



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

230

CWP-3826-2021 (O&M)

Date of decision: 22.07.2025

Balraj

...Petitioner

VERSUS

State Bank of India and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Amit Dhawan, Advocate for the petitioner(s).

Mr. Rajiv Joshi, Advocate for the respondent(s)-Bank.

VINOD S. BHARDWAJ, J. (Oral)

1. Seeking setting aside of the orders dated 16.03.2018 whereby the petitioner has been removed from the service and the subsequent order of dismissal of appeal dated 12.09.2018, the instant writ petition has been filed.
2. Learned counsel for the petitioner submits that the petitioner initially joined the services of the respondent-Bank as a Peon on 03.04.1997 and was posted as a Messenger at the Nakodar Branch in June 2017. During his tenure at the said branch, the petitioner became embroiled in certain disputes with senior officials, who, according to the petitioner, harboured animosity and malice against him. It is in this backdrop, the facts as per the case, are that disciplinary proceedings were initiated against him on the allegation that he had committed an act of suspected fraud while serving at the Nakodar Branch and thereby causing a potential financial loss of ₹1,65,000/- to the Bank. Pursuant to the initiation of disciplinary action, a



departmental inquiry was conducted into the charge to the effect that the petitioner had fraudulently withdrawn pension amounts from the accounts of certain pensioners, namely, Smt. Resham Kaur, Smt. Kartar Kaur, and Smt. Surinder Kaur, by forging their signatures. The inquiry report, which was submitted on 09.10.2017, concluded that the charges against the petitioner were proved. The report recorded, inter alia, that the signatures on the withdrawal vouchers and forms did not tally with the admitted signatures of the respective pensioners and that the withdrawal forms in question had been filled in the handwriting of the petitioner. Thereafter, vide communication dated 09.11.2017, the petitioner was afforded an opportunity to respond to the findings recorded by the inquiry officer and his report. In response thereto, the petitioner submitted a detailed reply disputing the conclusions drawn in the inquiry report and asserting factual inconsistencies. However, despite the petitioner's reply, the disciplinary authority proceeded to impose the penalty of removal from service, vide order dated 16.03.2018, with superannuation benefits. The said penalty entitled him to superannuation benefits, including pension, provident fund, and gratuity, in accordance with the applicable Rules and Regulations, and further, that the removal would not entail disqualification from future employment.

3. The appeal preferred by the petitioner against the aforesaid order of removal from service was dismissed by the appellate authority vide order dated 12.09.2018. Aggrieved thereby, the petitioner has approached this Court by way of the present writ petition.



4. Learned counsel for the petitioner has assailed the order of removal from service, inter alia, on the grounds that the same has been passed in contravention of the principles of natural justice and without due appreciation of material facts. It is contended that none of the three pension account holders-namely, Smt. Resham Kaur, Smt. Kartar Kaur, and Smt. Surinder Kaur were examined as witnesses during the course of the departmental inquiry to corroborate the allegation that any unauthorised withdrawal was made from their accounts or that their signatures were forged. It is further submitted that a mere variance in signatures of the account holders, without corroborative evidence, cannot, ipso facto, lead to the conclusion of forgery by the petitioner.

5. Learned counsel further submits that no direct evidence has been brought on record to demonstrate that the petitioner had, in fact, withdrawn the amounts in question. The entire inference of the petitioner's involvement appears to rest solely on the fact that the said withdrawal forms contained entries in the petitioner's handwriting. It is urged that even if the petitioner assisted the account holders in filling out the withdrawal forms, such clerical assistance cannot, by itself, give rise to a presumption of culpability in the alleged fraudulent withdrawal.

6. It is additionally argued that the essential elements necessary to establish the charge of forgery or misappropriation are conspicuously absent in the present case, and yet, the inquiry report proceeded to hold the petitioner guilty. Learned counsel has also raised serious doubt regarding the



evidentiary value of the forensic report relied upon by the respondent-Bank, which was obtained from a private agency, namely, the Centre for Research in Forensic Investigation and Training, Mohali. It is submitted that the said report merely opines that the signatures on certain withdrawal forms dated 25.03.2015 are genuine and others are forged, but fails to establish any nexus between the alleged forged signatures and the petitioner.

