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

Reserved on: 9th December, 2021
Date of decision: 17th December, 2021

+ **W.P.(C) 7584/2017 & CM APPLs.31303/2017, 15744/2018, 26616/2018**

ASSTT GENERAL MANAGER STATE BANK
OF INDIA

..... Petitioner

Through: Mr. Rajiv Kapur and Mr. Akshit
Kapur, Advocates.

versus

ASHOK KUMAR BHATIA

..... Respondent

Through: Mr. A.K. Singh, Advocate.
(M:9818192846) with Respondent in
person.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done in physical Court. Hybrid mode is permitted in cases where permission is being sought from the Court.
2. The banking system is the backbone of any country's economy. Employees and officials working in banks clearly have a larger responsibility of ensuring the integrity of the banking system and maintaining the trust of the millions of customers, who repose faith in them. Prior to the net-banking era, bank officials and managers almost enjoyed a fiduciary relationship with customers and their families.
3. The present case belongs to such a period when the use of computers at banks and facilities of online banking, though prevalent, was still at a nascent stage. Employees/officials of the bank and depositors/customers

used to have face to face interactions with bank officials and employees. It was also quite usual for customers and depositors to visit banks on a day-to-day basis for depositing and withdrawing amounts.

4. The Petitioner in the present case- State Bank of India (*hereinafter*, “*Bank*”), has filed the present writ petition challenging the order dated 14th March 2016 passed by the Id. Presiding Officer, CGIT- 2, Karkardooma Courts, Delhi- 110032 as well as the final Award dated 28th December 2016, passed in the claim bearing *ID No. 04/2011* filed by the Respondent- Sh. Ashok Kumar Bhatia (*hereinafter*, “*Respondent*”).

5. The Respondent was working as a single-window operator at the Bank and was dealing with the Senior Citizens Saving Scheme. He had initially joined as a clerk-cum-typist in 1984 at the Jangpura Branch of the Bank and was confirmed in the said position. In 2003, he was posted at the Kalkaji Branch of the Bank. He was terminated by the Bank on 7th May 2010, with effect from 20th May 2010, for allegedly making entries of customers in his personal accounts. The incidents which took place leading to his termination occurred while he was working at the Kalkaji Branch of the Bank. The said termination has been set aside by the impugned Award passed by the Central Government Industrial Tribunal (*hereinafter*, “*CGIT*”) where the CGIT has held that the Bank failed to discharge its burden to prove misconduct by the Respondent through its required evidence. It was held by the CGIT that the domestic enquiry conducted against the Respondent by the Bank was not just, fair, proper and legal. This petition assails these orders as well as the final Award passed by the CGIT.

6. The case of the Bank is that in 2006, there were a few incidents wherein senior officials of the Kalkaji branch of the Bank realized that

amounts which were deposited by some senior citizens were not being reflected in their accounts. Instead, the said cheques deposited by the customers were credited to the accounts of the Respondent and his wife Mrs. Inderjeet Bhatia. The said customers had visited the Kalkaji branch of the Bank on some occasions and complained to the higher management. On a deeper enquiry, the Bank realized that there were certain irregularities committed by the Respondent and accordingly a chargesheet was served to him on 14th December 2007. A departmental enquiry was held and upon arriving at a conclusion that the Respondent was guilty of misconduct, he was awarded a penalty of dismissal/termination without notice.

7. The Respondent challenged the said dismissal through a claim petition before the CGIT. The case of the Respondent was that there were various violations in the departmental enquiry, which was conducted by the Bank, leading to his termination. It was his case that he was not allowed to be represented by the General Secretary of the Trade Union of Bank staff in the said proceedings. The Respondent also alleged that the enquiry was a sham and was merely a legal formality. He also contended that the same was violative of principles of natural justice. Thus, he prayed for reinstatement with full back wages and continuity of service in his claim petition.

8. The Bank, in its written statement, took the plea that considering the gravity of the charges against the Respondent, the punishment imposed was justified and proportionate. The allegations regarding the unfairness of the departmental enquiry were also controverted by the Bank. The Bank claimed that due process was followed in the said enquiry and adequate opportunity was given to the Respondent to participate in the said enquiry and to produce documents in his favour, as well as controvert the documents of the

Bank.

9. Vide the first impugned order dated 14th March 2016, the CGIT held, deciding as a preliminary issue, that the departmental enquiry conducted by the Bank was violative of principles of natural justice and was illegal. The CGIT held:

“MWI Sh. Rajendra Singh Gahlan, neither enquiry officer nor presenting officer not remain present in proceedings of enquiry so his evidence is hear-say evidence. Which is inadmissible in evidence. Not sufficient to rebut the credible and reliable evidence of workman on the point of enquiry. Hence liable to be discarded

In these circumstances there is no option to this Tribunal except to decide Enquiry issue as preliminary issue in favour of Workman holding that enquiry is not just, fair and legal as well as violative of principles of nature justice and against management. Which is accordingly decided.

However, management in para 7 of preliminary objection of written statement mentioned as follows:

“That in case the departmental enquiry is set aside for any reason by the Hon’ble Tribunal, the management be given an opportunity to prove the charges in the court”

xxx

In these circumstances, fixed 30.03.2016 for management evidence to prove misconduct of Workman.”

10. Thereafter, evidence was led both by the Bank and the Respondent. Post the evidence being recorded and after hearing the parties, the CGIT, vide the impugned Award dated 28th December 2016, held that the Bank could not adequately discharge its burden to prove misconduct by the

Respondent. Accordingly, the Respondent was reinstated with full back wages and his claim petition was allowed. The CGIT held as under:

“In the light of contentions and counter contentions in perused the evidence of parties on record which makes it crystal clear that opportunities was afforded to parties to lead their evidence on the point of domestic enquiry; Which compelled me to draw an inference that domestic enquiry conducted against Workman by management was not just, fair, proper and legal. So I decided enquiry against management and in favour of Workman. But I permitted to management of State Bank of India to prove misconduct of Respondent Sh. Ashok Kumar Bhatia.

Inspite of several opportunities management neither produced Enquiry Officer nor Presenting Officer nor main victim Sh. Narender Batra who is said to have deposited Rs. 5,00,000/- on 1, July 2006, through Cheque No.-688754 relating to A/c No. 29076 and other victims.

Hence Sh. Narender Kumar Batra etc. who were material witnesses in the instant case to prove the fact that aforesaid deposited amount was credited by Workman in his Joint Saving Account with his wife Inderjeet Bhatia.

