$~33

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

RESERVED ON 11.11. 2022

% ***PRONOUNCED ON 18.01.2023***

\+ **W.P.(C) 4852/2014, CM APPL. 36197/2019, CM APPL. 53859/2019, CM APPL. 53860/2019**

SNEH AGGARWAL ..... Petitioner

Through: Mr. Bharat Gupta, Mr.Varun Tyagi, Mr. Yugal Choudhary and Mr. Vishesh Chauhan, Advs.

versus

PUNJAB NATIONAL BANK ..... Respondent

Through: Mr. Rajat Arora, Mr. Niraj Kumar and Mr. Dipu Kumnar Jha, Advs.

CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA,J :

PREFACE

1. The present writ petition has been filed under Articles 226 and 227 of the constitution of India seeking the following reliefs:-

> *"(i) Call for the record of the case being LD. no. 108 of 2013 from Central Government Industrial Tribunal No. 1;*
>
> *(ii) Issue a writ, order or direction quashing the award dt. 30.12.2013 passed by the Central Government Industrial Tribunal No. 1*
>
> *(iii) Issue a writ, order or direction thereby setting aside the dismissal order dt.08/11.08-1995 issued by Disciplinary Authority against the Petitioner and consequently allow the claim of the Petitioner for reinstatement with back*

wages, promotion, seniority, consequential benefits etc.;…"

2. The Petitioner/workman has impugned the award dated 30.12.2013 passed by the CGIT cum Labour Court- 1, Karkardooma Court Complex, Delhi in I.D. No. 108/2013, titled *'Smt. Sneh Aggarwal VS CMD, Punjab National Bank'* whereby the claim of the Petitioner/workman for reinstatement in service was dismissed.

BACKGROUND OF THE CASE

3. Briefly stated facts, as alleged in the petition, are that the Petitioner/workman was appointed as Clerk-Cum-Cashier with the Respondent-bank on 15.09.1978 and rendered service for continuous 13 years. It has been averred that while she was posted as an Advanced Level Punching Machine Operator (hereinafter referred to as *'ALPM Operator'*) at Branch Office Parliament Street, New Delhi, Mr. P.S. Bedi, then Branch Manager at Kallirampur Branch, Meerut approached her and requested her to give him some deposits to enable him to fulfil the target of deposits in his branch. It is pertinent to note that prior to her posting at Branch Office Parliament Street, New Delhi, the Petitioner/workman was working at the Tilak Nagar Branch, New Delhi under the overall charge of Mr. P.S. Bedi. Petitioner/workman acceded to the request of Mr. P.S. Bedi and gave him Rs. 50,000/- and Rs. 10,000/- on 15.11.1990 and 21.11.1990 respectively along with an application form for issuance of an FDR.

4. It has been averred by the Petitioner/workman that on 02.02.1991, FDR No. 20/91 was handed over to her, subsequent to which she applied for a Demand Loan at Parliament Street Branch pledging the said FDR. However, later, it was detected by the bank that though the FDR purported

to have been issued for a sum of Rs. 60,000/- on 02.02.1991, only a sum of Rs. 6,000/- was deposited with the bank on 03.02.1991.

5. A criminal case was lodged with the Central Bureau of Investigation and the Petitioner/workman was placed under suspension vide letter dated 30.01.1992. Subsequently, a departmental enquiry was initiated against the Petitioner/workman and she was charge-sheeted on 07.02.1994 by the Disciplinary Authority. The charge levelled against her is reproduced below:

> *"You committed a fraud by misusing your position as a Staff Member which is a act prejudicial to the bank's interest which is a misconduct in terms of para 19.5(j)"*

6. The Petitioner/workman submitted her reply denying the charges but it was not found to be satisfactory and an Enquiry Officer was appointed to conduct a detailed enquiry into the charges made against the Petitioner/workman.

7. The respondent/bank examined two witnesses namely Shri. Pradeep Kumar Aggarwal, who was then posted as Special Assistant at the Kallirampur Branch, and Shri Babu Lal Gupta, who was then in charge of the loans at the Parliament Street, Branch. The Petitioner/workman also produced one witness namely Shri P.S. Bedi.

