proper monitoring the branch could have avoided this diversion of funds by not passing that transfer cheque on 6.12.2004. HENCE I HOLD THAT THIS CHARGE IS PROVED.

III. M/S MOSKOS STEEL PVT. LTD.

CHARGE

Diversion of fund were allowed in the account. On 7.12.2004, an amount of Rs.15 lacs was allowed to be transferred to the account of M/s Karamvir Steels Pvt. Ltd. a sister concern/ allied concern.

***

FINDINGS

As a credit Manager with proper monitoring the branch could have avoided this diversion of funds by not passing that transfer cheque on 7.12.2004. HENCE I HOLD THAT THIS CHARGE IS PROVED.

CONCLUSION

From the above analysis of evidence alongwith the documents brought on record taking into account the submissions made by PO as well as CSO/DR, I hold CSO guilty of the charges which are proved as mentioned by me chargewise.

31. The relevant portion of dismissal order dated 30th March, 2009 is as under:-

"Ref: Chargesheet No. IRS DP DC CS 49/2007 dated 01/10/2007

WHEREAS, departmental proceedings were initiated against the subject officer employee serving on him the above referred chargesheet;

WHEREAS an Inquiring Authority was appointed by the Disciplinary Authority to conduct the inquiry;

WHEREAS, the Inquiring Authority, after conducting the Inquiry has submitted his report holding the employee guilty of the charges levelled against him as enumerated in his findings;

WHEREAS, a copy of the findings of the Inquiring Authority has been furnished to the officer employee to make his submissions if any;

WHEREAS, the officer employee has submitted his submissions vide his letter dated NIL;

WHEREAS, the submissions of the officer employee have been examined and duly taken into consideration as enumerated in the orders of the disciplinary authority.

NOW THEREFORE, taking into consideration all the relevant/ connected records agreeing with the findings of the Inquiry Authority and holding the officer employee guilty of the charges as enumerated in the orders of the Disciplinary Authority, the punishment of

"REMOVAL FROM SERVICE WHICH SHALL NOT BE A DISQUALIFICATION FOR FUTURE EMPLOYMENT"

as envisaged under Regulation 4(i) of the Canara Bank Officer Employees' (Discipline & Appeal)Regulations. 1976, is hereby imposed on the subject officer employee.

A copy of the orders of the Disciplinary Authority is enclosed"

32. The relevant findings of Disciplinary Authority are as under:-

"Sri. D.C. Narnolia is presently working at our Ganesh Nagar Branch, Delhi. He was issued with the above referred chargesheet for certain misconduct observed on his part while he was working as Manager at our Uttam Nagar Branch, Delhi from 04/08/2003 to 21/09/2006.

Following four parties were enjoying OD limits with our Uttam Nagar branch, Delhi.

1. *M/s Kumbh Steel (P) Ltd.*
2. *M/s Maharaja Ispat (P) Ltd.*
3. *M/s Karamvir Steel (P) Ltd.*
4. *M/s Moskos Steel (P) Ltd.*

The accounts have become sticky and posting problem for recovery. An investigation conducted - into the matter revealed various lapses, on the part of Sh. D.C. Narnolia, who was working as Manager (Credit) in recommending/ following up the limits.
***

The details are more fully furnished in the above referred chargesheet and the same shall be read as part and parcel of this order.

Upon Inquiry, the Inquiring Authority submitted his findings holding Sri. D C Narnolia guilty of the charges levelled against him as enumerated in his findings which was forwarded to the CSO for his submissions. The CSO has made the submissions vide his letter dated NIL which has been duly taken into consideration.

On a perusal of the records and the submissions of the CSO, I observe the following:

The proposal for enhancement was originally declined by Circle Office on 28.11.2003 as the recommended limit was beyond MPBF and the additional property offered by the party was valued higher. Branch was further advised by Circle Office to visit the property personally and to take up the enhancement proposal after observing the performance of the company. But CSO ignored this fact and recommended for enhancement of limit. The plea of the CSO that he joined the branch subsequent to Circle Office advice is not acceptable as before recommending enhancement, he should have verified the concerned file. The accounts were showing various adverse features, even then the CSO recommended for enhancement of limits. The Adhoc limit of Rs.50.00 lacs was also released to the party without complying sanction terms & conditions and even before getting sanction from Circle Office. The contention of the CSO that the adverse features were due to the inadequate working capital and poor financial management is not acceptable. Being incharge of the branch, he should have taken corrective measures and guided the party accordingly. Party was permitted overdrawings of huge value though DP in the account was not available. The CSO failed to obtain ratification from higher authorities though the overdrawings were

beyond the delegated powers of the branch.