Such fact can only be proved by management through production of Sh. Narender Kumar. Batra etc but management could not produce them to prove aforesaid fact of misconduct of Workman.

Hence non-production of material witness compel me to draw an adverse inference against management i.e. If they have been produced then they would have not supported the management of State Bank of India on the point of misconduct of Workman.

Which is accordingly drawn as per provision of section 114(g) of Indian Evidence Act and settled law of

Hon'ble Supreme Court on the point of S.114 (g) of Indian Evidence Act.

On the-basis of aforesaid discussion I am of considered view that management has utterly failed to discharge its burden to prove mis-conduct of Workman- Sh. Ashok Kumar Bhatia through its required evidence.

Hence alleged misconduct of Workman Sh. Ashok Kumar Bhatia is liable decided against management along with other facts and in favour of Workman as allegation of misconduct of Workman Sh. Ashok Kumar Bhatia by management is not proved due to want of required evidence of management.

Which is accordingly decided.

Hence Workman Sh. Ashok Kumar Bhatia is entitled for reinstatement with full back wages.”

Submissions of Mr. Kapur, Id. Counsel for the Petitioner- Bank

11. Mr. Kapur, Id. Counsel for the Bank, firstly submits that the enquiry report against the Respondent was not believed by the Tribunal only on the ground that the Enquiry Officer was not produced. He submits that the settled legal position is that the Enquiry Officer need not be produced so long as the record can be proved before the Tribunal.

12. Insofar as the allegations against the Respondent are concerned, Mr. Kapur, submits that there were various customers who had made complaints against the Respondent on the ground that the Respondent, who was working as a Single Window Operator in Kalkaji Branch of the Bank, had utilised amounts belonging to various customers and thereafter, admittedly, transferred the said amounts into their bank accounts with interest. Reliance is placed upon the evidence of Shri P.S. Juneja, Deputy Manager working in

the State Bank of India, G.K.-I, New Delhi, to argue that the Bank had completely lost faith in the employee and under such circumstances, after conducting the departmental enquiry, he was terminated by the Bank.

13. Mr. Kapur further relies upon the evidence of Shri Rajendra Singh Gahlon, who had appeared as the Bank's first witness (MW-1), to prove the enquiry report as also the evidence of Mr. Juneja, who had tendered evidence of various customers.

14. He submits that his grievance is that none of this has been considered by the CGIT, solely on the ground of non-production of the main complainant from whose account a sum of Rs.5 lakh has been utilised by the Respondent. He submits that the legal position is clear as per the judgments of the Supreme Court in *SBI v. Tarun Kumar Banerjee 2000 (8) SCC 12* and *The General Manager Punjab and Sindh Bank and ors. v. Daya Singh 2010 (11) SCC 233*, that the customers of the Bank need not be produced in enquiry proceedings. He also relies upon the recent judgment of the Supreme Court in *Union of India and ors. v. Dalbir Singh (Civil Appeal No. 5848/2021, decided on 21st September 2021)*.

15. He, thus, submits that the impugned Award as well as the order dated 14th March 2016 passed by the CGIT, are not sustainable.

Submissions of Mr. A.K. Singh, Id. Counsel for the Respondent-Respondent

16. Mr. Singh, Id. Counsel for the Respondent, firstly submits that there has been a violation of the principles of natural justice at every stage of the departmental enquiry conducted by the Bank, right from the stage of the chargesheet till the passing of the order dated 7th May 2010- terminating the Respondent.

17. He submits that the enquiry was conducted with a premediated mind and has been based on probabilities. None of the charges which were raised against the Respondent were proven in the enquiry. He also submits that there was no written or oral complaint, filed by any customer, to initiate the enquiry in the first place. According to him, therefore, there was no occasion to start the enquiry in the first place.

18. He further submits that the complaints of none of the customers *qua* whom the charges were raised, have been produced and deposed against the Respondent, during the enquiry or before the CGIT.

19. Relying upon the charges framed against the Respondent vide chargesheet dated 14th December 2007, which claim that there were five customers for whom deposits were illegally made by the Respondent in loan accounts, he submits that before the Enquiry Officer only charges- 1, 2 & 4 were proven. In effect therefore, the names of five customers in charge number 3 were not proved. He then relies upon the final order, which was passed after the enquiry was conducted by the Bank and submits that this order, based on the report of the Enquiry Officer, is not fully supported by the said report.

20. Mr. Singh then relies upon the following evidence before the Enquiry Officer:

i) Evidence of Mr. Rajender Singh Gahlot

He submits that this witness admitted that he has no personal knowledge of the case and has not participated in the enquiry. He also could not make any statement about any letter dated 10th December, 2008 written by Mr. N.K. Batra. He therefore submits that as this was the only witness who was produced by the Bank, he has not proved

any charges beyond reasonable doubt.

ii) Evidence of Mr. P.S. Juneja

The evidence of Mr. P.S. Juneja, Deputy Manager, is relied upon to argue that Ms. Surjeet Kaur's cheque was in the name of Mrs. Inderjeet Bhatia, wife of the Respondent. Mrs. Surjeet Kaur did not give any written complaint. She is a Bank employee, and was also a colleague of the Respondent. She has also supported the Respondent during the enquiry proceedings. She further stated, in her evidence, that the transaction was friendly and that she has received the entire amount back with interest. She also admitted that it was her mistake for giving him a blank cheque without the payee's name, which she deposited.

iii) Evidence of Shri V.K. Bhagat

Reliance is placed upon the evidence of Shri V.K. Bhagat to argue that this witness also confirms that Ms. Surjeet Kaur did not give any written complaint.

21. Mr. Singh further submits that insofar as Shri Lal Singh, who is also one of the customers, is concerned, Mr. Bhatia has stated that amounts were only placed in his suspense account and there was no loss caused to the Bank in respect thereof.

22. Although Mr. Singh, submits that Mr. Bhatia has denied all charges, as evident from the proceedings before the Enquiry Officer, Mr. Bhatia, who also appears in person, has admitted to negligence but has stated that he did not attempt to defraud the Bank or the customers, and a lenient view ought to have been taken in this matter.