8. The enquiry officer submitted his enquiry report dated 14.03.1995 and held the charge to be proved and established beyond doubt. The Disciplinary Authority concurred with the findings of the enquiry officer and after a hearing was accorded to the Petitioner/workman, the Disciplinary Authority imposed a punishment of dismissal from service vide order dated 08.08.1995. It is pertinent to mention that an appeal filed by the

Petitioner/workman against the order of disciplinary authority was also dismissed.

9. The Petitioner/workman thereafter raised an industrial dispute. Since the conciliation proceedings did not succeed, the matter was referred to the Learned Industrial Tribunal vide order dated 30.09.1997.

10. The Central Government, Ministry of Labour vide order dated 30.09.1997 referred the following dispute to the Learned Tribunal for adjudication:

> *"Whether the action of the management of PNB in dismissing the Service of Sneh Lata Aggarwal Clerk-cum-Cashier w.e.f. 11.8.95 Is just and fair. If not, to what relief the workman is entitled ?".*

11. It is pertinent to note that a corrigendum was issued by the Govt. of India, Ministry of Labour that in line 3 of the schedule the name of the workman should be read as Sneh Aggarwal instead of Sneh Lata Aggarwal.

12. The Petitioner/workman filed a statement of claim against the respondent/bank for a direction to the respondent/bank to reinstate her back in service with full back wages and continuity in service and other consequential benefits.

13. After completion of pleadings, Learned Tribunal framed the issues on 26.02.1998 which reads as follows:

> *"(i) Whether the domestic enquiry conducted against the workman is fair and proper?*
> *(ii)As per the terms of reference."*

14. On having heard the parties, Learned Tribunal passed an award dated 10.08.2011 wherein the enquiry conducted by the bank was held to not be

just, fair and proper. The Learned Tribunal directed the respondent/bank to reinstate the Petitioner/workman with full back wages and all consequential benefits such as seniority and promotion etc.

15. The respondent/bank assailed the award dated 10.08.2011 before this Court by way of a writ petition bearing no. W.P.(C) 9083.2011. This court vide order dated 17.04.2013 set aside the award dated 10.08.2011 and the case was remitted back to the Tribunal to grant an opportunity to the respondent/ bank to lead its evidence with a right to the Petitioner/workman to rebut it and make submissions on the aspect of the establishment of the charge against the Petitioner/workman. This court directed the Tribunal to pass a fresh award on the basis of further evidence without being influenced by the observations made in the award dated 10.08.2011.

16. Pursuant to the order dated 17.04.2013 of this court, the respondent/bank was called upon by the Learned Tribunal to adduce its evidence to prove the misconduct of the Petitioner/workman. Ms. Rimi Ray and Shri Pradeep Kumar Aggarwal were examined by the respondent/bank and the Petitioner/workman examined herself to rebut the depositions recorded. She opted not to examine any other witness.

17. Learned Tribunal *inter alia* held the enquiry conducted by the Enquiry office was in consonance with principles of natural justice. It was concluded by the Learned Tribunal that the enquiry conducted by the respondent/bank was just and proper. It was further held that the respondent/bank was able to prove, beyond doubt, the misconduct by the Petitioner/workman, which is an allegation that is grave in nature. It was held that the Petitioner/workman was acting against the interest of the respondent/bank and the punishment of dismissal from service was held to

be appropriate. The claim of the Petitioner/workmanwas dismissed. Being aggrieved of the said award dated 30.12.2013, the present writ petition has been filed.

CONTENTIONS OF THE PETITIONER/WORKMAN

18. At the outset, Learned Counsel for the Petitioner/workman submitted that the impugned order is liable to be dismissed as the same was beyond the scope of terms of reference. It has been submitted that pursuant to the order of this court dated 17.04.2014, the Learned Tribunal had no power to deal with the issue of fairness of domestic enquiry as the same was already finally decided. He submitted that the Respondent/bank had not impugned the previous award dated 10.08.2011 challenging the finding of the Tribunal on the aspect of fairness of domestic enquiry but had only sought to lead evidence before the Tribunal to establish a charge against the Petitioner/workman.

