IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.09.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.No.30688/2016 & WMP.No.26590/2016

Niranjan Kumar Poddar ... Petitioner

Versus

1 The Chief General Manager
Appellate Authority, State Bank of India
Circle Top House, 16, College Lane
Nungambakkam, Chennai-600 006.

2 The General Manager(Network-2)
Appointing Authority, State Bank of
India, 86, Rajaji Salai, Chennai-600 001. ... Respondents

Prayer : - Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records pertaining to the petitioner in No.DIS/CON/161 dated 01.07.2015 passed by the 2nd respondent and A&R 35 dated 30.09.2016 passed by the 1st respondent and quash the same.

For Petitioner : Mr.R.Abdul Mubeen
For Respondents : Mr.C.Mohan for
M/s.King and Patridge

ORDER

(1) This writ petition has been filed in the nature of a certiorari seeking records of an order of the 2nd respondent, General Manager [Network-2], Appointing Authority, State Bank of India, dated 01.07.2015 in in No.DIS/CON/161 and also the order passed by the 1st respondent, Chief General Manager, Appellate Authority, State Bank of India Chennai, dated 30.09.2016 in A&R 35 and to quash both the said orders.

(2) In the affidavit filed in support of the writ petition, the petitioner had stated that he had originally joined the respondents/State Bank of India as Probationary Officer in the year 2009 and on confirmation, was posted as Branch Manager at Athavanur between June 2011 and September 2011. It must be mentioned even before proceeding further with the facts, that Athavanur Branch of State Bank of India is in Yelagiri in Vellore District.

(3) It is contended by the petitioner in his affidavit that during that period of deputation at Athavanur Branch, he stayed at Yelagiri Holiday Home for a period of one month between 29.11.2013 and 28.12.2013.

Thereafter, he submitted the bills for his stay at Yelagiri Holiday Home at Rs.1,300/- per day for a period of fourteen days amounting to Rs.29,325/- by bill dated 13.12.2013. He also submitted yet another bill dated 28.12.2013 for a total sum of Rs.33,000/-. These bills included not only lodging and boarding charges, but also halting and travelling allowance. The petitioner claimed that he had sought disbursal of a sum of Rs.43,875/- for lodging expenses. In the affidavit, it had been further stated that the respondents had for some reasons, entertained a suspicion about the veracity of the bills submitted by him, and claimed that the bills were false, that the bills were bogus and that the bills were fake. Contending so, they had issued a charge memo against the petitioner herein on 27.11.2014. The petitioner gave an explanation on 18.12.2014. He contended that it was an error of not maintaining proper ledger and bills by Yelagiri Holiday Home. He had also submitted his formal explanation. In this regard, it must also be pointed out that the petitioner appears to have been advised by those in the Union. Be that as it may, he also contended that there have been several precedents by various Bank

officials who had submitted false and fake bills and as against them, charges had been dropped. But, it is also pertinent to point out that the names of those officials who had the benefit of the charges which had been dropped, had not been stated in the affidavit. Thereafter, an Enquiry Officer was appointed and he proceeded to conduct the enquiry.

(4) The two charges which had been framed against the petitioner herein during the enquiry proceedings were that the lodging bills submitted by the petitioner were different from the bills as used normally by Yelagiri Holiday Home at Athavanur. It is also stated in the said charge that the Registers of Yelagiri Holiday Home do not reflect that the petitioner had ever stayed in that particular Holiday Home during the said period. This fact, according to the respondents, was also confirmed in writing by the Manager of Yelagiri Holiday Home. The second charge was more specific with respect to Room No.201 and it was contended by the respondents and also by the officials of Yelagiri Holiday Home that there was no such room bearing No.201 at all in Yelagiri Holiday Home. The rooms bear only Nos.101 to 108. It was

also contended that the maximum tariff per day was Rs.880/- whereas, the petitioner had claimed a sum of Rs.1,300/-. The above are the brief allegations against the petitioner enunciated in the charge memo. The enquiry thereafter proceeded and there is no complaint either in the affidavit or during the arguments by the learned counsel for the petitioner that opportunity was not granted during the enquiry process.

(5) The respondents had produced their witnesses to substantiate the charges and the petitioner was also granted necessary opportunity to rebut the evidence produced. Thereafter, on the basis of the evidence which had been produced, the Enquiry Officer found that the allegations had been established. The matter then shifted over to the Disciplinary Authority to pass appropriate orders of punishment since the charges have been found established by the Enquiry Officer.

(6) The Disciplinary Authority and again there is no argument advanced either during the course of arguments or stated in the affidavit that the procedure adopted by the Disciplinary Authority was in violation of any principles of natural justice, had thought that a punishment of cut

in increment could be imposed on the petitioner herein. Thereafter, the papers moved on to the Appointing Authority. The Appointing Authority again examined the entire records and after concurring with the findings of the Enquiry Officer, which was also confirmed by the Disciplinary Authority relating to the establishment of the charges, however thought that the punishment imposed would not suffice the seriousness, according to him, of the allegations and therefore, imposed a punishment of removal from service.

(7) It is contended by the petitioner herein during the course of arguments that no opportunity was granted by the Appointing Authority before taking a divergent view from that taken by the Disciplinary Authority relating to the punishment which could be imposed and was actually imposed on the petitioner herein. However, in the order of the Appointing Authority, it was mentioned that the petitioner was called over for personal hearing and an opportunity of personal hearing was granted to him and a specific date was also mentioned, namely, that he was so afforded a personal hearing on 15.06.2015. Nowhere in the affidavit has it been stated that on

15.06.2015, no such opportunity had ever been granted. This is a statement made across the Bar by the learned counsel for the petitioner. The petitioner, for reasons best known to him, who had an opportunity to examine the contents in the affidavit and had actually verified that the contents are true to his knowledge, had never stated that the statement by the Appointing Authority in his order that personal opportunity was granted on 15.06.2015, is a false statement. Be that as it may, the Appointing Authority, took a divergent view and had imposed a punishment of removal from service. Thereafter, the petitioner had filed a further appeal before the Appellate Authority / 1st respondent herein. The 1st respondent also had concurred with, not only with the findings that the allegations stood established, but also concurred with the punishment imposed by the Appointing Authority / 2nd respondent, namely, that of removal from service. Questioning these two orders, the present writ petition had been filed.

