

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No. 826/2025
CM No. 1976/2025

Reserved on: 05.02.2026
Pronounced on : 13.02.2026
Uploaded on : 13.02.2026
Whether the operative part or full
judgment is pronounced: Full

Gagandeep Singh Sambyal

....Petitioners

Through:- Mr. Vijay Gupta, Advocate.

V/s

Managing Director & CEO
Jammu and Kashmir Bank
Ltd and Ors.

.....Respondents

Through:- Mr. Raman Sharma, AAG with
Ms. Saliqa Sheikh, Assisting Counsel.

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

(JUDGMENT)

01. The petitioner, through the medium of the present petition, has challenged order No. CHQ/DD/2024-717 dated 24.01.2025 issued by respondent No. 3 whereby the petitioner has been removed from service. Challenge has also been thrown to order No. JKB/ED/CHQ/2025-468 dated 20.03.2025 issued by respondent No. 2 whereby order regarding his removal from service issued by respondent No. 3

has been confirmed. Besides this, the petitioner has also challenged enquiry report dated 05.09.2024 drawn by respondent No. 4. The petitioner has further sought a direction upon the respondents to reinstate him in service with all consequential benefits.

02. As per case of the petitioner, he joined the service of respondent-Bank on 18.03.2017 as Relationship Executive Officer at Branch Unit, Janipur. Thereafter he was transferred to Branch Unit, Vijaypur and later on transferred to Branch Unit, Sumb Baletar. The petitioner was designated as Assistant Manager as a Probationer Officer and after completing his probationary period, he was made permanent officer and transferred to Branch Unit, Aminabad Lucknow where he was posted as Assistant Manager.

03. According to the petitioner on 08.09.2022, Sh. Paras Singh Sambyal, cousin brother of the petitioner was in urgent need of Rs. 98,000/-, so the petitioner deposited two entries of Rs. 49,000/- each in his account but later on he came to know that his afore-named cousin had already received cash from his father so he reversed the transaction within few hours through CRT mode. Again on 27.01.2023, the petitioner is stated to have transferred an amount of Rs. 7.74 lakhs from the account of his father to his personal account with the consensus of the officials.

04. It is the further case of the petitioner that in December, 2022, the Branch Head of Branch Unit, Aminabad

instructed the petitioner and his team to make tele-calling to the customers whose accounts are inactive and share the list of the same as the bank had launched a drive for activation of inactive accounts. It has been submitted that pursuant to these instructions, the petitioner called one Sh. Sanjay Arora on phone for activation of his inactive account but the said customer informed the petitioner that he is out of station and instructed him to activate his account on the basis of KYC documents already lying with the bank. Accordingly, the petitioner activated his account.

05. It has been submitted that on 15.03.2023, said Sh. Sanjay Arora again contacted the petitioner and told him that he is in need of funds so he intends to withdraw the entire amount lying in his account. It has been further submitted that the said customer informed the petitioner that he would be reaching late during the working hours and he would get the cash from the petitioner and would also sign the voucher. According to the petitioner, he, with the consent of other officials, withdrew the amount from the account of the said customer under a dummy voucher and waited for the customer till 6.30 p.m but he did not turn up, so the petitioner had to place the cash in the vault. Next day, the petitioner is stated to have credited the amount in the account of afore-named customer.

06. It has been submitted that vide order dated 24.05.2023, the petitioner was placed under suspension and

vide order dated 03.01.2024, he was served the chargesheet. In response to the chargesheet, the petitioner submitted his reply and the enquiry against him in respect of the charges proceeded ahead. The Enquiry Officer-respondent No. 4 is stated to have submitted his impugned enquiry report dated 05.09.2024 to the disciplinary authority whereafter show cause notice dated 19.11.2024 was served upon the petitioner asking him as to why punishment of removal from service should not be imposed upon him. The petitioner is stated to have submitted his reply to the said show cause notice vide his communication dated 19.12.2024 and he was also personally heard by the disciplinary authority. However, vide impugned communication dated 24.01.2025 issued by respondent No. 3, the petitioner was imposed the punishment of removal from service.