19. Learned Counsel for the Petitioner/workman submitted that the findings of the Tribunal are perverse and contradictory, based on conjectures and irrelevant material and the same can be interfered with by this court in the exercise of its writ jurisdiction. Reliance has been placed on the order of this court dated 03.06.2010 in W.P.(C) 995/199 titled ***Shri Santosh Sur v. UOI & Ors.*** and order dated 21.11.2005 in Crl. A. 546/2003 titled ***UOI V. Prem Khanna.***

20. He has submitted that the Learned Tribunal did not appreciate the evidence led by parties before it, rather it ventured into the evidence led by parties before the Enquiry Officer which is contradictory to the directions of this court. It has been submitted that the Learned Tribunal rejected the claim of the Petitioner/workman in light of the statement of Mr. Bedi that FDR

was for Rs. 6,000/- and inflated to Rs. 60,000/-. Learned Counsel for the Petitioner/workman submitted that the said statement as relied upon by the Learned Tribunal was recorded before the Enquiry officer, not before the Tribunal itself. Further, it has been submitted that it was Mr. Bedi who had cheated the Respondent/bank in many cases so his statements should not have been relied upon. He also submitted that the maturity value as alleged by Mr. Bedi to have been manipulated from Rs.5,622.80/- to Rs.66,228/- is practically impossible to do as the maturity value would read decimal which has to be struck as also zero and has to be erased. However, it is an admitted fact that there was no cutting or overwriting on the FDR, so this statement of Mr. Bedi is belied. Learned Counsel for the Petitioner/workman also submitted that Mr. Bedi had stated that the loan amount was taken by him, which is again a false statement as the Respondent/bank had itself stated in the charge-sheet dt. 07.02.1994 that a sum of Rs.35,938.10/- was utilized by the Petitioner/workman for adjusting her demand loan account No. 73/25 and Rs.1000/- to DL account No.74/25.

21. Learned Counsel for the Petitioner/workman has also submitted that the Learned Tribunal erred in observing that there was no hue and cry regarding the issuance of FDR after 74 days. He submitted that Petitioner/workman had categorically stated during her cross-examination that she was demanding the FDR but as Mr. Bedi was a senior officer, she could not take any step against him.

22. It has been submitted that Learned Tribunal has relied on the ledger sheet which shows that only an amount of Rs. 6,000/- was deposited against FDR no. 20/91. Learned Counsel for the Petitioner/workman submitted that the ledger sheets were manipulated and do not show the true picture. The

attention of this court has been drawn to the cross-examination of Sh. Pardeep Aggarwal who had prepared the FDR in question when posted at Kallirampur Branch. He admitted that there was bungling and manipulation of documents including the ledger sheets at the Kallirampur Branch of the bank. Furthermore, it has been submitted that Mr. P S Bedi, Pardeep Kumar Agarwal and Yash Pal Singh issued 30 FDRs and defrauded the respondent/bank to the tune of more than Rs.65 lac as per reports of CBI and Police but no case was made out by CBI against the Petitioner/workman which means she was given a clean chit hence, he submitted that even the respondent/bank could not have charge-sheeted her.

23. Learned Counsel for the Petitioner/workman has taken this court through the Cashier's Long book and Cashbook of the day when FDR was issued ie; 02.02.1991 to buttress the contention that the amount of Rs. 6,000/- as alleged by the Respondent/bank for FDR was also not found to be deposited.

24. Learned Counsel for the Petitioner/workman also submitted that the best evidence was withheld by the respondent/bank but the Learned Tribunal failed to draw an adverse inference in accordance with Section 114(g) of the Evidence Act. He submitted that the respondent/bank despite orders dated 30.01.2020 and 15.05.2019 did not produce the original record related to the FDR. The documents that were withheld by the respondent/bank relate to the record of opening any fixed deposit in favour of the customer as well as maintaining the cash received for opening the fixed deposit in the name of the customer. The counter foil of FDR clearly shows the face value and maturity value calculated and written upon the FDR. The FDR issue register shows that on a particular day, an FDR of the face value of a certain amount

has been issued by a particular branch. It has been submitted that if these documents were produced by the Respondent/bank, it could have been seen that there was no inflation/alteration in the amount of FDR by anyone and that FDR dated 02.02.1991 was handed over to Petitioner/workman for Rs.60000/- with a maturity value of Rs.66228/-.