(8) A counter affidavit has been filed on behalf of the respondents herein,

wherein once again there has been a travel through the nature of allegations which had been raised against the petitioner herein. Let me not go back to the allegations since that would only be a repetition of facts narrated and there is no denial or dispute about the nature of charges or that the charges stood established during the course of enquiry. Thereafter, the only issue which was urged by the learned counsel for the petitioner is about the punishment imposed not by the Disciplinary Authority, but by the Appointing Authority. The Appointing Authority had imposed a punishment of removal from service which is well within the Rules of the respondents/Bank and that has been justified by the respondents in the counter affidavit by stating that the nature of allegations and the charges which stood established, invited such a punishment to be imposed and it was also stated in the counter affidavit that it had been so imposed only, after granting an opportunity of personal hearing. The punishment, therefore, has been justified by the respondents in their counter affidavit. It had also been stated that the petitioner had exhausted his further remedy by filing an appeal and it had been contended that the

Appellate Authority / 1st respondent had also considered all the aspects, not only on facts, but also on the nature of punishment imposed, and had come to a definite conclusion that since the charges had been established, the punishment was proportionate to the charges. It had therefore been contended that the writ petition should be dismissed.

(9) Heard arguments advanced by Mr.R.Abdul Mubeen, learned counsel for the petitioner and Mr.C.Mohan, for M/s.King and Patridge, learned counsels for the respondents.

(10) It is the contention of the learned counsel for the petitioner that the petitioner whose background has been explained in much detail, not only in the affidavit but also in the orders of the respondents that he comes from a less privileged background and had joined the Bank as Probationary Officer with high hopes. It is also stated that he had the opportunity of his services as Probationary Officer being confirmed which would show that the respondents, at that particular point of time, had contended that his services were of such quality and order that they should confirm his services and thereafter, they had posted

him as Branch Manager in Athavanur Branch in Yelagiri in Vellore District.

(11) The learned counsel for the petitioner stated that the petitioner was there on official duty and though advanced arguments with respect to the facts of the allegations, it was only an exercise in hopelessness since the charges had been established concurrently, not only by the Enquiry Officer, but also on review by the Disciplinary Authority, and when again re-examined by the Appointing Authority, and also finally confirmed by the Appellate Authority / 1st respondent herein. The learned counsel for the petitioner therefore, shifted his arguments to violation of principles of natural justice.

(12) In this connection, he stated that the Appointing Authority, though had came to a definite conclusion concurring with the findings of the Enquiry Officer and the Disciplinary Authority with respect to the establishment of charges, had however, deviated from the punishment as imposed by the Disciplinary Authority. It was therefore contended that the petitioner should have been given an opportunity at that stage. It was contended that such opportunity should not only be an

opportunity on paper, but also be one in letter and spirit. It should be effective and there should be a record maintained on such opportunity being granted. Though the learned counsel stated on instructions, that the statement made in the impugned proceedings that personal hearing was granted on 15.06.2015 was not correct, still I would not place much credence to that particular line of argument since the petitioner herein, in his affidavit, had not taken up that particular stand. Any argument could be based only on what was stated by the petitioner in his affidavit and not otherwise. An additional affidavit has also not been presented before the Court though the matter had come up for hearing before this Court atleast on three earlier occasions.

(13) The learned counsel for the petitioner then pointed out the issue of proportionality of the punishment imposed and wondered whether the nature of allegations namely of producing false bills of stay while on official duty, would invite a major punishment of removal from service.

(14) The learned counsel for the petitioner in this regard, placed strong

reliance, with respect to the issue of proportionality, on the judgment reported in ***2010 [6] SCC 614 [Chairman, All India Railway Recruitment Board and Another Vs. K.Shyam Kumar and Others]***. That judgment had touched the portals of the Hon'ble Supreme Court owing to facts relating to investigation of 62 candidates against whom there were serious allegations of impersonation during a recruitment process. There had been a vigilance report indicating leakage of question paper, large scale impersonation of candidates, mass copying etc., in the written test and also possibility of involvement of Railway staff and outsiders.

(15) Quite honestly, the facts therein could not be compared with the facts of this case, where it is a single instance of producing fake bills by the petitioner herein. At any rate, the Hon'ble Supreme Court had occasion to examine the issue of proportionality. The issue of proportionality came up originally for consideration in the House of Lords in ***R.Daly Vs. Secretary of State for the Home Department*** reported in ***2001 [2] AC 532.*** It was brought in as a corollary to the Wednusbury principle. The Wednusbury principle itself came up in

administrative jurisprudence in ***Associated Provincial House Vs. Wednusbury Corporation [1948 [1] KB 223],*** where a condition that no children under the age of fifteen years shall be admitted to any entertainment whether accompanied by an adult or not was challenged. The Court held that the said direction was extremely irrational that no rational person could impose such condition. As a follow-up of Wednusbury principles, came the theory of proportionality to determine whether the punishment which was imposed, was proportional to the nature of the allegations. There were tests which form the nucleus of the theory of proportionality. One was whether the decision maker had struck the right balance between the nature of allegations and the punishment imposed. There cannot be a disproportionate punishment imposed when the nature of allegations did not warrant such punishment to be so imposed. It should also take into consideration, the other interests namely, the impact of such punishment and if too serious a punishment is imposed, the probable effect it would have. Another was scrutiny of the entire aspect of balancing the nature of allegations and the

punishment which had been imposed to determine whether it was appropriate and in this view, the principles of human rights also came into consideration. These principles were enunciated by the Lord Steyn in the judgment reported in ***2001 [3] All Enquiry Report 433 [HL].***

(16) In the judgment which the learned counsel for the petitioner relied on, namely, the ***All India Railway Recruitment Board*** referred supra, much reliance was placed on paragraph No.37, which is as follows:-

> *"**37.** Proportionality requires the court to judge whether action taken was really needed as well as whether it was within the range of courses of action which could reasonably be followed. Proportionality is more concerned with the aims and intention of the decision-maker and whether the decision-maker has achieved more or less the correct balance or equilibrium. The court entrusted with the task of judicial review has to examine whether decision taken by the authority is proportionate i.e. well balanced and harmonious, to this extent the court may indulge in a merit review and if the court finds that the decision is proportionate, it seldom interferes with the decision*

taken and if it finds that the decision is disproportionate i.e. if the court feels that it is not well balanced or harmonious and does not stand to reason it may tend to interfere."