7. Counsel for the petitioner has further drawn attention to the absence of any explanation from the respondents as to why the testimony of the three account holders, being the most crucial witnesses, was not recorded during the course of the inquiry. It is contended that this omission renders the inquiry proceedings incomplete and unfair. In the absence of such foundational evidence, it is submitted, the inquiry report is vitiated and unreliable. Lastly, it is argued that even if the findings in the inquiry report were to be assumed to be correct, the imposition of the extreme penalty of removal from service is grossly disproportionate to the alleged misconduct and thus warrants interference by this Court.

8. Per contra, learned counsel appearing on behalf of the respondent-Bank submits that the disciplinary proceedings in the present case were conducted strictly in accordance with the procedure prescribed under the applicable Service Rules, and in adherence to the principles of natural justice. It is contended that the petitioner was afforded full and adequate opportunity to present his defence at every stage of the inquiry. No allegation has been raised by the petitioner, either in the pleadings or during



submissions, to the effect that there was any procedural impropriety, irregularity, or violation of natural justice in the conduct of the inquiry or even against the Inquiry Officer.

9. It is further submitted that upon conclusion of the inquiry, and after the charges were duly established, a copy of the inquiry report was duly supplied to the petitioner, calling upon him to submit his response. Only thereafter was the order of penalty imposed upon due consideration of all relevant material. It is also pointed out that the statutory appeal preferred by the petitioner was dismissed by the appellate authority by a reasoned order passed in accordance with law.

10. In support of the procedure adopted by the Bank, learned counsel places reliance upon the judgment of this Hon'ble Court in *State Bank of India v. Tarun Kumar Banerjee*, (2000) 8 SCC 12, wherein it was held that it is not mandatory for a bank to examine the customer, in every instance, in a domestic inquiry to establish charges of misconduct. It is urged that non-examination of the account holders cannot by itself be treated as a fatal defect in the proceedings, particularly in cases involving suspected internal fraud, where disclosure of sensitive transactional information to customers may compromise the confidentiality obligations of the Bank and adversely affect its institutional credibility. The relevant extract from the judgment relied upon by the learned counsel reads as under :

“6. 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. In the writ appeal the learned Judges on the Division Bench reiterated the view expressed by the Tribunal which we have found to be fallacious.”

11. The learned counsel for the respondents, advancing his submissions, further contends that the documents in question were duly referred for forensic examination to a private forensic laboratory, and the report so received was placed on record by the respondent-Bank. As per the said report, the signatures affixed on the withdrawal forms were found to be forged when compared with the admitted standard signatures marked as ‘S-1’. It was additionally reported that the handwriting appearing on the withdrawal forms across various dates and pertaining to different account



holders was found to be that of the petitioner, thereby forming a continuous chain of circumstantial evidence substantiating the charges levelled.

12. It is further submitted that the respondent-Bank, while imposing the penalty, exercised considerable restraint and leniency by passing an order of removal from service as opposed to dismissal or termination. It is pointed out that the order of removal was accompanied by the grant of superannuation benefits such as pension, provident fund, and gratuity, and notably, no disqualification from future employment was imposed. The learned counsel argues that a mere absence of immediate or direct evidence does not dilute the gravity of the misconduct, especially when the circumstantial and expert evidence cogently establishes the petitioner's complicity.

13. He further submits that the scope of interference by a writ Court in matters of disciplinary proceedings is narrow and circumscribed. It is argued that this Court does not sit in appeal over the findings of the disciplinary authority or the appellate authority and cannot substitute its satisfaction for that of the competent authorities. The punishment imposed cannot be termed disproportionate, considering the fiduciary obligations of a financial institution such as a bank, which necessitates the highest standards of honesty, integrity, and probity. Any attempt by a bank employee to indulge in acts amounting to fraudulent withdrawal or breach of trust is to be viewed with utmost seriousness, warranting appropriate punitive action. The existence or quantification of loss, it is urged, is immaterial; what is



230

CWP-3826-2021 (O&M)

determinative is whether the conduct in question is consistent with the values and ethos of the institution.