25. It has been also been submitted that the Learned Tribunal despite noting that the letter marking the lien was not disputed arrived on its own finding that the letter of lien was forged. Further, it has been submitted that it was the duty of the respondent/bank to produce all the documents in relation to FDR and mark lien on it but the letter was concealed by the bank and a copy of same was produced by the Petitioner/workman before the Enquiry Officer. Reliance has been on ***Sher Bahadur v. UOI*** MANU/SC/0682/2022***, Delhi Cloth General Mills v. Ludh Budh Singh*** MANU/SC/0423/1972and ***Room Singh Negi v. Punjab National Bank*** MANU/SC/8456/2008. Learned counsel for the Petitioner/workman submitted that it is an undisputed fact that the said document was seized by CBI from possession of the Parliament Street Branch of the Respondent/bank. Moreover, Mr. Pradeep Aggarwal and Mr. P S Bedi during their cross-examination before the enquiry officer admitted that the face value of FDR was Rs. 60,000/- and the said document had their signatures.

26. Learned Counsel for the Petitioner/workman submitted that it is a well-established proposition of law that conspiracy cannot be attributed to a single person and that there has to be more than one person. However, in the present case, he submitted no one except the present Petitioner/workman was charge-sheeted and dismissed in respect of the FDR in question. He

submitted that Mr. Bedi and Mr. Pardeep Kumar Agarwal were never charge-sheeted or punished for any such conspiracy involving the FDR in question. He has placed reliance on the orders of dismissal of Mr. Bedi and Mr. Pardeep Kumar Agarwal to buttress his contention.

27. It has been also been submitted that FDR was issued by Kallirampur Branch, Meerut and Loan was sanctioned by the Loan Department of the Parliament Street Branch, Delhi. No document was prepared by Petitioner/workman in any of the two branches relating to either issuance or loan sanctioning as she was working as officiating head cashier at P.S. Branch Delhi. The Learned counsel for the Petitioner/workman has submitted that the Respondent/bank levied a charge of being involved and misconduct on the Petitioner/workman but did not initiate any enquiry against the employees that were working in the Department at Parliament Street Branch Delhi or Kallirampur Branch.

28. Learned Counsel for the Petitioner/workman has submitted that the Petitioner/workman has also filed a case before Consumer Forum for the return of her Original FDR from the Bank, wherein, vide Order dated 23.11.2015, the respondent/bank was directed to return the FDR to Petitioner/workman with compensation of Rs.50,000/- and Litigation costs of Rs. 10,000/-. The said order has been challenged by the respondent/Bank before the State Commission, which is pending.

CONTENTIONS OF THE RESPONDENT/BANK

29. Learned Counsel for the respondent/bank submits that the impugned award dated 30.12.2013 has been passed by the Learned Tribunal after a detailed examination of the witnesses and documents relied upon by the parties and this court while exercising the writ jurisdiction may not disturb

the findings of fact. Reliance has been placed on ***Calcutta Port Shramik Union V Calcutta River Transport Association*** 1989 I LLN 1 and ***Madhranatakaiti Cooperative Sugar Mills V S Vishwanathan*** AIR 2005 SC 1954.

30. He has submitted the charges against the Petitioner/workman were based upon documentary evidence as well as oral evidence and circumstantial evidence, prior to the making of the FDR and the conduct of the Petitioner/workman post making of the FDR.

31. He has submitted that any normal person would expect his/her FDR from the Bank soon after making the payments for it. However, in the present, it is the case of the Petitioner/workman that she gave the money to Mr. Bedi in Nov. 1990 but the FDR came to her after a delay of almost three months in Feb 1991. There is no reason why no step was taken by the Petitioner/workman on account of the delay in handing over the FDR. He has further submitted that the rate of interest on the OD Account is 11% whereas the rate of interest on the FDR amount is 10%. He submitted that the Petitioner/workman had withdrawn the money and paid a higher rate of interest and invested the same in FDR with a lower rate of interest which is unbelievable and not normal conduct on the part of any reasonable person more particularly a banker.

32. Learned Counsel for the respondent/bank also submitted that the conduct of the Petitioner/workman was suspicious as when the FDR was received by the Petitioner/workman, a demand loan was raised by her on the said inflated FDR and two other demand loans were settled from the proceeds of the said loan amount. Moreover, when the FDR was about to be matured in January, 1992 then the entire payment of the FDR was made.

33. Lastly, the Learned Counsel for the respondent/bank has submitted that the respondent/bank is a nationalized bank and has to act in accordance with the Rules, and Regulations and fraudulent conduct on behalf of an employee cannot be tolerated. He has submitted that the punishment awarded to the claimant commensurate with the gravity of the charges levelled and proved against her and therefore, the award passed by the Learned Tribunal be upheld.