(17) The learned counsel for the petitioner then placed quite strong reliance on the judgment reported in ***1998 [7] SCC 84 [Punjab National Bank and Others Vs. Kunj Behari Misra].*** This appeal was heard along with another appeal, in Civil Appeal No.7433/1995 ***[Chief Personnel Disciplinary Authority, Punjab National Bank and Others Vs. Shanti Prasad Goel].*** This judgment was relied on by the learned counsel with respect to opportunity to be granted when a different view was taken with respect to the nature of punishment which was to be imposed. The Regulations of the Punjab National Bank were relied on and much reliance was placed on paragraphs No.18, 19 and 20, which are as follows:-

"18. *Under Regulation 6, the enquiry proceedings can be conducted either by an enquiry officer or by the disciplinary authority itself. When the enquiry is conducted by the enquiry officer, his report is not final or conclusive and the disciplinary*

proceedings do not stand concluded. The disciplinary proceedings stand concluded with the decision of the disciplinary authority. It is the disciplinary authority which can impose the penalty and not the enquiry officer. Where the disciplinary authority itself holds an enquiry, an opportunity of hearing has to be granted by him. When the disciplinary authority differs with the view of the enquiry officer and proposes to come to a different conclusion, there is no reason as to why an opportunity of hearing should not be granted. It will be most unfair and iniquitous that where the charged officers succeed before the enquiry officer, they are deprived of representing to the disciplinary authority before that authority differs with the enquiry officer's report and, while recording a finding of guilt, imposes punishment on the officer. In our opinion, in any such situation, the charged officer must have an opportunity to represent before the disciplinary authority before final findings on the charges are recorded and punishment imposed. This is required to be done as a part of the first stage of enquiry as explained in ***Karunakar case [(1993) 4 SCC 727 : 1993 SCC (L&S) 1184 : (1993) 25 ATC 704] .***

19. *The result of the aforesaid discussion would be that the principles of natural justice have to be read into Regulation 7(2). As a result thereof, whenever the disciplinary authority disagrees with the enquiry authority on any article of charge, then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officer an opportunity to represent before it records its findings. The report of the enquiry officer containing its findings will have to be conveyed and the delinquent officer will have an opportunity to persuade the disciplinary authority to accept the favourable conclusion of the enquiry officer. The principles of natural justice, as we have already observed, require the authority which has to take a final decision and can impose a penalty, to give an opportunity to the officer charged of misconduct to file a representation before the disciplinary authority records its findings on the charges framed against the officer.*

20. *The aforesaid conclusion which we have arrived at is also in consonance with the underlying principle enunciated by this Court in the case of* ***Institute of Chartered Accountants [(1986) 4 SCC***

> ***537 : (1986) 1 ATC 714]*** *. While agreeing with the decision in* ***Ram Kishan case [(1995) 6 SCC 157 : 1995 SCC (L&S) 1357 : (1995) 31 ATC 475]*** *we are of the opinion that the contrary view expressed in* ***S.S. Koshal [1994 Supp (2) SCC 468 : 1994 SCC (L&S) 1019 : (1994) 27 ATC 834] and M.C. Saxena [State of Rajasthan v. M.C. Saxena, (1998) 3 SCC 385 : 1998 SCC (L&S) 875]*** *cases do not lay down the correct law."*

(18) The ratio laid down in the aforementioned paragraphs is that the Disciplinary Authority can impose penalty and not the Enquiry Officer. It was also held that when the Disciplinary Authority himself/herself holds an enquiry, then, an opportunity of hearing has to be given with respect to the punishment imposed. It was also held that when the Disciplinary Authority differed with the view of the Enquiry Officer and proposed to come to a different conclusion, then, an opportunity of hearing should be given.

(19) It must however be stated that in this particular writ petition under consideration, during enquiry, documents had been produced and no ground had been raised that on facts, the Enquiry Officer should have

come to a different conclusion. As a matter of fact, a certiorari has not been sought with respect to the records of the Enquiry Officer who was the fact finding authority. Therefore, it would be extremely inappropriate on the part of this Court to travel on facts. It has to be held that the facts had been established as against the petitioner herein.

(20) The learned counsel for the petitioner therefore stated that the Court should re-examine the entire issue particularly keeping in mind the background of the petitioner herein and his future prospects which had come to a sudden halt owing to the punishment which had been imposed by the Appointing Authority. It was therefore urged that this Court should re-examine the entire issue with respect to the punishment imposed and interfere with the punishment so imposed against the petitioner herein namely that of removal from service.

(21) The learned counsel for the respondents however contended that these factors should not play on the mind of the Court.

(22) The learned counsel for the respondents made a fervent attempt to

state the facts. But the facts are admitted and there are no controversy raised about them. The allegations stood proved during the enquiry.

(23) With respect to the nature of procedure adopted, particularly by the Appointing Authority, who exercised his right to differ from the punishment as imposed by the Disciplinary Authority, the learned counsel for the respondents, placed reliance on the judgment of the Hon'ble Supreme Court reported in ***1994 Supp [2] SCC 479 [State Bank of Hyderabad and Others Vs. Rangachary]***, and it was contended that the Regulations of the State Bank of Hyderabad had been considered and it had been held that the authorities have every right to decide the punishment which should be imposed on the basis of the allegations. It had been held by the Hon'ble Supreme Court in paragraph No.8 as follows:-

> ***"8.*** *A reading of the above provisions shows that the Enquiry Officer has to submit the record and his findings along with his recommendation to the disciplinary authority. If the disciplinary authority agrees with the findings it can impose the punishment which it is competent to do. However, if, disciplinary*

authority disagrees with the findings of the enquiring authority on any article of charge it is under an obligation to record its reasons for disagreement and record its own findings on such charges. If, however, the disciplinary authority is of the opinion that any of the major penalties mentioned in clauses (e), (f), (g) and (h) of Regulation 67 ought to be imposed, which he cannot impose, he has to make over the entire record along with his recommendations to the appointing authority. It is open to the appointing authority to impose such penalty as it considers appropriate in its opinion. Clause (iv) of sub-regulation (3) shows that it is open to the appointing authority as well as the disciplinary authority to come to their own findings on all or any of the article of charges and if they are of the opinion that no penalty is called for notwithstanding the report of the Enquiry Officer, they can pass an order exonerating the delinquent officer....."