14. No other judgment has been cited or the argument raised by any of the party.

15. I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents appended with the instant petition, with their able assistance.

16. The charges levelled against the petitioner are grave in nature, alleging that the petitioner had fraudulently withdrawn amounts from the pension accounts of three individuals, namely Resham Kaur, Kartar Kaur, and Surinder Kaur, on various dates by forging their signatures. It was specifically alleged that the signatures appearing on the withdrawal vouchers did not tally with the specimen signatures available in the Bank's official records. Furthermore, it was alleged that the withdrawal forms in question had been filled in the handwriting of the petitioner himself during the period of his posting at the Nakodar Branch, spanning from the year 1997 to May 2016. The second charge against the petitioner pertained to the consequence of the aforesaid fraudulent acts, in that the same were likely to cause substantial financial loss to the Bank and had the effect of tarnishing its reputation and institutional integrity.

17. The respondents, in support of the first charge levelled against the petitioner, have primarily placed reliance upon the report of a private forensic expert. As per the said report, the signatures affixed on the



withdrawal vouchers did not tally with the specimen signatures available in the Bank's records. Additionally, the handwriting on the withdrawal forms was opined to match that of the petitioner. It is on the strength of these two findings i.e. the discrepancy in the signatures and the authorship of the withdrawal forms, that the disciplinary authority concluded that the charge of forging the withdrawal forms and vouchers stood proved against the petitioner.

18. It is a settled principle that any allegation of fraudulent withdrawal from a bank account necessitates, at the very least, the testimony or complaint of the account holder concerned, asserting or alleging that an unauthorized withdrawal has been made from his or her account. In the instant matter, none of the account holders, namely Resham Kaur, Kartar Kaur, and Surinder Kaur, neither lodged any formal complaint nor appeared as witnesses to depose during the inquiry proceedings in support of the allegations. Consequently, the essential question whether the discrepancy in signatures amounts merely to a mismatch or whether it constitutes a case of fraudulent withdrawal remains unsubstantiated. There can be no presumption of any fraudulent withdrawal unless and until the account holders themselves deny the authenticity of the withdrawals or dispute their signatures on the relevant withdrawal vouchers.

19. Furthermore, it is pertinent to note that neither any primary nor secondary evidence has been produced by the respondents to conclusively establish that the withdrawals in question were effected by the petitioner



himself. It is an undisputed fact that the petitioner was posted at the Nakodar Branch since 1997, while the alleged withdrawals occurred between 2013 and 2016. Given the petitioner's long tenure of nearly sixteen years at the Branch, it is highly improbable that the Bank's staff, including the Teller responsible for approving and releasing payments, would have failed to recognize any irregularity or raise concerns regarding the petitioner's conduct, had he attempted unauthorized withdrawals and under circumstances where the signatures of the primary account holder mismatched. No explanation has been furnished as to why such irregularities were never brought to the notice of the authorities during the relevant period.

20. The sole basis for imposing the penalty of removal from service is a forensic expert report. Notwithstanding the inherent limitations and weaknesses of such expert evidence, the report at best can only prove that the withdrawal forms bear handwriting of the petitioner. However, to draw the inference that the petitioner himself committed fraudulent withdrawals solely on the above ground, in the opinion of this Court, is a tenuous and remote conclusion, incapable of sustaining such serious disciplinary action.