07. It has been submitted that petitioner filed an appeal against the impugned order dated 24.01.2025 issued by respondent No. 3 before the appellate authority-respondent No. 2. However, vide impugned order dated 20.03.2025, his appeal was dismissed and the order of punishment imposed upon him by respondent No. 3 was confirmed.

08. The petitioner has challenged the impugned orders and the enquiry report on the grounds that respondent Nos. 2 and 3 have not considered the contentions raised by him in his reply to show cause notice as also the grounds urged by him in the appeal. It has also been contended that respondent No. 4

while rendering the impugned enquiry report has not applied his mind in just and fair manner but he has approached the issue with a preconceived mind. It has further been contended that the other officials, who were chargesheeted along with the petitioner, have escaped with the lesser punishment though their role was at par with the role of the petitioner. It has also been contended that no loss has been caused to the respondent-Bank by the alleged acts of the petitioner because even as per the case of the respondents, all the entries were reversed and no amount was actually withdrawn from the accounts maintained with the Bank. It has been further contended that there was no complaint made by any person with regard to withdrawal of money from the bank accounts which were operated by the petitioner. It has been contended that punishment imposed upon the petitioner is grossly disproportionate to the acts alleged to have been committed by him. It is the further contention of the petitioner that the rules and instructions with regard to timelines for holding the departmental enquiries have been violated in the present case and the findings of the Enquiry Officer regarding the impugned enquiry report are perverse.

09. The respondents have contested the writ petition by filing their reply to the same. It has been contended that the petitioner was chargesheeted after it came to the fore that he had activated the inoperative account of the customer Sh. Sanjay Arora and thereafter posted an unauthorized debit

entry of Rs. 38,000/- in the said account against which he placed a debit voucher dated 15.03.2023 under dummy account to camouflage the facts. It has been further submitted that the second charge against the petitioner was that he had made two cash entries of Rs. 49,000/- each in Savings Bank Account of Mr. Paras Singh Sambyal and thereafter transferred the entire amount via UPI. It was also found that the amount was transferred back via mPay and both the cash transactions were reversed in CRT mode by the petitioner without any voucher or any record on cash scroll of the branch. The petitioner was also charged to have debited an amount of Rs. 7.74 lacs from the account of his father and credited the same to his personal account with forged signatures.

10. According to the respondents, the aforesaid acts of the petitioner amount to misconduct in terms of Rule 12.27 of Officers Service Manual, 2022 and these charges were found established after regular departmental enquiry wherein the petitioner was afforded all the opportunity to defend himself. It has been submitted that the disciplinary authority considered the reply of the petitioner and afforded him personal hearing before passing the impugned order of his removal from service. The respondents have submitted that punishment awarded is commensurate with the quantum of guilt established against the petitioner because by indulging in the acts which have been narrated hereinbefore, the petitioner

has lost confidence of the bank, therefore, his continuance in the service is not in the interests of the bank, which is custodian of public money.

11. I have heard learned counsel for the parties and perused record of the case.

12. So far as the factual aspects of this case relating to the manner in which the respondents have proceeded to pass the impugned order of removal of petitioner from service are concerned, the same are not in dispute. It is an admitted case of the parties that the petitioner was chargesheeted by the respondents vide memo of charges issued in terms of communication dated 03.01.2024. The articles of charge leveled against the petitioner are reproduced as under:

“Statement of articles of charges levelled against Mr. Gagandeep Singh Sambyal (33563) Assistant Manager, Under Suspension.

Annexure-I

Article-I

That you, Mr. Gagandeep Singh Sambyal(33563) Assistant Manager, Under Suspension while performing your duties at Aminabad, Lucknow branch have perpetrated fraud on the account of a customer and misused your official position and powers insofar as after activating the inoperative account No.047904010-213 of the customer on 07.01.2023 without intervention of the customer, you have posted an unauthorised debit entry in said account No.047904010-213 of Mr. Sanjay Arora for an amount of Rs.38,000/- against which a debit voucher dated 15.03.2023 under Dummy Account No.0027-S/B-213 was placed on record by you to camouflage the facts.