(24) The learned counsel for the respondents also placed reliance on the judgment reported in ***2007 [7] SCC 236 [Bank of India Vs. T.Jogram]***. This judgment was with respect to the restriction of the scope of judicial review particularly when procedure had been

followed and findings have been held established during the course of enquiry and when such findings had been consistently confirmed by the other authorities. It was stressed by the learned counsel for the respondents that the facts of the present case are similar. The respondent therein who was a Clerk in the appellant/Bank, was transferred to Hyderabad and while working at Secundrabad, had claimed travel expenses, lodging and boarding expenses and halting allowance and it was found that the claims were inflated. The charges were held proved. Finally, the Hon'ble Supreme Court, had held as follows:-

> ***"13.*** *In* ***B.C. Chaturvedi v. Union of India [(1995) 6 SCC 749 : 1996 SCC (L&S) 80]****, a three-Judge Bench of this Court held in para 12 as under: (SCC p. 759)*
>
> > *"12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court.*

When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the

delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case."

14. *In* ***Regional Manager, U.P. SRTC v. Hoti Lal [(2003) 3 SCC 605 : 2003 SCC (L&S) 363]*** *this Court observed as under: (SCC p. 614, para 10)*

"If the charged employee holds a position of trust where honesty and integrity are inbuilt requirements of functioning, it would not be proper to deal with the matter leniently. Misconduct in such cases has to be dealt with iron hands. Where the person deals with public money or is engaged in financial transactions or acts in a fiduciary capacity, the highest degree of integrity and trustworthiness is a must and unexceptionable. Judged in that

background, conclusions of the Division Bench of the High Court do not appear to be proper. We set aside the same and restore order of the learned Single Judge upholding the order of dismissal."

15. *By now it is well-settled principle of law that judicial review is not against the decision. It is against the decision-making process. In the instant case, there are no allegations of procedural irregularities/illegality and also there is no allegation of violation of principles of natural justice. Counsel for the respondent tried to sustain the allegation of mala fide. He tried to assert that the respondent filed a case against the Chief Manager of Secunderabad Branch in 1996 and the enquiry initiated against the respondent is the fallout of mala fide. We are unable to accept the bald allegations. The allegation of mala fide was not substantiated. It is well-settled law that the allegation of mala fide cannot be based on surmises and conjectures. It should be based on factual matrix. Counsel also tried to assert the violation of principles of natural justice on the ground that the documents required by the respondent were not supplied to him. From the averment it is seen that the documents, which*

were sought to be required by the respondent, were all those bills submitted by the respondent himself before the authority. In these circumstances, no prejudice whatsoever was caused to the respondent.

16. *As already noticed the charge on the respondent was of violation of Regulation 3(1) of the Bank of India Officer Employees' (Conduct) Regulations, 1976. The Regulation requires that every officer employee shall at all times take all possible steps to ensure and protect the interest of the Bank and discharge his duties with utmost integrity, honesty, devotion and diligence and do nothing which is unbecoming of a bank officer.*

17. *In the view that we have taken the impugned order of the Division Bench of the High Court is unsustainable in law. It is accordingly set aside. The order of the learned Single Judge is restored. The writ petition filed by the respondent shall stand dismissed. The appeal is allowed. No costs."*

(25) The learned counsel for the respondents also relied on the judgment of the Hon'ble Supreme Court reported in ***2006 [7] SCC 212 [State***

Bank of India and Others Vs. Ramesh Dinkar Punde], which again was with respect to the issue of judicial review. It had been held in that case, that the High Court had erred in acting as a Court of Appeal and in reappreciating the evidence. The procedure adopted by the High Court was frowned upon by the Hon'ble Supreme Court and guidelines were laid down relating to judicial review and whether reappreciation of evidence was permissible or not. Quite thankfully, in the present case, there is no occasion for reappreciation of the evidence. The Hon'ble Supreme Court has held as follows:-

> ***"14.*** *We may now notice a few decisions of this Court in similar circumstances.*
>
> ***15.*** *In* ***Union of India v. Sardar Bahadur [(1972) 4 SCC 618 : (1972) 2 SCR 218]*** *it is held as under: (SCC p. 623, para 15)*
>
> > *"A disciplinary proceeding is not a criminal trial. The standard proof required is that of preponderance of probability and not proof beyond reasonable doubt. If the inference that lender was a person likely to have official dealings with the respondent was one which a reasonable person would draw from the proved*

facts of the case, the High Court cannot sit as a court of appeal over a decision based on it. The Letters Patent Bench had the same power of dealing with all questions, either of fact or of law arising in the appeal, as the Single Judge of the High Court. If the enquiry has been properly held the question of adequacy or reliability of the evidence cannot be canvassed before the High Court. A finding cannot be characterised as perverse or unsupported by any relevant materials, if it was a reasonable inference from proved facts. (SCR p. 219)"

16.*In* ***Union of India V. Parma Nanda [1989 [2] SCC 177 : 1989 SCC [&S] 303,*** *it is held at SCC p.189, para 27 as under:-*

"27.. We must unequivocally state that the jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the inquiry officer or competent authority where they are not arbitrary or utterly perverse. It is appropriate to remember that the power to impose penalty on a delinquent officer

is conferred on the competent authority either by an Act of legislature or rules made under the proviso to Article 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is mala fide is certainly not a matter for the Tribunal to concern itself with. The Tribunal also cannot interfere with the penalty if the conclusion of the inquiry officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter."

17. *In* ***Union Bank of India v. Vishwa Mohan [(1998) 4 SCC 310 : 1998 SCC (L&S) 1129]*** *this Court held at SCC p. 315, para 12 as under:*

"12. After hearing the rival contentions, we are of the firm view that all the four charge-sheets

which were enquired 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 enquiry authority's report/findings in the present case. It needs to be emphasised 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 enquiry report/findings to him."