FINDINGS AND ANALYSIS

34. I have heard the submissions of the parties and perused the material on record. At the outset, it is pertinent to outline the scope of writ jurisdiction under Articles 226 and 227 of the Constitution of India while examining and adjudicating an impugned order.

35. It is well settled that the powers conferred under 226 & 227, though vast, should be exercised sparingly and with great circumspection. While adjudicating upon an impugned order, the scope of writ jurisdiction is narrowed down to examining the contents of the order which is before the Court. Any consideration beyond the assessment of the impugned order, including an investigation into evidence and question of facts would amount to exceeding the jurisdiction. It is not for the High Court to constitute itself into an appellate court over tribunals constituted under special legislations to resolve disputes of a kind, qualitatively different from ordinary civil disputes and to re-adjudicate upon questions of fact decided by those tribunals. Reliance can be placed on ***Sadhu Ram v. Delhi Transport Corpn.***, (1983) 4 SCC 156 and ***Sanjay Kumar Jha vs. Prakash Chandra Chaudhary,*** (2019) 2 SCC 499

36. The Industrial Disputes Act of 1947 is a piece of social welfare and beneficial legislation. The Industrial Disputes Act of 1947 has conferred wide powers and jurisdiction to the Labour Courts/Tribunals to make appropriate awards in determining the industrial disputes presented before it. In an Award passed by the Labour Courts/Tribunals, the adjudicator may impose new obligations on the management taking into account the theory of social justice to strike a balance and secure peace and harmony between the employer and the workman. Reliance can be placed upon ***Bharat Bank Ltd. vs. Employees of the Bharat Bank Ltd. Delhi***, AIR 1950 SC 188 and ***Bidi, Bidi Leaves vs. The State of Bombay***, AIR 1962 SC 4

37. The legislature in its wisdom has not provided any appeal against the award of the Labour Court/Industrial Tribunal, thus, making the Labour Court/ Industrial Tribunal, the final adjudicator of facts. It is a settled proposition that the award of the Labour Court can be set aside only if there is an error apparent on the face of the record. It is impermissible for the High Courts under its writ jurisdiction to re-appreciate evidence and substitute its view with that of the Labour Court/ Tribunals. High Courts should refrain from re-entertaining pure questions of facts, which have already been adjudicated by the courts/ tribunals having the jurisdiction to do so unless the same is found to be perverse, patently illegal, contrary to law, or if there is an error apparent on the face of the record. In this regard, reliance can be placed on ***Management of Madurantakam Coop. Sugar Mills Limited v. S.* Viswanathan** (2005) 3 SCC 193, ***Indian Overseas Bank v. I.O.B. Staff Canteen Workers'* Union**, (2000) 4 SCC 245 and ***Dharangadhara Chemical Works Ltd. v. State of Saurashtra*** (1957) SCR

38. The writ court must record reasons if it intends to reconsider a finding of facts. The writ courts time and again have been cautioned not to enter into the realm of factual disputes and the findings given thereon. Reliance can be placed on ***State of Haryana vs. Devi Dutt & Ors.:*** (2006) 13 SCC 32, wherein the Apex Court has *inter alia* held that the writ Court can interfere in the factual findings of fact only if (1) the Award is perverse; (2) the Labour Court has applied wrong legal principles; (3) the Labour Court has posed wrong questions; (4) the Labour Court has not taken into consideration the relevant facts; or (5) the Labour Court has arrived at findings based on irrelevant facts or on extraneous consideration

39. The Supreme Court in ***Chandavarkar Sita Ratna Rao v. Ashalata S. Guram*** (1986) 4 SCC 447 *inter alia* held that in the exercise of the writ jurisdiction, the High Court can go into the questions of facts or look into the evidence if justice so requires it. But the High Court should decline to exercise its jurisdiction under Articles 226 and 227 of the Constitution to look into the facts in the absence of clear cut-down reasons where the question depends upon the appreciation of evidence. The High Court should not interfere with a finding within the jurisdiction of the Tribunal or court except where the finding is perverse in law in the sense that no reasonable person properly instructed in law could have come to such a finding or there is misdirection in law or view of fact has been taken in the teeth of the preponderance of the evidence or the finding is not based on any material evidence or it resulted in manifest injustice.