21. Despite being well settled law that disciplinary proceedings are governed by the principles of preponderance of probabilities and do not demand proof beyond reasonable doubt, as is requisite in criminal trials, however, this Court would act in a mechanical manner and uphold findings of an inquiry officer where the fundamental and primary requirements for establishing the charge have been entirely overlooked or disregarded. A



disciplinary authority is expected and required to base its conclusions on a fair, objective and reasonable appraisal of all relevant evidence, including the essential elements necessary to prove the allegations. In the absence of such consideration, any adverse finding or punishment imposed thereupon would lack a sound foundation and would not withstand judicial scrutiny.

22. While not disputing the preposition of law that a Writ Court would have limited jurisdiction in exercise of powers under Article 226 of the Constitution of India and that it cannot substitute its opinion for that of the departmental authorities, however, the position in law had been reiterated by the ***Hon'ble Supreme Court*** in ***SLP(C) No(s).32067-32068 of 2018*** titled as '***Deputy General Manager (Appellate Authority) and others Vs. Ajai Kumar Srivastava***'. The operative part thereof reads thus:-

“26. When the disciplinary enquiry is conducted for the alleged misconduct against the public servant, the Court is to examine and determine: (i) whether the enquiry was held by the competent authority; (ii) whether rules of natural justice are complied with; (iii) whether the findings or conclusions are based on some evidence and authority has power and jurisdiction to reach finding of fact or conclusion.”

23. It is evident from the foregoing judicial pronouncement of the Hon'ble Supreme Court that this Court is entitled to scrutinize the findings and conclusions recorded in a disciplinary inquiry where such conclusions



are founded upon extraneous considerations or are rendered in the absence of any credible evidence, thereby impacting the integrity of the inquiry's outcome. It is imperative to underscore that, as per the legal position elucidated therein, in order to establish a charge of fraudulent withdrawal, there has to be a person defrauded, alleging that an unauthorized or fraudulent withdrawal(s) have occurred from his or her account. Absence of such a fundamental prerequisite significantly undermines the establishment of the charge and calls into question the validity of the inquiry findings predicated upon it.

24. For the prima facie establishment of a charge of forgery of signature, it is imperative that the person whose signature is alleged to have been forged must affirmatively state that the signature appended thereon was neither executed by him/her nor authorized by him/her. In the absence of such assertion, the matter remains at best a case of mismatch of signatures, lacking the essential ingredients of *actus reus* and *mens rea* necessary to constitute the offence. Furthermore, to hold an employee liable for such misconduct, there must exist sufficient material on record establishing a link between the employee and the commission of the alleged offence. In the instant matter, the respondents rely solely upon the fact that the withdrawal forms were filled in the handwriting of the petitioner. However, mere filling of a withdrawal form cannot *ipso facto* establish that a fraudulent withdrawal was effected from the concerned accounts. It merely proves that the petitioner completed the forms, which in itself is insufficient to infer charge



of a fraudulent withdrawal. Had the account holders deposed before the inquiry officer stating that any unauthorized withdrawals were made from their accounts, such corroborative testimony would have constituted material evidence. In the absence of any such complaint or testimony, no adverse inference can be drawn solely from the completion of withdrawal forms by the petitioner.

25. In reference to the judgment of the Hon'ble Supreme Court in *State Bank of India v. Tarun Kumar Banerjee* (supra), the legal proposition therein is not disputed. However, the necessity to lead evidence of the aggrieved customer is not an absolute rule but is contingent upon the facts and circumstances of each case. In the cited case, the charge was substantiated by the customer's complaint and corroborated by recovery of the excess amount during frisking, in the presence of Bank officials, who also tendered evidence. The secondary evidence and eyewitness testimony rendered the charge proved. In contrast, the present case lacks any such complaint by the account holders or secondary testimony from witnesses of the alleged fraudulent withdrawals. Therefore, the reliance placed by the learned counsel for the respondent-Bank on the said judgment is inapposite and does not commend application to the facts at hand.