18. *In* ***Chairman and MD, United Commercial Bank v. P.C. Kakkar [(2003) 4 SCC 364 : 2003 SCC (L&S) 468]*** *this Court held at SCC pp. 376-77, para 14 as under:*

"14. A bank officer is required to exercise higher standards of honesty and integrity. He deals with the money of the

depositors and the customers. Every officer/employee of the bank is required to take all possible steps to protect the interests of the bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and to do nothing which is unbecoming of a bank officer. Good conduct and discipline are inseparable from the functioning of every officer/employee of the bank. As was observed by this Court in ***Disciplinary Authority-cum-Regional Manager v. Nikunja Bihari Patnaik [(1996) 9 SCC 69 : 1996 SCC (L&S) 1194]*** *it is no defence available to say that there was no loss or profit resulted in case, when the officer/employee acted without authority. The very discipline of an organisation more particularly a bank is dependent upon each of its officers and officers acting and operating within their allotted sphere. Acting beyond one's authority is by itself a breach of discipline and is a misconduct. The charges against the employee were not casual in nature and were serious. These aspects do not appear to have been kept*

in view by the High Court."

19. *In* ***Regional Manager, U.P. SRTC v. Hoti Lal [(2003) 3 SCC 605 : 2003 SCC (L&S) 363]*** *it was pointed out as under: (SCC p. 614, para 10)*

> *"If the charged employee holds a position of trust where honesty and integrity are inbuilt requirements of functioning, it would not be proper to deal with the matter leniently. Misconduct in such cases has to be dealt with iron hands. Where the person deals with public money or is engaged in financial transactions or acts in a fiduciary capacity, the highest degree of integrity and trustworthiness is a must and unexceptionable."*

20. *In* ***Cholan Roadways Ltd. v. G. Thirugnanasambandam [(2005) 3 SCC 241 : 2005 SCC (L&S) 395]*** *this Court at SCC p. 247, para 15 held:*

> *"15. It is now a well-settled principle of law that the principles of the Evidence Act have no application in a domestic enquiry."*

21. *Confronted with the facts and the position of law, learned counsel for the respondent submitted that leniency may be shown to the respondent having*

regard to long years of service rendered by the respondent to the Bank. We are unable to countenance such submission. As already said, the respondent being a bank officer holds a position of trust where honesty and integrity are inbuilt requirements of functioning and it would not be proper to deal with the matter leniently. The respondent was a Manager of the Bank and it needs to be emphasised 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 so that the confidence of the public/depositors is not impaired. It is for this reason that when a bank officer commits misconduct, as in the present case, for his personal ends and against the interest of the bank and the depositors, he must be dealt with iron hands and he does not deserve to be dealt with leniently."

(26) The learned counsel for the respondents also placed reliance on the judgment reported in ***2019 [16] SCC 69 [State Bank of India Vs. Mohammad Badruddin]*** with respect to the issue of opportunity to represent against the proposed penalty. The observations of the Hon'ble Supreme Court were as follows:-

*"**16.** We have heard the learned counsel for the parties and find merit in the arguments raised by Mr Viswanathan, learned Senior Counsel for the appellants, to some extent. The 42nd Constitutional Amendment deleted the following words appearing in clause (2) of Article 311 of the Constitution of India, which reads as under:*

> *"and where it is proposed, after such inquiry to impose on him any such penalty, until he has been given a reasonable opportunity of making representation on the penalty proposed, but only on the basis of the evidence adduced during such inquiry."*

***17.** A perusal of such omitted provisions would show that an opportunity was required to be given to submit a representation on penalty proposed but such requirement had been omitted by 42nd Constitutional Amendment. This Court in **Mohd. Ramzan case [Union of India v. Mohd. Ramzan Khan, (1991) 1 SCC 588 : 1991 SCC (L&S) 612]** considered the effect of amendment and held as under: (SCC pp. 594-96, paras 9, 12 & 15)*

> *"9. Where, however, the inquiry officer furnishes a report with or without proposal of*

punishment the report of the inquiry officer does constitute an additional material which would be taken into account by the disciplinary authority in dealing with the matter. In cases where punishment is proposed there is an assessment of the material and a tentative conclusion is reached for consideration of the disciplinary authority and that action is one where the prejudicial material against the delinquent is all the more pronounced.

***

12. We have already noticed the position that the Forty-second Amendment has deleted the second stage of the inquiry which would commence with the service of a notice proposing one of the three punishments mentioned in Article 311(1) and the delinquent officer would represent against the same and on the basis of such representation and/or oral hearing granted the disciplinary authority decides about the punishment. Deletion of this part from the concept of reasonable opportunity in Article 311(2), in our opinion, does not bring about any material change in regard to requiring the copy of the report to be provided to the delinquent.

***

15. Deletion of the second opportunity from the scheme of Article 311(2) of the Constitution has nothing to do with providing of a copy of the report to the delinquent in the matter of making his representation. Even though the second stage of the inquiry in Article 311(2) has been abolished by amendment, the delinquent is still entitled to represent against the conclusion of

the inquiry officer holding that the charges or some of the charges are established and holding the delinquent guilty of such charges. For doing away with the effect of the enquiry report or to meet the recommendations of the inquiry officer in the matter of imposition of punishment, furnishing a copy of the report becomes necessary and to have the proceeding completed by using some material behind the back of the delinquent is a position not countenanced by fair procedure. While by law application of natural justice could be totally ruled out or truncated, nothing has been done here which could be taken as keeping natural justice out of the proceedings and the series of pronouncements of this Court making rules of natural justice applicable to such an inquiry are not affected by the Forty-second Amendment. We, therefore, come to the conclusion that supply of a copy of the inquiry report along with recommendation, if any, in the matter of proposed punishment to be inflicted would be within the rules of natural justice and the delinquent would, therefore, be entitled to the supply of a copy thereof. The Forty-second Amendment has not brought about any change in this position."