40. The Supreme Court in ***Union of India vs. P. Gunasekaran***, (2015) 2 SCC 610, elaborated upon the extent of the exercise of writ jurisdiction and *inter alia* held as under:-

> *"13. Under Articles 226/227 of the Constitution of India, the High Court shall not:*
> *(i) reappreciate the evidence;*
> *(ii) interfere with the conclusions in the enquiry, 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:…."*

41. Thus, in writ jurisdiction, the High Court can interfere with an Award of the Labour Court/Tribunal, if there is patent illegality or if the award rendered is contrary to law as a measure of 'misplaced sympathy' and was thus perverse. If the Tribunal under special legislation is empowered to decide jurisdictional facts, the High Court cannot adjudicate upon the question of facts decided by such Tribunals.

42. Learned counsel for the respondent has taken a position that this court cannot scrutinise the evidence in the present writ petition and the challenge laid by the Petitioner/workman relying upon evidence is untenable. The parameters of consideration by the court into a challenge to disciplinary authorities on this ground are well settled. Reliance can be placed on the ***High Court of judicature at Bombay v. Shashikant S. Patil***(2001) 1 SCC 416 wherein the Supreme Court stated that interference with the departmental authorities can be permitted while exercising jurisdiction under Article 226 of the Constitution of India if such authority has held the proceedings in violation of principles of nature or in violation of statutory regulations prescribing the mode of such enquiry or if the decision of the

authority is vitiated by considerations extraneous to the evidence and merits of the case or if the conclusion made by the authority on the very face of it, is wholly arbitrary or capricious that no reasonable person could have arrived at such a conclusion, or grounds very similar to the above.

43. In the case of ***Union of India vs P Gunasekaran*** **(2015) 2 SCC 610**, it was *inter alia* held as follows:-

> *"14. In one of the earliest decisions in State of A.P. v. S. Sree Rama Rao [AIR 1963 SC 1723] , many of the above principles have been discussed and it has been concluded thus:(AIR pp. 1726-27, para 7)*
>
> > *"7. ... The High Court is not constituted in a proceeding under Article 226 of the Constitution as a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: it is concerned to determine whether the enquiry 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 enquiry 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 a writ under Article 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 enquiry 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 enquiry 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 a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution."*

15. In State of A.P. v. Chitra Venkata Rao [(1975) 2 SCC 557 : 1975 SCC (L&S) 349 : AIR 1975 SC 2151] , the principles have been further discussed at paras 21-24, which read as follows: (SCC pp. 561-63)

> *"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 A.P. v. S. Sree Rama Rao [AIR 1963 SC 1723]. 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 that an offence is not established unless proved by evidence beyond reasonable doubt 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 enquiry invalid. The High Court is not a court of appeal under Article 226 over the decision of the authorities holding a departmental enquiry against a public servant. The Court is concerned to determine whether the enquiry 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 enquiry 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 enquiry 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. The departmental authorities are, if the enquiry 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 v. Niranjan Singh [(1969) 1 SCC 502 : (1969) 3 SCR 548] 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 case [(1969) 1 SCC 502 : (1969) 3 SCR 548] 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 shutdown of an air compressor at

about 8.15 a.m. on 31-5-1956. This Court said that the Enquiry 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 Enquiry 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 reopened 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 shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Again if a finding of fact is based on no evidence, that would be regarded as an 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 SyedYakoob v. K.S.Radhakrishnan [AI

> *R 1964 SC 477].)*
> *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, reassessed 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."*

44. The Supreme Court in ***Sarvepalli Ramaiah vs. District Collector, Chittoor,*** (2019) 4 SCC 500, while examining the scope of Article 226 of the Constitution of India, observed as under:-

> *"41. In this case, the impugned decision, taken pursuant to orders of Court, was based on some materials. It cannot be said to be perverse, to warrant interference in exercise of the High Court's extraordinary power of judicial review. A decision is vitiated by irrationality if the decision is so outrageous, that it is in defiance of all logic; when no person acting reasonably could possibly have taken the decision, having regard to the materials on record. The decision in this case is not irrational.*
> *42. A decision may sometimes be set aside and quashed under Article 226 on the ground of illegality. This is when there is an apparent error of law on the face of the decision, which goes to the root of the decision and/or in other words an apparent error, but for which the decision*