23. In conclusion Mr. Singh submits that the termination of the Respondent took place in May, 2010 and he would have superannuated only in 2023. Thus, as of today he still has two years of service left. He submits that insofar as his statutory dues i.e. Provident Fund and gratuity payments, are concerned, the contribution made by him into his own Provident Fund account have been paid, however, the Bank's contribution has not been paid. His last drawn salary was around Rs.50,000/- per month. However, if he is promoted in accordance with the policy, his salary would have been approximately Rs.1.30 Lakhs. The age of the Respondent at the time of filing of this petition was 53 years.

24. Reliance is placed upon the judgment of the Supreme Court in *Jayantibhai Raojibhai Patel v. Municipal Council, Narkhed and Ors.* (Civil Appeal No. 6188/2019, decided on 21st August 2019). Mr. Singh also submits that the Respondent was agreeable for compulsory retirement, which was also not permitted by the Bank and he was dismissed from his services.

25. Finally, it is submitted that although in the writ petition, the ground that the Enquiry Officer did not appear before the CGIT has been raised, the said ground is not pressed by Mr. Singh in the course of submissions.

Rejoinder submissions of Mr. Kapur, Id. Counsel for the Petitioner- Bank

26. In rejoinder, Mr. Kapur, Id. Counsel, relies upon the affidavit by way of evidence filed by Mr. P.S. Juneja, Deputy Manager of the Bank, before the CGIT, wherein details have been given as to how the Respondent had made fictitious entries in respect of a customer- Mr. Batra's account by the Respondent. He submits that the said evidence of Mr. Juneja is unrebutted in the cross-examination.

27. He further relies upon the evidence of Mr. Bhagat, who has clearly confirmed that the customers had complained orally to the Bank at the relevant point of time.

28. He submits that even if one of the charges against the Respondent are proved, the dismissal has to be upheld.

29. He further submits that once the Respondent has admitted that he had committed the said “negligent” action, those facts need not to be proved by the Bank. He relies upon the judgments in *Nagindas Ramdas v. Dalpatramicharram and ors. (1974) 1 SCC 242* and *Chairman and Managing Director, United Commercial Bank and ors. v. P. C. Kakkar (Supreme Court, decided on 11th February 2003)* to canvass this proposition as well as the fact that bank employees have a higher standard of integrity to fulfil.

30. Finally, he submits that once there is loss of confidence of the Bank with the Respondent, full back wages cannot be granted, and in any case, even if misconduct is not proved, compensation would be the only remedy to the Respondent.

Analysis and Findings

31. Heard Id. Counsels for the parties and perused the record.

32. The first issue to be considered is whether the order rejecting the enquiry report is sustainable or not. The decision on this issue would impact the evidence that is to be considered for adjudication of this petition.

33. It is the settled legal position that non-production of the Enquiry Officer cannot *per se* lead to a conclusion that the enquiry was bad. This has been settled in a catena of judgments, including a judgment of a Id. Single Judge of this Court in *Delhi Transport Corporation v. Shree Kumar*

and Anr. 113 (2004) DLT 505, where it was held:

“8. In the context of the aforesaid factual position and in the light of the arguments of the counsel appearing for the parties, I am required to consider as to whether there was any violation of the principles of natural justice in conducting the domestic enquiry and whether no punishment could be awarded to the respondent No.1 as sought to be done in the instant case as neither the passenger witnesses nor the driver were examined by the petitioner in the enquiry as also before the Tribunal. The records disclose that whatever documents were asked for were furnished to the respondent No.1 except for copies of the two circulars as they were not available with the petitioner. The finding of the learned Tribunal that no list of witnesses and list of documents along with documents were supplied to the respondent also cannot be accepted as it is apparent from the records that the list of witnesses and the list of documents along with documents were supplied to the respondent along with the charge sheet. The respondent No.1 was also asked at the beginning of the proceedings if he wanted the assistance of a co-worker but he stated that he would conduct the case himself and in fact he cross-examined the management witnesses extensively. The records also do not disclose that the respondent at any stage had asked for the assistance of B.L. Babbar. In my considered opinion, therefore, there is no violation of the principles of natural justice in conducting the case. It is not understood why the learned Tribunal found fault in the non-production of the enquiry officer before it as a witness though the entire records of the enquiry proceedings were made available to the learned Tribunal.”

Even this Court has, recently, in *Ashok Kumar v. D.T.C (WP(C) 6748/2003)*, held that the mere non-production of Enquiry Officer cannot

render the enquiry *non-est*. The relevant observations are:

6. *A perusal of the above order shows that the only ground on which the enquiry has been vitiated is the non-production of the enquiry officer. According to ld. Counsel for DTC, the enquiry officer had left the service of DTC and could not be traced and he could therefore not be produced. However, this by itself would not vitiate the enquiry. DTC had led the evidence of the witnesses and the Respondent had also led his evidence. The opportunity for cross-examination was also given. Thus, the enquiry report could not have been rejected merely on this ground. The non-production of the Enquiry Officer cannot render the enquiry non-est. The same can be proved by other methods. In this case, the stenographer working in the DTC was produced. It cannot be presumed that the report is a farce merely because the Enquiry Officer was not produced.*”

Further even in *NDMC v. Hari Ram Tiwari (WP(C)12808/2019, decided on 9th October 2020)*, this Court has held:

“47. *The Labour Court seems to be prejudiced by the fact that the IO himself was not present as a witness before the Court. In any organization which has thousands of employees, an inquiry of this nature which is conducted, is put to test several years later. It cannot be expected that the IO ought to be produced in each and every case as there are various events that may have occurred from the time when the inquiry is held and when the matter is challenged in Court. The IO may have either retired or been transferred or for whatever reason, may not be available. This, however, does not mean that the inquiry would get vitiated if the IO is not produced. The witnesses from the Management had clearly produced the official records of the NDMC. A witness is entitled to depose on the*

basis of record. Just because the witness is not the IO himself does not mean that the inquiry can be held to be vitiated. Such an approach would be completely contrary to law.”