The CSO himself has admitted that returning of discounted cheques was not reported promptly due to pressure of work which is not acceptable. Further, all four accounts slipped to NPA in the month of Sept 2005, but these were not classified as NPA as on 30.09.2005, which amounts to concealment of facts.

The documents confirmed that there were diversion of funds in the accounts which shows that the accounts were not properly monitored.

It was duly proved that though there were many adverse features in the accounts and they were showing signs of sickness but no corrective / remedial steps were taken by the CSO. Negligence on his part exposed the Bank to huge financial loss and hence he is "Guilty" of the charges.

In view of the foregoing, I agree with the findings of the Inquiring Authority holding Sri.D C Narnolia guilty of the charges as enumerated in his findings.

A copy of this order shall be communicated to Sri. D C Narnolia

33. The relevant findings of Appellate Authority are as under:-

*"****

On a perusal of the records, I observe the following:

1. *That the contention of the Appellant is not tenable because during the preliminary Inquiry on 05.03.2008, list of the management documents and witnesses were provided to the Appellant and proper and reasonable opportunities were given to the Appellant to defend his case.*

2. *That the contention of the Appellant is not tenable because after mentioning the list of documents and witnesses it is also mentioned that any other document/witness as deemed fit during the course of Inquiry. Further, Sri K.P. Hedge was the IA in the matter and the findings submitted by him plays vital role because the DA before imposing the punishment consider all the documents pertaining to the Inquiry and findings submitted by the IA.*

3. *That the content of the appellant is not tenable because the Inquiry was conducted in a fair manner and by following the principles of natural justice.*

    a. *It is on record that the Management documents were given to the Appellant during the preliminary Inquiry on 05.03.08 and the Appellant has confirmed the same and a such his contention is not tenable.*
    b. *It is submitted that IA has given the time to the appellant and his DR to verify the original records at our Uttam Nagar Branch and in regular Inquiry dated 25.03.08, the Appellant has confirmed that he verified the original documents. The same was on record. Hence his contention is not tenable.*
    c. *Further, in regular Inquiry dated 25.03.08, the Appellant himself admitted that he has verified the original documents. Further, the appellant hasn't requested for adjournment and hence not given.*
    d. *It is submitted that the list of the management documents were given to the Appellant during the preliminary Inquiry on 05.03.08 and the Appellant has confirmed the receipt of the*

same. Further, the appellant hasn't raised this objection in the Inquiry.

4. *The contention of the Appellant that IA has given his findings without DR's brief is not tenable because the IA has submitted his findings after considering the PO brief, DR brief on PO's brief and Inquiry proceedings.*

5. *The contention of the Appellant that Sri Amjad Ali's cross examination was blocked is not tenable because the Investigation report of Sri Mir Amjad Ali was placed on record and marked as ME1 and the Appellant has also provided the opportunity to cross examine Sri Mir Amjad Ali.*

6. *The DA has considered the IA findings, the PO brief, DR brief on PO's brief and Inquiry proceedings, before imposing the punishment on the Appellant and in no way violated the norms for Inquiry proceedings.*

7. *The contention of the Appellant is not tenable because the Appellant was working as Manager (Credit) in the branch at that time and had done the credit appraisal while recommending enhancements in all the four accounts and he has also allowed overdrawing in 4 group accounts frequently for huge amounts without prior sanction from the sanctioning authority and show favour to the party. The same is evident from the investigation report.*

8. *That it is submitted that:-*

   a&b) That the content of the Appellant is not maintainable as the charge sheet against him was that the enhancement was proposed despite adverse features.

c) The contention of the Appellant is not tenable because as per the investigation report the CO has raised certain objections while sanctioning/renewing the limits and the same were communicated to the branch.

d) The contention of the Appellant is not tenable because the limits were sanctioned by the CO after considering the appraisal reports prepared by the Appellant.

9. *The charge against the Appellant is that he has prepared the credit appraisal reports and the contention raised by the Appellant is no way connected with the charge alleged against him.*

10. *IA and DA has appreciated all the documents placed on record. Further, the Appellant being the Credit Manager has to ensure the proper preparation of the proposal.*

11. *That the Appellant himself admitted that he has not submitted the NF 482. Further, himself admitting that this is simply a certificate of compliance but failed to appreciate the same is very important for sanctioning/non-sanctioning of limits.*

12. *It is on record that the Appellant has misrepresented the facts to sanctioning authority. Further, the DA has considered all the circumstances and documents before arriving at the decision.*

13. *The contention of the Appellant is not tenable because the allegations and findings are co-related in the manner that due to improper credit appraisal, non-inspection of godowns by the Appellant, misrepresentation of facts by the Appellant to the sanctioning authority has resulted into account becoming NPA.*

14. That the contention of the appellant is not tenable because delay in reporting the facts to Circle Office, did not serve the purpose.