18. *Later, the Constitution Bench in* ***B. Karunakar [ECIL v. B. Karunakar, (1993) 4 SCC 727 : 1993 SCC (L&S) 1184]*** *affirmed the said judgment to hold that it was no longer necessary to issue a notice to the delinquent employee to show cause against the punishment proposed. The Court held as under: (SCC*

pp. 751, 753 & 756-57, paras 19, 25, 29 & 30)

> *"19. In Mohd. Ramzan Khan case [Union of India v. Mohd. Ramzan Khan, (1991) 1 SCC 588 : 1991 SCC (L&S) 612] the question squarely fell for consideration before a Bench of three learned Judges of this Court viz. that although on account of the Forty-second Amendment of the Constitution, it was no longer necessary to issue a notice to the delinquent employee to show cause against the punishment proposed and, therefore, to furnish a copy of the enquiry officer's report along with the notice to make representation against the penalty, whether it was still necessary to furnish a copy of the report to him to enable him to make representation against the findings recorded against him in the report before the disciplinary authority took its own decision with regard to the guilt or otherwise of the employee by taking into consideration the said report. The Court held that whenever the enquiry officer is other than the disciplinary authority and the report of the enquiry officer holds the employee guilty of all or any of the charges with proposal for any punishment or not, the delinquent employee is entitled to a copy of the report to enable him to make a representation to the disciplinary authority against it and the non-furnishing of the report amounts to a violation of the rules of natural justice.*
>
> ***
>
> *25. While the right to represent against the findings in the report is part of the reasonable*

opportunity available during the first stage of the inquiry viz. before the disciplinary authority takes into consideration the findings in the report, the right to show cause against the penalty proposed belongs to the second stage when the disciplinary authority has considered the findings in the report and has come to the conclusion with regard to the guilt of the employee and proposes to award penalty on the basis of its conclusions. The first right is the right to prove innocence. The second right is to plead for either no penalty or a lesser penalty although the conclusion regarding the guilt is accepted. It is the second right exercisable at the second stage which was taken away by the Forty-second Amendment.

***

29. Hence it has to be held that when the enquiry officer is not the disciplinary authority, the delinquent employee has a right to receive a copy of the enquiry officer's report before the disciplinary authority arrives at its conclusions with regard to the guilt or innocence of the employee with regard to the charges levelled against him. That right is a part of the employee's right to defend himself against the charges levelled against him. A denial of the enquiry officer's report before the disciplinary authority takes its decision on the charges, is a denial of reasonable opportunity to the employee to prove his innocence and is a breach of the principles of natural justice.

30. ...(iv) In the view that we have taken viz. that the right to make representation to the disciplinary authority against the findings

recorded in the enquiry report is an integral part of the opportunity of defence against the charges and is a breach of principles of natural justice to deny the said right, it is only appropriate that the law laid down in ***Mohd. Ramzan case [Union of India v. Mohd. Ramzan Khan, (1991) 1 SCC 588 : 1991 SCC (L&S) 612]*** *should apply to employees in all establishments, whether Government or non-Government, public or private. This will be the case whether there are rules governing the disciplinary proceeding or not and whether they expressly prohibit the furnishing of the copy of the report or are silent on the subject. Whatever the nature of punishment, further, whenever the rules require an inquiry to be held, for inflicting the punishment in question, the delinquent employee should have the benefit of the report of the enquiry officer before the disciplinary authority records its findings on the charges levelled against him. Hence, Question (iv) is answered accordingly."*

(emphasis supplied)

19. *In* ***K. Manche Gowda case [State of Mysore v. K. Manche Gowda, AIR 1964 SC 506]*** *, the inquiry officer recommended that the delinquent may be reduced in rank. But while serving show-cause notice after the report of the inquiry officer, the disciplinary authority proposed punishment of dismissal from service. The order of punishment considered the previous punishments imposed upon the*

delinquent to come to the conclusion that the delinquent is unfit to continue in government service and, therefore, he was ordered to be dismissed from service. It was, in these circumstances, the Court ordered that the past conduct can be taken into consideration during the second stage of inquiry, which essentially relates more to the domain of punishment rather than to that of guilt. An opportunity should be given to the delinquent to know that fact and meet the same.

20. *The omission of the words from clause (2) of Article 311 of the Constitution reproduced above completely changes the requirement of serving notice in respect of the proposed punishment. The amended provisions of Article 311 of the Constitution of India have been considered in* ***Mohd. Ramzan case [Union of India v. Mohd. Ramzan Khan, (1991) 1 SCC 588 : 1991 SCC (L&S) 612]*** *and later in* ***B. Karunakar case [ECIL v. B. Karunakar, (1993) 4 SCC 727 : 1993 SCC (L&S) 1184]*** *. The judgment of this Court in* ***Nicholas Piramal India Ltd. [Nicholas Piramal India Ltd. v. Harisingh, (2015) 8 SCC 272 : (2015) 2 SCC (L&S) 686]*** *arises out of an award passed by the Labour Court under the Industrial Disputes Act, 1947.*

The jurisdiction of the Labour Court is much wider where the punishment can be reviewed by the Labour Court in terms of Section 11-A of the said Act.

***21.** This Court in **Punjab National Bank v. K.K. Verma [Punjab National Bank v. K.K. Verma, (2010) 13 SCC 494 : (2011) 1 SCC (L&S) 408]** has taken the same view that right to represent against the proposed penalty has been taken away by the 42nd Amendment. It was so held: (SCC p. 508, para 32)*

> *"32. Thus, the right to represent against the findings in the inquiry report to prove one's innocence is distinct from the right to represent against the proposed penalty. It is only the second right to represent against the proposed penalty which is taken away by the 42nd Amendment. The right to represent against the findings in the report is not disturbed in any way. In fact, any denial thereof will make the final order vulnerable."*

***22.** Thus, the requirement of the second show-cause notice of proposed punishment has been dispensed with. The mandate now is only to apprise the delinquent of the inquiry officer's report. There is no necessity of communicating proposed punishment*

which was specifically contemplated by clause (2) of Article 311 prior to the 42nd Amendment."

(27) I have carefully considered the arguments advanced on either side and also perused the material records.

(28) It is a case where the petitioner, a young Probationary Officer, and whose services had been regularised, is knocking the doors of this Court on allegations of producing fake and false bills while on deputation at Yelagiri as Branch Manager of Athavanur Branch of State Bank of India. Naturally, there was a responsibility cast on him as Branch Manager to set an example to the other staff and one way in which he should certainly set an example is by acting in a manner where his bona fides are not suspected. It is claimed that the petitioner had produced bills for stay at Yelagiri Holiday Home at Room No.201. He had produced bills for that stay for a period of well over a month and claimed that the tariff was Rs.1,300/- per day. Factually, it had been established that though there is Yelagiri Holiday Home at Yelagiri, there is no Room No.201 at the said Yelagiri Holiday Home. Factually, it has also been established that

the tariff per day was around Rs.880/- and not Rs.1,300/-. These facts stare on the face of the petitioner herein and has neither been denied nor disputed during the arguments. It was not argued that holding such allegations as held established, was based on improper appreciation of evidence.