34. Further, recently, the Supreme Court, in ***Union of India and ors. v. Dalbir Singh (supra)*** has held as under:

“The burden of proof in the departmental proceedings is not of beyond reasonable doubt as is the principle in the criminal trial but probabilities of the misconduct. The delinquent such as the writ petitioner could examine himself to rebut the allegations of misconduct including use of personal weapon. In fact, the reliance of the writ petitioner is upon a communication dated 1.5.2014 made to the Commandant through the inquiry officer. He has stated that he has not fired on higher officers and that he was out of camp at the alleged time of incident. Therefore, a false case has been made against him. His further stand is that it was a terrorist attack and terrorists have fired on the Camp. None of the departmental witnesses have been even suggested about any terrorist attack or that the writ petitioner was out of camp. Constable D.K. Mishra had immobilized the writ petitioner whereas all other witnesses have seen the writ petitioner being immobilized and being removed to quarter guard. PW-5 Brij Kishore Singh deposed that 3-4 soldiers had taken the Self-Loading Rifle (S.L.R.) of the writ petitioner in their possession. Therefore, the allegations in the chargesheet dated 25.2.2013 that the writ petitioner has fired from the official weapon is a reliable finding returned by the Departmental Authorities on the basis of evidence placed before them. It is not a case of no evidence, which alone would warrant interference by the High Court in exercise of power of judicial review. It is not the case

of the writ petitioner that there was any infraction of any rule or regulations or the violation of the principles of natural justice. The best available evidence had been produced by the appellants in the course of enquiry conducted after long lapse of time.”

35. Even the Id. Division Bench of this Court has, in ***Nepal Singh v. Delhi Transport Corporation ILR (2013) 5 Del 4006***, held as under:

“14. The learned counsel for the appellant has been unable to justify the reasoning of the Labour Court that a witness in an inquiry proceeding must depose orally as to the alleged misconduct and cannot rely on or adopt his earlier report. There is no basis in law for this proposition. Besides, it is well settled that the Evidence Act, 1872 and the rules of evidence are not strictly applicable in the departmental proceedings. In the case of Maharashtra State Board of Secondary and Higher Secondary Education v. K.S. Gandhi and Ors. (1991) 2 SCC 716, the Supreme Court has held as under:

“37. It is thus well settled law that strict rules of the Evidence Act, and the standard of proof envisaged therein do not apply to departmental proceedings or domestic tribunal. It is open to the authorities to receive and place on record all the necessary, relevant, cogent and acceptable material facts though not proved strictly in conformity with the Evidence Act. The material must be germane and relevant to the facts in issue....”

Further, in the case of HPCL v. Sarvesh Berry (2005) 10 SCC 471, the Supreme Court has also held that:-

“8.....The enquiry in departmental

proceedings relates to conduct or breach of duty of the delinquent officer to punish him for his misconduct defined under the relevant statutory rules or law. That the strict standard of proof or applicability of the Evidence Act stands excluded is a settled legal position.....””

36. A perusal of the order dated 14th March, 2016, passed by the CGIT, shows that the CGIT has held that since the Enquiry Officer and the Presenting Officer were not present in the proceedings, the evidence would be hear-say. On this ground, the CGIT held that the enquiry report is liable to be discarded. The legal position as set out above in various decisions shows that the Enquiry Officer need not to be produced to prove the enquiry report before the CGIT. In any case, the fact that the Enquiry Officer did not appear before the CGIT, although has been raised in the petition, has not been pressed by Mr. Singh in the course of submissions.

37. Thus, the first finding of the CGIT, vide its order dated 14th March 2016, that the enquiry report is to be discarded, because the Enquiry Officer has not been produced and hence the evidence is merely hear-say and inadmissible, is untenable. The said order dated 14th March 2016 is therefore set aside. The enquiry report and the evidence led therein, can therefore be taken into consideration.

38. Now, there are two sets of evidence that are available on record. The first is the evidence that was recorded before the Enquiry Officer, and the second is the evidence before the CGIT.

39. A perusal of the evidence before the Enquiry Officer shows that the Respondent did not accept the charges against him. One Mr. V. K. Bhagat

who was the Branch Manager at Kalkaji Branch of the Bank, was examined by the Enquiry Officer on 25th November 2008, and he deposed that he noticed a lady coming to the branch daily and making some enquiries with staff members including the Respondent. He was then told that she had made some deposits in the Bank, to the tune of Rs. 5,00,000/-, which was not reflected in her account. It was revealed thereafter that the said amount was, in fact, deposited in the joint account of the Respondent and his wife- Mrs. Inderjeet Bhatia. The lady was, thereafter, recognized as Ms. Surjeet Kaur.

40. Mr. Bhagat further deposed that a similar incident took place with one Mr. N.K. Batra, who had been given a passbook showing a credit balance of Rs. 5,00,000/-, duly noted/signed by the Respondent. When the Manager checked up, no such account was even traceable in the system. He then looked into the matter and realized that the cheque deposited by Mr. Batra was credited to the account of the Respondent and his wife. Upon Mr. Bhagat's instructions and upon being reprimanded by him, the Respondent admitted to having received the amount of Rs. 5,00,000/- from Mr. Batra and said that he would return the same with interest. This was acceptable to Mr. Batra and the Respondent had returned the money with interest to him. Mr. Bhagat deposed that he had reported both these incidents to the zonal office of the bank. Further, copies of two more complaints from Ms. Harsharan Kaur and Mr. Lal Singh in writing were also supplied to the Respondent, however, there was no written complaint by Mr. N.K. Batra and Ms. Surjeet Kaur.

41. One Ms. Rachna Awasthi, Senior assistant at Kalkaji Branch of the Bank, was also examined by the Enquiry Officer. She deposed about the

grievance raised by Ms. Surjeet Kaur, who is stated to have complained to her that the Respondent had not given back her back the money initially, but she later confirmed that she had received the money from the Respondent. Further, one Mr. P. S. Juneja, Special Assistant at the Kalkaji Branch, also deposed before the Enquiry Officer about an incident concerning Ms. Surjeet Kaur.

42. On the next date of the enquiry, i.e., on 6th December 2008, one of the customers of the Bank – Ms. Surjeet Kaur, appeared before the Enquiry Officer, as the witness of Respondent, and stated that she had given a friendly loan to the Respondent and his wife. She deposed that she had given a cheque without the name of the payee to the Respondent, who had returned the money to her with interest. When asked by the Enquiry Officer as to whether she had ever complained against the Respondent in respect of the same, she answered that she had not complained in writing, but she did confirm that the Respondent had not deposited the money for three months, but later he did repay it with interest. She deposed that it was a friendly transaction and that she had no complaints against the Respondent. She further stated in her examination that it was her mistake to give a blank cheque without the name of the payee. Further, she denied having visited the Bank frequently.