Your fraudulent act is also corroborated from the fact that DC150213 mentioned by you on the Savings Bank withdrawal form of Dummy Account No.002704010-213 does not pertain to the entry unauthorisedly executed by you under Transaction ID: DC328583.

The fraudulent act on your part can also be witnessed from the fact that signature on the withdrawal form dated 15.03.2023 drawn on Dummy Account No. 00270-SB-213 is also not that of customer/account holder.

Manifestly, while activating the inoperative account of customer you have performed your duties in violation of circular No.134 issued by Strategy and Business Development Division under reference No. JKB/S&BD/2018-62 dated June 07, 2018 and thereafter embezzled an amount of Rs.38000/- from the account of the customer of the bank while forging his signatures and when your fraudulent act got surfaced you managed to deposit the fraudulently withdrawn amount to the account of customer in cash through posting mode on 16.03.2023 to save your own skin.

You are, therefore, charge sheeted for the following acts of omission and commission:

- i. **Breach of rules/instructions of the Bank.**
- ii. **Attempt to cause damage to the property of the Bank's customer;**
- iii. **Doing any act prejudicial to the interests of the Bank;**
- iv. **Embezzlement/misuse of official position and powers;**
- v. **Manipulating of entries in records of Bank to conceal actual position or to cover of any irregularity with dishonest motive;**

Amounting to misconduct in terms of Rule 12.27 (f, k, o, r, & z) of Officers Service Manual 2022.

Article-II

A) That you, Mr. Gagandeep Singh Sambyal (33563) Assistant Manager, Under Suspension while performing your duties at Aminabad, Lucknow branch have made two cash entries of Rs.49000/- each vide DC 140793 and DC258136 in Savings Bank Account No.002704100-2542 of Mr. Paras Singh Sambyal on 08.09.2022 and thereafter transferred the entire amount via UPI. Later on the same day same amount was transferred back via mPay and both the cash transactions were reversed in CRT mode.

Both transactions were executed by you without any voucher or any record on cash scroll of the branch.

B) That on 27.01.2023 you have debited account No.002704010-2867 of your father Mr. Kamer Singh Sambyal with Rs.7.74 lakhs under DC314655 and afforded credit thereof to your personal account No. 043304010-20798 by putting your own signature on debit voucher thereby forging the signatures of a customer of the Bank.

You are, therefore, charge sheeted for the following acts of omission and commission:

- i. Doing any act prejudicial to the interests of the Bank;
- ii. Embezzlement/misuse of official position and powers;

Amounting to misconduct in terms of Rule 12.27 (o & r) of Officers Service Manual 2022.”

13. It is also the admitted case of the parties that a regular departmental enquiry was held and the petitioner participated in the enquiry proceedings. The Enquiry Officer (respondent No. 4) after considering the contentions of the parties and after analyzing the material on record concluded that Article-I of the charge is proved whereas regarding Article-II, the Enquiry Officer concluded that the allegation relating to doing of any act prejudicial to the interests of the bank is not proved whereas allegation of embezzlement/misuse of official position and powers is partially proved.

14. It is not in dispute that after the Enquiry Officer submitted his impugned report of enquiry to the disciplinary authority, the petitioner was served with show cause notice and afforded an opportunity to represent against the proposed punishment. He filed his reply to the show cause notice and also availed personal hearing whereafter the impugned order of removal from service was issued by the disciplinary authority which was later on confirmed by the appellate authority.

15. The first ground of challenge, which has been urged by the petitioner, is that findings of the Enquiry Officer are perverse and illogical, as such, on the basis of the impugned enquiry report, no punishment could have been imposed upon the petitioner.

16. Before dealing with the aforesaid contention of the petitioner, it would be necessary to understand the legal position with regard to scope of interference by this Court in the findings of the Enquiry Officer recorded in the disciplinary proceedings.