(29) No doubt, it is true that in departmental proceedings, the manner in which the evidence will have to be evaluated, would be only on preponderance of probabilities and not based on strict proof. But, where it is based on preponderance of probabilities or of strict proof, one underlying factor is that the evidence has to be trustworthy. It is the same evidence which is placed before the Enquiry Officer and the same evidence which is also placed before a Court of Law.

(30) In a departmental proceedings, if there are gaps in the evidence, the probabilities can be examined to determine whether based on inferences, the gaps can be closed and an inference can be drawn. Before a Court examining an offence as defined under the Indian Penal Code, where there are gaps in the evidence, the Court can never close those gaps. The golden thread which runs through criminal

jurisprudence as opposed to departmental proceedings is that no amount of suspicion could be termed as proof of a fact in a Criminal Court. There must be proof established of each and every fact alleged. Even if the proof is based on circumstantial evidence, there must be a chain linking each circumstance to form one common thread of evidence as against the accused therein.

(31) In a departmental proceedings, the same evidence can be evaluated and even if there are gaps and even if the chain is not completely linked, a small leverage is given to draw an inference. The pendulum relating to probability swings in favour of the charged official. The determination of a fact would have to be based on the same set of evidence namely, the oral and documentary evidence produced before the Enquiry Officer. It is only appreciation of such evidence and the conclusion reached on the basis of such evidence which alone differs as between departmental proceedings and a criminal trial.

(32) In this case, the respondents had examined the Manager of Yelagiri Holiday Home. He was the best person to state whether there is a

room bearing No.201 in Yelagiri Holiday Home or not. He had categorically stated that there is no Room No.201 at all. The petitioner had produced bills as if he had stayed in Room No.201. It is the contention of the petitioner that the ledgers maintained by the said Holiday Home were not proper. But again, that would be stretching the issue too far as it would go contrary to the fact namely, that there is no Room No.201. However much any individual should search around the Holiday Home at Yelagiri, nobody can find Room No.201. The only obvious inference which could be therefore drawn is that, the bills produced bearing Room No.201 is either fake or produced for the purpose of claiming reimbursement for stay. Therefore, the Court would only be entering into an unchartered path if once again the facts in this particular case were to be re-examined. The facts cannot and should not be re-examined. They had been held established during the course of enquiry and such findings had been confirmed by the Disciplinary Authority and confirmed by the Appointing Authority and further confirmed by the Appellate Authority. Therefore, the allegations against the petitioner stood

established.

(33) The only factor is about the punishment to be imposed. The Enquiry Officer had forwarded the Enquiry Report to the Disciplinary Authority. The Disciplinary Authority, on his appreciation of evidence, had thought that a cut in increment would be a proportional punishment so far as the nature of the allegations are concerned. He then forwarded the papers to the Appointing Authority. The Appointing Authority however took a different stand. He concurred with the Disciplinary Authority that the allegations were held proved. However, the Appointing Authority had differed with the nature of punishment to be imposed.

(34) It must be kept in mind that the Appointing Authority had granted an opportunity of personal hearing to the petitioner herein. I would state that as a fact established. This is so because in the affidavit, the petitioner had not stated anywhere that he was never granted any personal opportunity by the Appointing Authority. It was only during the course of arguments today that the learned counsel for the petitioner remonstrated that such opportunity was never granted. But,

to substantiate that particular submission, the petitioner had not filed an additional affidavit. Balancing this, there is a specific statement in the counter affidavit that personal opportunity was actually granted by the Appointing Authority.

(35) The Appointing Authority in his reasons, has stated as follows:-

> *"....The Disciplinary Authority after unbiased perusal of charges, IA's findings and CSO's submission and other relevant records produced to him, had observed that 2 charges leveled against CSO had been proved. In as much as CSO had produced bogus bills with a sole intention to claim wrong gain which is different from the normal tariff structure at the holiday home. In addition to that the official had produced computerized bill, whereas manual bill in writing only were issued at the holiday home. Moreover, he had not produced any materials evidence to substantiate his stay at the holiday home. After taking into consideration of the official's past track record, he proposed to award the punishment of* ***"Reduction to a lower stage i.e., JMGS-I and fixing the basic pay at the initial stage i.e., Rs.14,500/- for a period of three years with further directions that the officer will not***

earn increments to pay during the period of such reduction and on the expiry of such period the reduction will not have the effect of postponing the future increments of his pay" *on Shri Niranjan Kumar Podda, Officer, JMGS-I, in terms of Rule 67[f] of SBIOSR, 1992, which would meet the ends of justice.*

I, as Appointing Authority, having gone through the charges levelled, IA's findings, CSO's submission and DA's views along with other relevant records. I observe that charges have been colcusively proved and malafides are discernible on official's part. I therefore, am not in agreement with DA's views and punishment and award the punishment of ***"Removal from service"*** *under Rule 67[i] of SBIOSR 1992, on Shri Niranjan Kumar Poddar, Officer, JMGS-I, which would meet the ends of justice.*

In this connection, the CSO was advised to apper before me, for a personal hearing on the proposed penalty on 15.06.2015 and no new facts brought out during the personal hearing. While it is a real case that a young official gets involved in such petty things, I have no other alternative, but to continue with the proposed punishment.

Accordingly, in compliance of Rule No.68[3][iii]

of State Bank of India Officer's Service Rules, I order to impose aforesaid penalty upon Shri Niranjan Kumar Poddar, Officer, JMGS-I. I further order that this order be served on the CSO, Shri Niranjan Kumar Poddar, Officer, JMGS-I, and a copy thereof be placed in his Service Record file.

This order will come into effect from the date on which it is served on the CSO.

Shri Niranjan Kumar Poddar, Officer, JMGS-I, may, if he so desires, prefer an appeal against this order to the Appellate Authority within 45 days from the date of receipt of this order in terms of Rule 69[1] and [2] of State Bank of India Officer's Service Rules [SBIOSR]."