43. Insofar as the accounts of Ms. Harsharan Kaur and Mr. Rajat Kumar Bose are concerned, the Presenting Officer of the Bank deposed that the entries were made in their passbooks, but the funds were not transferred to any account and were lying in the Bank's suspense account, which was negligence on behalf of the Respondent. To this, the Respondent claimed that there was no negligence on his part and, in any case, there was no loss

that was caused to the bank.

44. Before the Enquiry Officer, at the stage of conclusion of evidence on 10th December 2008, when asked as to whether he had anything else to say related to the case, the Respondent made the following statement:

“Sir my intentions were very clear and not suspicious, and I perform my duties honestly. It was a totally negligency and I did not attempt to fraud, but due to friendly relationships with customers I made entries in my personal A/c. I request bank to take lenient view and reinstate me, and allow me to join the duties immediately since I am suspended from bank since 25.3.07”

45. The Enquiry Officer, after examining the said evidence, dismissed the Respondent from service with effect from 20th May 2010. This was challenged by the Respondent before the CGIT in his statement of claim.

46. Vide order dated 14th March 2016, the CGIT observed, as a preliminary issue, that the enquiry against the Respondent was not just, fair and legal and was violative of principles of natural justice, in terms as extracted above at paragraph 9.

47. However, since the Bank had mentioned in their defense that if the departmental enquiry is set-aside, it ought to be given an opportunity to prove the charges, evidence was led before the CGIT by the Bank in support of its defense.

48. Before the CGIT, the Respondent filed his evidence by way of affidavit and primarily took a ground that he was not permitted proper representation before the Enquiry Officer and the principles of natural justice were violated by the Enquiry Officer. Thus, the enquiry was sham in

his submission.

49. The Bank, in its evidence, produced the following persons before the CGIT:

i) Mr. Rajendra Singh Gahlori, Manager (HR), SBI

This witness proved the chargesheet which was served on the Respondent and the records of the enquiry proceedings. He also stated in his affidavit that the Respondent's actions had led to a loss of integrity and reputation to the Bank and that the Bank has lost faith in the Respondent. He stated in his cross-examination that he had not participated in the enquiry and confirmed that he was deposing only based on the documents. He, further, confirmed that he does not have any personal knowledge of the case. On a question in respect of the letter written by Mr. N.K. Batra on 10th December 2008, he stated that he was unable to answer that question. He further confirmed that the enquiry was concluded on 10th December 2008.

ii) Mr. P.S.Juneja, Deputy Manager, SBI

The next witness, Mr. Juneja, confirmed that he was the clerk in the Kalkaji Branch, during the time when the incident took place. He stated in his affidavit that the Respondent has subjected the Bank to loss of integrity and reputation and has lost the faith of the Bank. He further stated that amounts of certain depositors were routed through personal accounts by the Respondent. He specifically referred to incident of Mr. N. K. Batra in respect of whom he stated as under:

“3. On 1.7.06 an amount of Rs.500000/-was debited

to customer account 29076 of Sh. Narinder Kumar Batra, vide cheque No.688754 dt.1.7.06(PEX-1) and was credited to Sh. A K Bhatia's saving account , jointly operated by Inderjeet Bhatia and Sh. A K. Bhatia. The name of payee was filled by the Workman. Sh. Batra complained (Ex.P-2) that the said amount was deposited on July 07 for opening Sr. citizen account, but the account was not opened and Sh. Bhatia had returned the amount to him , after using it in his account.

4. Passbook of Sh. Narinder Kumar Batra was prepared by the Respondent manually and fictitious entry of Rs.5 lacs was written by him and date was same when the cheque was debit (1.7.06)(Ex. PEX-3-6)

5. In case of Surjeet Kaur a/c. 10724112834 holder of the Bank, the Workman received the cheque No.70731 dt 6.7.06 for Rs. 5 lacs from Smt. Surjeet Kaur for opening of Sr. Citizen a/c but the Respondent filled the cheque in the name of his wife, Smt. Inderjeet by his own handwriting and deposited in a/c 10724089813, jointly operated by him and his wife .(PEX.7)

6. Sh. Bhatia utilized the funds of the customers of the Bank for his own use. Mrs. Surjeet Kaur complained to me that Sh. Bhatia had put her money in his account but after six months told me that he had put it in her account alongwith interest (same rate of interest as payable by Bank).”

With this affidavit, he had annexed the cheques and other documents to prove the allegations made by him. He confirmed his statement which was given during the enquiry proceedings. He finally denied any allegations of discrepancy or manipulations in the documents filed by him.

50. It is in the backdrop of this evidence that the impugned Award was passed by CGIT. The findings of the CGIT in the impugned Award, extracted above in paragraph 10 are that since the Enquiry Officer was not produced, the enquiry was not credible. The CGIT held that opportunities were afforded to the parties to lead their evidence in the matter, but the Bank neither produced the Enquiry Officer, nor the presenting officer, and could not even present the main alleged victim/customer- Mr. N.K. Batra. According to the CGIT, since he was the material witness, his non-production led the CGIT drawing an adverse inference against the Bank. The CGIT held that the Bank had utterly failed to discharge its burden to prove misconduct on the part of the Respondent. Thus, the Respondent was granted reinstatement with full back wages.

51. The question now is whether there was adequate evidence, both before the Enquiry Officer as also before the CGIT, to hold that the Respondent was guilty of misconduct and of committing irregularities. Further, the second question is whether the punishment of dismissal without notice is justified or not.

52. The main witness who had appeared before the CGIT, on behalf of the Bank, had produced the entire record relating to the enquiry proceedings. The record was also exhibited. He is the concerned official from the HR Department of the Bank, who was a clerk at the relevant point in time when the enquiry was conducted, having no personal interest of the matter. Accordingly, the CGIT had no reason to dis-believe the enquiry report or records thereof. This Court also has no occasion to disbelieve the testimony of the said official and the records of the enquiry conducted. Infact, during the course of submissions, Id. Counsel for the Respondent has himself relied

upon the evidence of the witnesses before the Enquiry Officer to buttress his case.

53. Further, the evidence of Mr. Bhagat, a senior official of the Bank, who clearly, in his testimony, stated that customers had visited the Bank and raised complaints against the Respondent, cannot be brushed aside by this Court, as there are no allegations *qua* personal vindictiveness in respect of the Respondent, that has been levelled against Mr. Bhagat.