I, therefore do not find any reason to interfere with the orders of the Disciplinary Authority and as such the same is confirmed.

This order shall be communicated to Sri D.C.Narnolia"

34. The Disciplinary Authority, after dealing with the inquiry report, discussing the available and admissible evidence on the charge by way of giving detailed reasoning and findings, has found that the Inquiry Officer reached on the conclusion that the Petitioner has been held guilty for the charges levelled against him, after considering all the aspect pertaining to the case and the entire evidence on record. The Appellate Authority has also, while dealing with the appeal, passed a well-reasoned order upholding the finding of the Inquiry Officer and Disciplinary Authority. Therefore, it is not at all open to this Court to re-appreciate the evidence in exercise of its jurisdiction under Articles 226/227 of the Constitution of India.

35. Equally, it is not open to the High Court, in exercise of its jurisdiction Under Article 226/227 of the Constitution of India, to go into the proportionality of punishment so long as the punishment does not shock the conscience of the court. In the instant case, the disciplinary authority has come to the conclusion that the Respondent lacked integrity. No doubt, there are no measurable standards as to what is integrity in service jurisprudence but certainly there are indicators for such assessment. Integrity according to Oxford dictionary is "moral

uprightness; honesty". It takes in its sweep, probity, innocence, trustfulness, openness, sincerity, blamelessness, immaculacy, rectitude, uprightness, virtuousness, righteousness, goodness, cleanness, decency, honour, reputation, nobility, irreproachability, purity, respectability, genuineness, moral excellence etc. In short, it depicts sterling character with firm adherence to a code of moral values.

36. The impugned conduct of the Petitioner while working as a Manager of the Branch in Bank, according to the Disciplinary Authority, reflected the lack of integrity and negligence. Therefore, it is not open to this Court to go into the proportionality of punishment or substitute the same with lesser or different punishment.

37. The bank Manager/officer and employees of any bank, nationalised/ or non-nationalised, are expected to act and discharge their functions in accordance with the rules and regulations of the bank. Acting beyond one's authority is by itself a breach of discipline and trust and misconduct. In the instant case, the petitioner was working as Manager (Credit) at the branch at the time of incident and had allowed the credit appraisal while recommending enhancements in all the four accounts & had also allowed overdrawing in 4 group accounts frequently for huge amounts without taking prior sanction from the sanctioning authority, and had hence, shown favour to the party.

38. In the instant case, petitioner has prepared the credit appraisal reports and approved it. Due to his improper credit appraisal, non-inspection of the four group accounts, misrepresentation of the facts to the sanctioning authority, has resulted into account becoming NPA. The Enhancement was recommended without proposing additional security,

even though the sanctioning authority has earlier instructed the branch to take up the matter for enhancement after perusing the performance and additional property as collateral security. Moreover, all the 4 accounts were permitted overdrawing of huge value with sanction of enhanced limit beyond the drawing powers without complying with the sanction terms and conditions. It is the procedure that whenever a loan limit is sanctioned, the loan papers are obtained, NF 482 is sent alongwith compliance of all the terms and conditions, which was not sent before approving.

39. It is also the case that despite of various adverse features, petitioner instead of taking corrective steps, recommended an adhoc limit of Rs. 50 Lakhs to the party for 3 months even before getting the sanction from the Circle Office. As a credit manager, the branch could have avoided the diversion of funds by not passing the transfer cheque on 7th December, 2004.

40. Where the person deals with public money or is engaged in financial transactions or acts in a fiduciary capacity, the highest degree of integrity and trustworthiness is a must and unexceptionable. Perusal of the order passed by the Appellate Authority clearly shows that the Appellate Authority has thoroughly considered the submissions made by the petitioner as well as the evidence on record and reached to the conclusion of upholding the dismissal of the petitioner.

CONCLUSION

41. Considering the aforesaid reasons and arguments advanced by the parties, contentions made in the pleadings and on perusal of the Inquiry

Proceedings as well the order of the Appellant Authority and law settled, this court does not find any force in the arguments advanced by the petitioner. This court does not find any illegality or error or any procedural lack in conducting the Inquiry for interfering in the impugned orders in the instant petition. Accordingly, the instant petition is devoid of any merit and therefore stands dismissed.

42. Pending application, if any, also stands disposed of.

43. The judgment be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

AUGUST 01, 2022
Aj/ct