26. Having regard to the facts and circumstances of the present case, coupled with the deficiencies noted hereinabove, and in light of the settled legal position governing the exercise of writ jurisdiction by this Court, I am of the considered opinion that the penalty of removal from



service imposed upon the petitioner is manifestly disproportionate. The reliance on such tenuous and remote evidence to draw an adverse inference of the gravest nature, as has been done, amounts to a travesty of justice. The conclusions appear to have been preemptively drawn, with evidence being interpreted and applied to prove the charge. The said procedure is fundamentally erroneous and contrary to the principles of fair inquiry. The law unequivocally mandates that evidence must be collected and evaluated, as a primary prerequisite, before any charge can be regarded as proved. In the instant case, such essential procedural requirement has not been satisfactorily met, thereby rendering the disciplinary action liable to be set aside.

27. In cases it is apparent that the disciplinary inquiry has been conducted without proper regard to relevant evidence and the conclusions arrived at are consequently founded on an incomplete or erroneous understanding of fact, evidence and the law, a Constitutional Court should exercise its supervisory jurisdiction to ensure justice. Under such circumstances, the appropriate course is to remit the matter to the disciplinary authority for a fresh inquiry and/or reconsideration after meticulous examination and application of the relevant judgments and legal principles before arriving at a reasoned decision. Hon'ble Supreme Court in the case of **Allahabad Bank v. Krishna Narayan Tewari** reported as (2017) 2 SCC 308 held as follows:



7. We have given our anxious consideration to the submissions at the Bar. It is true that a writ court is very slow in interfering with the findings of facts recorded by a departmental authority on the basis of evidence available on record. But it is equally true that in a case where the disciplinary authority records a finding that is unsupported by any evidence whatsoever or a finding which no reasonable person could have arrived at, the writ court would be justified if not duty-bound to examine the matter and grant relief in appropriate cases. The writ court will certainly interfere with disciplinary enquiry or the resultant orders passed by the competent authority on that basis if the enquiry itself was vitiated on account of violation of principles of natural justice, as is alleged to be the position in the present case. Non-application of mind by the enquiry officer or the disciplinary authority, non-recording of reasons in support of the conclusion arrived at by them are also grounds on which the writ courts are justified in interfering with the orders of punishment. The High Court has, in the case at hand, found all these infirmities in the order passed by the disciplinary authority and the appellate authority. The respondent's case that the enquiry was conducted without giving a fair and reasonable opportunity for leading evidence in defence has not been effectively rebutted by the appellant. More importantly the disciplinary authority does not appear to have properly appreciated the evidence nor recorded



reasons in support of his conclusion. To add insult to injury the appellate authority instead of recording its own reasons and independently appreciating the material on record, simply reproduced the findings of the disciplinary authority. All told, the enquiry officer, the disciplinary authority and the appellate authority have faltered in the discharge of their duties resulting in miscarriage of justice. The High Court was in that view right in interfering with the orders passed by the disciplinary authority and the appellate authority.

8. There is no quarrel with the proposition that in cases where the High Court finds the enquiry to be deficient, either procedurally or otherwise, the proper course always is to remand the matter back to the authority concerned to redo the same afresh. That course could have been followed even in the present case. The matter could be remanded back to the disciplinary authority or to the enquiry officer for a proper enquiry and a fresh report and order. But that course may not have been the only course open in a given situation. There may be situations where because of a long time-lag or such other supervening circumstances the writ court considers it unfair, harsh or otherwise unnecessary to direct a fresh enquiry or fresh order by the competent authority. That is precisely what the High Court has done in the case at hand.

28. In the instant matter, since a converse procedure has



apparently been adopted and conclusions were drawn before collection and evaluation of evidence. Consequently, the present writ petition is ***allowed*** and the impugned order dated 16.03.2018, whereby the punishment of removal from service was imposed, along with the subsequent order dismissing the appeal dated 12.09.2018, are hereby set aside. The matter is accordingly remanded to the disciplinary authority for de novo consideration and for passing of a fresh and a reasoned order in accordance with law, after affording the petitioner a fair opportunity of being heard.

(VINOD S. BHARDWAJ)
JUDGE

22.07.2025

Mangal Singh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No