54. The incidents which were alleged against the Respondent are in relation to money deposited by:

- i. Sh. Narinder Kumar Batra
- ii. Ms. Surjit Kaur
- iii. Sh. Lal Singh
- iv. Ms. Harsharan Kaur Bindra
- v. Sh. Rajat Kumar Bose

In respect of the entries/incidents related to (iii)- (v) above, the amounts were kept in the suspense account of the Bank. Thus, for the present purposes, the said incidents are not being considered. In order to establish if there was any misconduct or not, the incidents being considered by this Court are the incidents relating to:

- i. Mr. N.K. Batra
- ii. Ms. Surjeet Kaur

55. The Respondent's case is that Mr. N.K. Batra did not give a written complaint, and that no such complaint was produced either in the enquiry proceedings or before the CGIT. The Respondent's case is also that Mr. Batra was himself not produced as a witness before either forum and all the

evidence is hear-say.

56. Irrespective, the fact remains that the Bank's witness- Mr. P.S. Juneja produced the relevant cheques relating to Mr. Batra before the Enquiry Officer, as well as before the CGIT. Further, the entries in the passbook of the Respondent/ his wife, relating to the transfer of funds into their personal accounts, were also proved on record. The fact that Mr. Bhagat admonished the Respondent, and the Respondent returned the money to Mr. Batra, along with interest, after a few months, is also clearly established on record and these facts are not disputed.

57. Under such circumstances, the mere non-production of Mr. Batra, as a witness himself, could not have led to an adverse inference against the Bank. Customers of the banks need not be produced for proving misconduct or irregularities, as it would lead to greater inconvenience to them, which a bank would try and avoid under all circumstances. It has clearly been held by the Supreme Court in *SBI v. Tarun Kumar Banerjee (supra)* that a customer of the bank need not be involved in a domestic enquiry conducted as such a course would not be in the interest of the bank. The Supreme Court held:

“A customer of the Bank need not be involved in a domestic enquiry conducted as such a course would not be conducive to proper Banker customer relationship and, therefore, would not be in the interest of the Bank. Further, when money was secured a prudent banker would deposit the same in the account of the customer complaining of loss of money and, therefore, non-production of money also would not be of much materiality. When in the course of the domestic enquiry no reliance was placed on the so-called confessional statement made by the first

respondent, then non-production of the same is also of no significance. Thus, in our opinion, these circumstances are irrelevant and the Tribunal could not have placed reliance on the same to reach the conclusion it did and, therefore, the learned single Judge was justified in interfering with the same.”

58. The Supreme Court has also clearly held, in ***The General Manager Punjab and Sindh Bank v. Data Singh (supra)***, that the mere non-production of a customer cannot lead to a finding of innocence *qua* the employee and cannot be a cause for reinstatement. The Supreme Court held:

“16. In view of what is stated above, it is very clear that the Bank had taken the necessary steps to establish the misconduct before the inquiry officer. The relevant documents including ledger entries were produced through the concerned witnesses. The respondent fully participated in the inquiry. He had no explanation to offer during the course of the inquiry or any time thereafter. When all the relevant entries were in the handwriting of the respondent, the Bank did not think it necessary to call the borrowers. In fact, as the inquiry officer states, the respondent should have produced the borrowers if he wanted to contend anything against the documentary evidence produced by the Bank. In the circumstances, the conclusions arrived at by the inquiry officer as stated above could not have been held as without any evidence in support. The High Court has clearly erred in holding that the documents produced were neither detailed nor their nature was explained.

17. We are rather amazed at the manner in which the High Court has dealt with the material on record. The Inquiry Officer is an officer of a Bank. He was considering the material which has placed before him and thereafter, he has come to the conclusion that the misconduct is established. He was concerned with a

serious charge of unexplained withdrawals of huge amounts by a Branch Manager in the name of fictitious persons. Once the necessary material was placed on record and when the charge-sheeted officer had no explanation to offer, the Inquiry Officer could not have taken any other view. The order of a bank officer may not be written in the manner in which a judicial officer would write. Yet what one has to see is whether the order is sufficiently clear and contains the reasons in justification for the conclusion arrived at. The High Court has ignored this aspect. Absence of reasons in a disciplinary order would amount to denial of natural justice to the charge-sheeted employee. But the present case was certainly not one of that category. Once the charges were found to have been established, the High Court had no reason to interfere in the decision. Even though there was sufficient documentary evidence on record, the High Court has chosen to hold that the findings of the Inquiry Officer were perverse. A perverse finding is one which is based on no evidence or one that no reasonable person would arrive at. This has been held by this Court long back in Triveni Rubber & Plastics vs. CCE AIR 1994 SC 1341. Unless it is found that some relevant evidence has not been considered or that certain inadmissible material has been taken into consideration the finding cannot be said to be perverse. The legal position in this behalf has been recently reiterated in Arulvelu and Another vs. State Represented by the Public Prosecutor and Another (2009) 10 SCC 206. The decision of the High Court cannot therefore be sustained.

18. As held in *T.N. C.S. Corporation Ltd. vs. K. Meerabai* (2006) 2 SCC 255 the scope of judicial review for the High Court in departmental disciplinary matter is limited. The observation of this Court in *Bank of India vs. Degala Sriramulu* (1999) 5 SCC 768 are quite instructive:

*"Strict rules of evidence are not applicable to departmental enquiry proceedings. The only requirement of law is that the allegation against the delinquent officer must be established by such evidence acting upon which a reasonable person acting reasonably and with objectivity may arrive at a finding upholding the gravamen of the charge against the delinquent officer. Mere conjecture or surmises cannot sustain the finding of guilt even in departmental enquiry proceedings. The court exercising the jurisdiction of judicial review would not interfere with the findings of fact arrived at in the departmental enquiry proceedings excepting in a case of mala fides or perversity i.e where there is no evidence to support a finding or where a finding is such that no man acting reasonably and with objectivity could have arrived at that finding. The court cannot embark upon reappreciating the evidence or weighing the same like an appellate authority. So long as there is some evidence to support the conclusion arrived at by the departmental authority, the same has to be sustained. In *Union of India v. H.C. Goel* (AIR 1964 SC 364, (1964) 4 SCR 718), the Constitution Bench has held:*

a. "The High Court can and must enquire whether there is any evidence at all in support of the impugned conclusion. In other words, if the whole of the evidence led in the enquiry is accepted as true, does the conclusion follow that the charge in question is proved against the respondent? This approach will

avoid weighing the evidence. It will take the evidence as it stands and only examine whether on that evidence legally the impugned conclusion follows or not."