17. It is a settled proposition of law that the writ court while considering challenge to the findings of an Enquiry Officer recorded in the disciplinary proceedings cannot sit as a court of appeal and the writ court has very limited scope of interfering into the findings of the Enquiry Officer. Reference in this regard can be made to the statement of law laid down by the Supreme Court in the cases of **State of A.P. and Ors Vs. S. Sree Rama Rao, AIR 1963 SC 1723, Union of India and Ors Vs. P. Gunasekaran, (2015) 2 SCC 610 and B.C. Chaturvedi Vs. Union of India and Ors (1995) 6 SCC 749.** In all these cases, it has been the consistent view of the Supreme Court that High Court while exercising its power under Sections 226 and 227 of the Constitution cannot sit in appeal over the report of Enquiry Officer and re-appreciate the evidence on record. The High Court can only go into the question as to whether the enquiry is held by a competent

authority, whether the procedure prescribed has been followed while holding the enquiry and whether principles of natural justice have been adhered to while conducting the proceedings. The Court can also go into the question whether the findings of the Enquiry Officer are based upon any material or whether any relevant material has been ignored by the Enquiry Officer while recording a finding and also whether irrelevant or extraneous material/considerations have influenced the decision of the Enquiry Officer.

18. With the aforesaid legal position in view, let us now deal with the facts of the present case.

19. A perusal of the report of the enquiry reveals that the petitioner has participated in the enquiry proceedings and he has been given adequate opportunity to defend himself. The enquiry report further reveals that the petitioner has been given opportunity of leading evidence in support of his defence but he has not led any evidence in support of his defence. On the basis of the documents on record and on the basis of the arguments advanced by the petitioner and the presenting officer, the Enquiry Officer has recorded his findings as noted hereinbefore. While recording his findings, the Enquiry Officer has given detailed reasons in his enquiry report for arriving at such findings.

20. The argument advanced by learned counsel for the petitioner is that findings of the Enquiry Officer are illogical

inasmuch as that from the circumstances of the case, it can safely be inferred that the petitioner had no dishonest intention. It has been contended that the petitioner had activated the account of customer, namely, Sh. Sanjay Arora about two months prior to debit entry of Rs. 38,000/- stated to have been made by the petitioner in the said account. It is being argued that if the petitioner had any dishonest intention, he would have made the debit entry immediately after activating the said account.

21. The aforesaid contention put-forth by the petitioner is not sustainable in law because the charge against the petitioner is that he has unauthorizedly activated the inoperative account and thereafter made an unauthorized debit entry of Rs. 38,000/- in the said account. Whether the said debit entry was made by the petitioner immediately after making the account operative or after a lapse of couple of months is immaterial. The fact of the matter remains that an inoperative account has been made operative by the petitioner and thereafter he has made unauthorized debit entry in the said account. These facts are undisputed and even in the writ petition, the petitioner has not disputed these facts. His only defence is that he did it with the consensus of other officials of the bank and under the instructions of the customer. No witness has been produced by the petitioner to prove these assertions. The burden of proof was upon him once he had admitted that the said debit entry was made by him and the

inoperative account of Sh. Sanjay Arora was made operative by him. If what the petitioner contends is correct, it was necessary for him to produce the customer Sh. Sanjay Arora as a witness in defence to prove his defence. Having failed to do so, he cannot be heard to say that the findings of the Enquiry Officer on Article of Charge-I are either perverse or illogical.

22. Similarly, so far as the findings on Article of Charge-II are concerned, the same are also based upon material on record. In fact the allegations which have led to recording of these findings have not been disputed by the petitioner in the writ petition or in the reply to the show cause notice. He has admitted that his cousin was in need of money and, therefore, he made two cash entries in the Savings Bank Account of his cousin and both these cash transactions were reversed later on. He has also admitted that he debited the account of his father and credited an amount of Rs. 7.74 lacs in his personal account. Thus admittedly the petitioner did use money lying in the bank for the benefit of his relative though he may have reversed these entries later on. Whatever compulsions may have been for the petitioner to help his relative, he could not have used the money lying in deposit with the bank for his personal needs or for the needs of his nears and dears. The findings of the Enquiry Officer on Article-II of the charges is, therefore, based upon material on record.

The same cannot, by any stretch of reasoning, be termed as perverse.

23. Next it has been contended that timelines for holding the enquiry have not been adhered to by the respondents in the present case, therefore, the enquiry report is vitiated. In this regard, reliance is being placed on Rule 13.51 of Officers Service Manual, 2022 which provides timelines for completion of regular enquiry. As per this rule, enquiry has to be concluded within three months from the date of appointment of Enquiry Officer which can be extended upto six months.