(36) This portion had been read over by the learned counsel for the petitioner and it was stated that no specific reasons have been given as to why the Appointing Authority had differed from the findings of the Disciplinary Authority. But the question which begs an answer is what would be the nature of reasons which could be so offered and which reason could be stated as one of subjective satisfaction. The Appointing Authorityapplied his mind to the facts and circumstances

of the case and had then come to an independent decision, independent that of the conclusion reached by the Disciplinary Authority. He should give an opportunity to the petitioner and ask his views about the nature of punishment. He did so. He gave an opportunity of personal hearing to the petitioner herein and thereafter, had also stated that the personal hearing touched upon the proposed punishment to be imposed. The nature of punishment has to be examined on the touchstone of the satisfaction of the respective authorities who have a responsibility to keep the dignity and sanctity and the discipline of the Bank. The Court cannot substitute itself for the Appointing Authority and re-examine whether the punishment imposed was proportionate or should be reduced. Views might differ. But, it is the view of the Appointing Authority which has to be examined and while examining so, the only aspect to be examined is whether the principles of natural justice had been violated or followed. There cannot be a better opportunity granted than of personal hearing. There is no whisper that during the personal hearing, the petitioner was not afforded an opportunity to put forth his

views. As a matter of fact, no statement has been given by the petitioner in his affidavit relating to this aspect of personal hearing granted. The only conclusion which the Court has to take is that sufficient and adequate opportunity was granted by the Appointing Authority before coming to the conclusion that removal from service should be imposed. The imposition of the punishment of removal from service is also within the Rules and Regulations of the State Bank of India.

(37) In this connection, the nature of punishments which could be so inflicted, are given in Rule 67 of the State Bank of India Officers' Service Rules, 1992. This is a Manual which is relied on by both the learned counsel for the petitioner and the learned counsel for the respondents.

(38) Rule 67 relates to penalties and while coming to a major penalty, they are as follows:-

> ***Major Penalties:-***
>
> *[f]save as provided for in [e]above reduction to a lower stage in the time scale of pay for a specific period with further directions as to whether or not the officer will earn increments to pay during the period of*

such reduction and whether on the expiry of such period the reduction will or will not have the effect.

[g]reduction to a lower grade or post ;
[h]compulsory retirement ;
[i]removal from service ;
[j]dismissal.

(39) It is thus seen that major penalties would also include reduction to lower stage in the time scale of pay, reduction to a lower grade of post, compulsory retirement, removal from service and dismissal. It would also extend to termination of service of an Officer.

(40) The Appointing Authority therefore, had a range of punishments to be imposed. He had concluded, taking into consideration the fact and blatant manner in which fake bills had been produced by the petitioner, without showing any remorse, invited a punishment of removal from service. This is to the subjective satisfaction of the Appointing Authority and the only manner in which it can be interfered with is, if an opportunity of personal hearing had not been granted. Opportunity had been granted.

(41) As stated by the Hon'ble Supreme Court, this Court cannot sit as a Court of Appeal as against the orders of the officials of the

respondents. The Court can only examine whether proper procedure had been followed. The stand of the respondents was that an opportunity was granted by the Appointing Authority. It was only during the course of arguments that it was stated that opportunity was not granted. This statement is not supported in the affidavit filed by the petitioner. It would be extremely inappropriate on the part of this Court to once again revisit the said punishment.

(42) The petitioner had also exhausted his appeal remedy against the order of the Appointing Authority. The Appellate Authority had also concurred with the findings.

(43) The Appellate Authority had noted the contentions of the petitioner that he had joined with great ambition the Banking career which was his childhood dream and that he comes from a downtrodden rural family and that his mother was aged and was undergoing medical treatment.

(44) These are statements made by the petitioner. But, these are aspects which must have played upon the mind of the petitioner before he

produced fake and false bills. He should have thought for a minute before submitting those bills and claiming reimbursement. He has not only submitted false bills but also had obtained monetary benefit. Had he been a little thoughtful about his own family, he would not have produced those false bills. Therefore, the petitioner has to face the repercussion of his own acts. It is not as if those bills were foisted on him and he was asked to produce them to benefit somebody else. The bills were produced for his own benefit and he had wrongfully gained by production of such bills.

(45) The Appellate Authority had finally held as follows:-

My Observations:-

Past Track record of the appellant had been taken note of. However, achievements and past track records alone are not mitigating factors for the serious lapses held as proved. Further, the penalty imposed on the appellant was commensurate with the gravity of misconduct committed by him.

04.The appellant failed to discharge his duties with utmost devotion and diligence which is in violation of Rule No.50[4] of the State Bank of India Officers' Service Rules.

05.After carefully perusing the submissions made by the appellant in his appeal, note that he has not raised any notable point of merit to rebut the allegations /charges held as proved. Upon an independent and dispassionate application of mind and careful consideration of the facts and circumstances of the case, I am of the opinion that the penalty of "removal from service" in terms of Rule 67[i] of SBIOSR imposed on him is proportionate to the gravity of lapses and there is no valid reason to intervene with the penalty imposed by the Appointing Authority. In the circumstances, I confirm the penalty on him and reject the appeal of Shri Niranjan Kumar Poddar, officer, JMGS-I, [since removed from service] as without substance."

(46) This conclusion is again the subjective satisfaction of the Appellate Authority. The Court can never review the same. The punishment imposed will have to be necessarily declared as being proportionate to the charges and the Court cannot sit over as a further Appellate Authority and re-examine the same. If the doctrine of proportionality is to be considered, it will have to be also kept in mind that acts of such nature by a Branch Manager would only trigger a chain reaction

among all other official staff. As a matter of fact, the petitioner had justified producing fake bills on the ground of precedents. In his own affidavit he had stated that he had been informed that there were earlier occasions of officials producing fake bills and charges being dropped. That is not a chain reaction to be encouraged.

(47) The petitioner will necessarily have to suffer an order of dismissal of the writ petition since this Court can never encourage such a chain reaction to continue. There is no Room No.201, but the petitioner had produced bills for the said Room No.201. Though the tariff was only Rs.880/- per day, he had produced bills for Rs.1,300/- per day. These facts touches upon the confidence which the general public will also have in a Bank official when he himself is alleged to have misappropriated the money. It would be stretching the issue too far if the Court were to interfere with the punishment imposed.

(48) In view of the above observations, the writ petition stands **dismissed.** No costs. Consequently, connected miscellaneous petition is closed.

20.09.2023

AP
Internet : Yes

To

1 The Chief General Manager
Appellate Authority, State Bank of India
Circle Top House, 16, College Lane
Nungambakkam, Chennai-600 006.

2 The General Manager(Network-2)
Appointing Authority, State Bank of
India, 86, Rajaji Salai, Chennai-600 001.

C.V.KARTHIKEYAN, J.,

AP

WP.No.30688/2016

20.09.2023