59. Further, in departmental disciplinary proceedings, strict rules of evidence law do not apply, and documents speak louder than the persons. The cheques and the entries in the passbook, as well as the transfer of the money in the Respondent/his wife's bank account is sufficient evidence to hold that the Respondent had used Mr. Batra's money for his own personal needs, though he had returned it later with interest.

60. In respect of Ms. Surjeet Kaur, it is noticed that she herself had appeared before the Enquiry Officer and had stated that she was involved in a friendly loan transaction with the Respondent. She also confirmed that she had given a blank cheque to the Respondent by only putting the amount, without the name of the payee. Her deposition before the Enquiry officer was after the Respondent had returned the sum of Rs. 5,00,000/-, along with interest. Thus, the fact that she was influenced by the Respondent to not depose fully against him, cannot be ruled out. Further, even if the Respondent had friendly relations with Ms. Surjeet Kaur, the use of the cheque of a customer by an employee of a Bank, who is a single window operator, and the act of depositing the said sum of Rs. 5,00,000/- into his own account since the name of the Payee was blank and, thereafter, returning the same with interest to the customer, which only came to light after Mr. Bhagat enquired into the incident, cannot be dismissed as being completely innocent.

61. In the opinion of this Court, these two incidents are sufficient for the

bank to have lost faith and confidence in the Respondent, given he was misusing his status of being a bank employee and a single window operator for his own personal benefit by getting the amounts deposited in his own personal account, although returning them later with interest. Once there is a loss of confidence, that too by a Bank *qua* one of its officials, the standard on which such loss of faith/confidence is to be tested cannot be a very high standard. Even a suspicion or doubt, with some credibility or some evidence, would be sufficient to objectively uphold the dismissal from service. The Court cannot lose sight of the reality that customers who visit banks do develop friendly relationships with officials, however, such officials then have a larger duty and responsibility to safeguard their customers, as well as the interests of the bank, rather than to misuse their trust and faith in the banking system. The Supreme Court, in multiple decisions, has clearly recognized the fact that bank officials are held to a higher standard of integrity in respect of their conduct, as they directly deal with the financial interests of the customers. In ***Chairman and Managing Director, United Commercial Bank and Ors. v. P.C. Kakkar, (2003) 4 SCC 364***, the Supreme Court held as under:

“12. A Bank officer is required to exercise higher standards of honesty and integrity. He deals with money of the depositors and the customers. Every officer/employee of the Bank is required to take all possible steps to project the interests of the Bank and to discharge his duties with utmost integrity, honesty, devotion, and diligence and to do nothing which is unbecoming of a Bank officer. Good conduct and discipline are inseparable from the functioning of every officer/employee of the Bank. As was observed by this Court in Disciplinary Authority-cum-Regional

Manager v. Nikunja Bihari Patnaik (1996) IILL J379SC. It is no defense available to say that there was no loss or profit resulted in case, when the officer/employee acted without authority. The very discipline of an organization more particularly a Bank is dependent upon each of its officers and officers acting and operating within their allotted sphere. Acting beyond one's authority is by itself a breach of discipline and is a misconduct. The charges against the employee were not casual in nature and were serious. These aspects do not appear to have been kept in view by the High Court.”

62. Even in ***Union Bank of India v. Vishwa Mohan, (1998) 4 SCC 310***, the Supreme Court held:

11. After hearing the rival contentions, we are of the firm view that all the four charge sheets which were inquired into relate to serious misconduct. The respondent was unable to demonstrate before us how prejudice was caused to him due to non supply of the Inquiry Authority's report/findings in the present case. It needs to be emphasized that in the banking business absolute devotion, diligence, integrity and honesty needs to be preserved by every bank employee and in particular the bank officer. If this is not observed, the confidence of the public/depositors would be impaired. It is for this reason, we are of the opinion that the High Court had committed an error while setting aside the order of dismissal of the respondent on the ground of prejudice on account of non furnishing of the inquiry report/findings to him.”

63. Recently, in ***Deputy General Manager (Appellate Authority and ors.) v. Ajai Kumar Srivastava (2021) 2 SCC 612***, the Supreme Court held:

“28. It is true that strict rules of evidence are not applicable to departmental enquiry proceedings. However, the only requirement of law is that the

allegation against the delinquent must be established by such evidence acting upon which a reasonable person acting reasonably and with objectivity may arrive at a finding upholding the gravity of the charge against the delinquent employee. It is true that mere conjecture or surmises cannot sustain the finding of guilt even in the departmental enquiry proceedings.

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43. *Before we conclude, we need to emphasize that in banking business absolute devotion, integrity and honesty is a sine qua non for every bank employee. It requires the employee to maintain good conduct and discipline and he deals with money of the depositors and the customers and if it is not observed, the confidence of the public/depositors would be impaired. It is for this additional reason, we are of the opinion that the High Court has committed an apparent error in setting aside the order of dismissal of the respondent dated 24th July, 1999 confirmed in departmental appeal by order dated 15th November, 1999.”*

64. In the present case, a substantial sum of money of Rs. 5,00,000/- each, were deposited in the Respondent's joint-account with his wife. There can be no explanation as to how such amounts belonging to the customers of the Bank could even be deposited, and that too while the said amounts were reflected in the passbooks of the said customers.

65. On behalf of the Respondent, it is submitted that there has been no monetary loss to the Bank, and hence his acts were inconsequential. As has been held by the Supreme Court in ***Chairman and Managing Director, United Commercial Bank and Ors. (supra)***, extracted above, the Bank having suffered a loss or not is irrelevant, when it is clearly found that an employee has indulged in misconduct.

66. In ***State Bank of Travancore v. Prem Singh, (2019) III LJ 123 Del,***

a Id. Single Judge of this Court, in the context of a bank employee who was seen to have committed similar misconduct of misusing funds of the customers, has observed as under:

“Summary of Principles

31. When an employee acts in a manner by which the management loses confidence in him, his reinstatement cannot be ordered because it would neither be desirable nor expedient to continue the employee in service. It may also be detrimental to the discipline or security of the establishment. In case of loss of confidence, only compensation can be awarded.

32. The plea of 'loss of confidence' by the employer has to be bonafide. Loss of confidence cannot be subjective. It has to rest on some objective facts, which would induce a reasonable apprehension in the mind of the management regarding the trustworthiness of the employee and the power has to be exercised by the employer objectively in good faith, which means honestly with due care and prudence. Otherwise, a valuable right of reinstatement to which an employee is ordinarily entitled to, on a finding that he is not guilty of any misconduct, will be irretrievably lost to the employee.