> *would have been otherwise.*
> *43. Judicial review under Article 226 is directed, not against the decision, but the decision-making process. Of course, patent illegality and/or error apparent on the face of the decision, which goes to the root of the decision, may vitiate the decision-making process. In this case there is no such patent illegality or apparent error. In exercise of power under Article 226, the Court does not sit in appeal over the decision impugned, nor does it adjudicate hotly disputed questions of fact."*

45. Thus, in light of the aforesaid settled law, it becomes pivotal to examine the impugned award to ascertain whether the award passed has an infirmity which so requires the interference of this Court.

46. The Learned Tribunal has adjudicated the issues framed by it in favour of the respondent/bank. Learned Tribunal has categorically held that the services of the workman have been legally and justifiably terminated based on oral submissions and documentary evidence produced by the parties before it.

47. The Learned Tribunal examined the facts as testified by the Shri. P.C. Jain, Manager (Ex. MW1/1). Shri P.C Jain testified in his affidavit that on the first date of enquiry, the charge was read over to the Petitioner/workman, who denied all the allegations. Thereafter, a list of documents and witnesses, relied upon by the bank to substantiate the charges were supplied her. During the course of cross-examination, he denied the fact that the defence assistance as well as the opportunity for adducing evidence was not given to her.

48. The Learned Tribunal also examined the facts testified by the Petitioner/workman in her affidavit (Ex. WW1/1) wherein she stated that

she had no role in the functioning of the Kallirampur Branch of the bank. She stated that the enquiry was conducted in an illegal manner and the Enquiry Officer was illegally changed on 27.10.1994. She also deposed that the confessional statement was obtained under duress on 29.01.2002. She further claimed that the enquiry officer did not take into consideration the confessional statement made by Shri P.S. Bedi and the original FDR, alleged to have been inflated, was not produced before the Enquiry Officer.

49. Further, the Learned Tribunal to ascertain whether the enquiry conducted was in consonance with the principles of natural justice examined the enquiry proceedings placed on record before it.

50. A plain reading of the chargesheet makes it clear that there was no ambiguity in it. It was observed by the Learned Tribunal that the proceedings dated 28.11.1994 and the testimony of Mr. P.C Jain makes it clear that the Petitioner/workman appeared before the enquiry officer and the charge was duly explained to her. The Petitioner/workman was clearly told that she was free to take assistance from a defence assistant, in terms of provisions of Bipartite Settlement.

51. A bare perusal of the enquiry proceedings also crystallises that due and reasonable opportunities were given to the Petitioner/workman to defend herself. It is pertinent to note that on 01.02.1995, a request was made to the enquiry officer to record the statement of Mr. P.S. Bedi in the defence of the Petitioner/workman and the enquiry officer recorded the statement of Mr. P.S. Bedi.

52. The Learned Tribunal has also considered the contention of the Petitioner/workman that the cash book dated 02.02.1991 relating to FDR No.20/91 prepared at the Kallirampur branch, cashier's long book dated

02.02.1991, photocopy of FDR register, counterfoil of FDR and copy of AOF pertaining to FDR No. 20/91 were not supplied to her and by non-supply of the documents, she was not allowed to defend herself. The Learned Tribunal observed that these documents were duly inspected by her at the Kallirampur branch on 23.12.1994. It was held that in the banking business absolute devotion, diligence, integrity and honesty need to be preserved by every bank employee. If this were not to be observed, then the confidence of the public/depositors would be impaired. Since the inspection of the documents was duly granted, it cannot be held that any prejudice had been caused to him on account of the non-furnishing of the inquiry report/findings to him

53. Furthermore, the Learned Tribunal observed that the documents that were sought by the Petitioner/workman were required to show that the FDR in question was issued for a sum of Rs. 60,0000/- and not for a sum of Rs. 6,000/-. However, the said dispute can be put to quietus in view of the facts as unfolded by Mr. P.S. Bedi which were wholeheartedly relied on by the Petitioner/workman. In his testimony, he admitted the issuance of FDR for Rs. 6,000/- and inflation of the amount to Rs. 60,0000/-. It was held that whatever the Petitioner/workman testified before the Enquiry Officer was in contrast to the evidence unfolded by Shri Bedi.