33. The bonafide opinion formed by the employer about the suitability of his employee for the job assigned to him, even though erroneous, is final and not subject to review by the industrial adjudication.

34. In case of misconduct resulting in loss of confidence, the employer is not bound to hold any inquiry to visit the employee with penal action even if such reason happens to be misconduct of the employee. The employer, in its discretion, may invoke the power to discharge simpliciter for loss of confidence while dispensing with inquiry into the conduct of the Respondent. The departmental inquiry in such a case is not necessary.

35. The reinstatement of an employee terminated for loss of confidence cannot be ordered even if the inquiry held

by the employer has been held to be bad.

36. The reinstatement of an employee terminated for loss of confidence for involvement in a criminal case cannot be directed even if the employee is able to secure a acquittal or discharge in the criminal case.

37. The reinstatement has not been considered desirable in cases where there have been strained relationship between employer and employee. The reinstatement is also denied when an employee has been found to be guilty of subversive or prejudicial activities. The Courts have also denied reinstatement in cases where long time has lapsed or where the industry itself has become sick.

Conclusion

38. Applying the principles laid down in the aforesaid judgments, this Court is satisfied that the respondent is not entitled to the relief of reinstatement as the petitioner lost confidence in the respondent on account of the unauthorized withdrawals made by him from the account of a customer. The decision of the petitioner was bonafide as sufficient material justifying loss of confidence was available with the petitioner. The reinstatement of the respondent along with back wages is, therefore, set aside. However, the respondent is entitled to fair compensation in lieu of reinstatement.”

67. The question whether the Bank suffered any loss as a consequence of his actions would not be relevant for the defense of the Respondent. In any event, this Court is of the opinion that the incidents which have surfaced, may just be those which have come to the knowledge of the officials of the Bank. Such incidents in any branch of a Bank would lead to a loss of trust and faith in the Bank, especially in the case of local customers as they can spread such incidents through word of mouth. Thus, the loss is not to be adjudged only monetarily but also in terms of the goodwill/ faith of the customers in the Bank, and the consequent loss of trust for a Bank. This by

itself is sufficient. It is the clear conclusion of this Court that when there is loss of confidence, reinstatement ought not to be permitted.

68. Finally, the statement of the Respondent before the Enquiry Officer, wherein, he prays for leniency and for reinstatement, is also a clear admission by the Respondent of the irregularities committed by him. In such a situation, the Bank cannot be punished for not showing leniency. The Bank, in the opinion of this Court, has rightly held its employee accountable to a higher degree, as is expected of any financial institution.

69. The reliance of the Id. Counsel for the Respondent on the judgment of the Supreme Court in *Jayantibhai Raojibhai (supra)* is clearly unfounded, as the same was rendered in context of illegal termination. This Court has no doubt in arriving at a conclusion that the Respondent had indulged in improper conduct, and hence the dismissal of the Respondent, under such circumstances, after holding a detailed departmental enquiry, is not illegal and cannot be faulted with.

70. Accordingly, this Court is of the opinion that the impugned Award dated 28th December 2016, passed by the CGIT, is erroneous and is contrary to the settled position in law. Hence both the impugned order dated 14th March 2016 and the impugned Award dated 28th December 2016 are set aside. The punishment of termination, awarded to the Respondent is upheld.

71. The question that finally arises is as to the relief that is to be granted. The Respondent had worked with the Bank from 1983 till 2010, when he was terminated. His termination was held to be illegal by the CGIT, and he was reinstated with full back wages by the CGIT, vide its order dated 28th December 2016, in the following terms:

“On the-basis of aforesaid discussion I am of considered

view that management has utterly failed to discharge its burden to prove mis-conduct of Workman- Sh. Ashok Kumar Bhatia through its required evidence.

Hence alleged misconduct of Workman Sh. Ashok Kumar Bhatia is liable decided against management along with other facts and in favour of Workman as allegation of misconduct of Workman Sh. Ashok Kumar Bhatia by management is not proved due to want of required evidence of management.

Which is accordingly decided.

Hence Workman Sh. Ashok Kumar Bhatia is entitled for reinstatement with full back wages”

72. The Bank challenged the said award and vide order dated 1st September 2017, in this petition, the Award of the CGIT was stayed subject to deposit of 50% back wages, in terms of the CGIT's award w.e.f. 7th May 2010. Accordingly, Rs. 27,31,888/- was deposited and was kept in an FDR. The maturity amount as per Mr. Kapur, as recorded in the order dated 23rd September 2021, is Rs. 32 Lakhs. The Respondent had, during the pendency of the present petition moved an application under Section 17B of the ID Act on 2nd July, 2018, and he claimed that he was not gainfully employed elsewhere. In response to the said application, vide its reply, the Bank stated that the Respondent was in fact gainfully employed and was running a shop of sports items in the name of M/s Sports Paradise at Sector-37, Faridabad (HR), with his son. The Bank produced a bill dated 16th April, 2019 that was issued from the said shop in support of the said contention. In rejoinder to the said application, the Respondent stated that although he did open a small shop of sports item, he did so after taking a personal loan from his relatives, and upon realizing that he was not able to even pay the rent of the shop out of his earnings from the said shop, he closed the shop in June, 2019. No

relief was granted upon this application under Section 17B of the ID Act and the Respondent did not get any monthly payments. Thus, during the pendency of this writ petition, the Respondent has not received any monthly remuneration. It is also noted that the Respondent would have superannuated only in the year 2023. Further, since the termination has been held to be valid only today, the Respondent, if he had worked during this period would have earned his monthly salary owing to the CGIT's order, if the stay had not been granted. Under these circumstances, this Court is of the opinion that a sum of Rs. 20 Lakhs ought to be released as lumpsum payment to the Respondent, in the facts and circumstances of this case.

73. Accordingly, the Bank shall pay a lump sum amount of Rs. 20 lakhs within four weeks. The remaining amounts in the FDR, including the interest component shall be encashed by the Bank itself. In addition, the Respondent shall be released all his statutory dues such as Provident Fund, gratuity etc., without making any deductions, until the date of termination, in case the same has not already been released, within four weeks.

74. The petition is, accordingly, allowed in the above terms, with no order as to costs.

PRATHIBA M. SINGH
JUDGE

DECEMBER 17, 2021

dj/Ak