54. Learned Tribunal held that the Enquiry Officer did not ignore any material while recording his conclusion. It cannot be said that he ignored the version projected by the Petitioner/workman and Shri Bedi. Accordingly, it was held that the enquiry conducted by the bank was just and proper, the findings recorded by the Enquiry Officer were held to be based on evidence and his report cannot be vitiated at all.

55. The Learned Tribunal relied on a plethora of cases including the case of ***Firestone Tyre and Rubber Company*** (1973 (1) LLJ 278) and the case of ***Delhi Cloth and General Mills Company*** (1972 (1) LLJ 180) and observed that when enquiry is found to be fair and proper, the Tribunal should proceed to appreciate evidence adduced before It by the bank as well as the workman on the merits of the charge. However, in view of the directions issued by this Court in the order dated 17.04.2013, the Learned Tribunal proceeded further to appreciate evidence brought over the record and to record findings on the count as to whether charges stood proved against the claimant or not and whether the services of the Petitioner/workman were illegally and unjustifiably terminated.

56. Learned Tribunal scanned the evidence adduced by the respondent/bank to prove the misconduct along with the evidence brought over the record in rebuttal by the Petitioner/workman.

57. Even at the cost of brevity it may be reiterated that the High Court can only interfere with the order of the Tribunal if it is manifest on the record that the proceedings against the employee were conducted in a manner in consistent with the principles of natural justice. The Learned Tribunal in the present case, pursuant to the order of this court has examined the issue of adherence to principles of natural justice while conducting the enquiry.

It is also a settled proposition that if the enquiry is properly held the departmental authorities are the sole judge of facts. The employee cannot challenge the findings on the grounds of adequacy or reliability in a proceeding under Article 226 of the Constitution.

58. The High Court in the writ jurisdiction cannot review the evidence to arrive at an independent finding of the evidence. Thus this court cannot re-

appreciate the evidence. Hence the discussion of evidence in the present proceedings would be an exercisein futile. Particularly, in view of the fact that the petitioner has not been able to demonstrate any perversity, illegality or error of law in the appreciation of evidence. The finding of facts arrived at on by the Tribunal after due appreciation of evidence cannot be re-opened or questioned in writ proceedings.

59. After examining the impugned order as well as the material on record, it is clear that the charges against the Petitioner/workman were duly proved by the respondent/bank. The Learned Tribunal has passed a detailed order after considering all the material and evidence on record before it.

60. In the instant case, the Petitioner/workman has only raised disputed questions of facts which were examined by the Learned Tribunal as the fact-finding court. The Tribunal and before that the departmental authorities i.e; the disciplinary authority and appellate authority have all concluded that the Petitioner/workman misconducted herself and was not a reliable person to be kept in the employment of the bank. In the banking business absolute devotion, integrity and honesty are a sine qua non for every bank employee. It requires that the employees maintain good conduct and discipline as they deal with the money of the depositors and the customers and if it is not observed, the confidence of the public/depositors would be impaired. The banking system is the backbone of the Indian economy. An officer who is found to have been involved in financial irregularities while performing his duty as a bank officer, cannot be let off even if there is a minor infraction in the inquiry report. This court considers that there is no material to interfere with the order of the Learned Tribunal.

CONCLUSION

61. This court does not find any infirmity, perversity, illegality, or jurisdictional error in the impugned order and thus does not deem fit to interfere with the finding of fact as returned by the Learned Tribunal to the extent of the finding of the Tribunal holding the petitioner guilty for misconduct. However, it is a matter of record that the petitioner had served the Bank for 13 years and there was no complaint during this period. It is also a matter of record that no criminal proceedings were initiated against the petitioner. Recently Hon'ble Supreme Court in ***Umesh Kumar Pahwa Vs. Board of Directors Uttarakhand Gramin Bank and Others*** (2022) 4 SCC 385 taking into account attendant facts reduced the punishment of removal from service to compulsory retirement.

62. Thus in view of the peculiar facts and circumstances, the quantum of punishment is modified to the extent of substituting the punishment of removal from service to that of compulsory retirement. The petitioner thus shall be entitled to all benefits which may be available to her by correcting the punishment from that of removal from service to that of compulsory retirement. The present petition is thus allowed to the aforesaid extent.

DINESH KUMAR SHARMA, J

JANUARY 18, 2023
'pp'