24. In the present case, the Enquiry Officer was appointed on 21.02.2024 and the report of enquiry was rendered on 05.09.2024. Thus there has been a delay of few weeks on the part of the Enquiry Officer to submit the enquiry report but that would not vitiate the enquiry report. The timelines given in Rule 13.51 of the Rules are meant to expedite the holding of enquiry and these rules do not lay down that in case enquiry is not completed within set timeline, the enquiry report would get vitiated. The rules do not provide for the consequences of non-adherence to these timelines, therefore, the Rule 13.51 is not mandatory in nature. Merely because the Enquiry Officer has not adhered to the timelines laid down in Rule 13.51 would not be a good enough reason to vitiate the enquiry report, particularly when no prejudice is

shown to have been caused to the petitioner due to delay in conclusion of the enquiry.

25. It has been contended by the petitioner that there has been no loss to the bank on account of the alleged acts of the petitioner, as such, the charges against him are not proved.

26. In the above context, it is to be noted that the charge against the petitioner is not that he has caused loss to the bank but the charge against him is that he has acted prejudicial to the interests of the Bank and he has misused his official position. The petitioner is also alleged to have manipulated the entries in the records of the bank to conceal actual position and cause damage to the property of banks' customers.

27. All the aforesaid charges stand proved during the enquiry. At no stage, the respondent-Bank had made any allegation that acts of the petitioner had resulted in monetary loss to the bank. The main allegation against the petitioner was that he has acted prejudicial to the interests of the bank, misused his official position and manipulated entries in the record. So the issue whether or not any monetary loss was caused to the respondent-Bank by the acts of the petitioner, is not material to the controversy at hand.

28. It has been next contended by the petitioner that the other chargesheeted employees have been let-off with lesser punishments whereas the petitioner has been given the punishment of removal from service, though role of the petitioner and the other chargesheeted employees was similar.

29. In the above context, it is to be noted that the contention of the petitioner is wholly misconceived. This is so because the acts which led to the activation of account of Sh. Sanjay Arora and subsequent debit entry of Rs. 38,000/- were initiated by the petitioner. The other chargesheeted employees may have also played their part but they were not the main offenders. Similarly, the transfer of funds in the account of cousin of the petitioner and transfer of funds from the account of father of the petitioner to the personal account of the petitioner are acts which are solely attributable to the petitioner as both these acts pertain to individuals who are closely related to him. Thus the petitioner cannot claim parity with the other chargesheeted employees.

30. Lastly, it has been argued that because no monetary loss has been caused to the bank on account of acts of the petitioner and the money has been reverted to the bank on the same day/on the next day, therefore, imposing harsh penalty of removal of service is grossly disproportionate.

31. In the above context, the legal position is clear inasmuch as the scope of jurisdiction of High Court in

interfering with the proportionality and order of departmental authority is very limited. Reference may be made to the following observations of the Supreme Court in the case of **State Bank of Bikaner and Jaipur Vs. Nemi Chand Nalwaya**, AIR 2011 SC 1931:

7. When a court is considering whether punishment of 'termination from service' imposed upon a bank employee is shockingly excessive or disproportionate to the gravity of the proved misconduct, the loss of confidence in the employee will be an important and relevant factor. When an unknown person comes to the bank and claims to be the account-holder of a long inoperative account, and a bank employee, who does not know such person, instructs his colleague to transfer the account from "dormant" to "operative" category (contrary to instructions regulating dormant accounts) without any kind of verification, and accepts the money withdrawal form from such person, gets a token and collects the amount on behalf of such person for the purpose of handing it over to such person, he in effect enables such unknown person to withdraw the amount contrary to the banking procedures; and ultimately, if it transpires that the person who claimed to be account holder was an imposter, the bank can not be found fault with if it says that it has lost confidence in the employee concerned. A Bank is justified in contending that not only employees who are dishonest, but those who are guilty of gross negligence, are not fit to continue in its service.

32. Again the Supreme Court in the case of **Damoh Pann Sagar Rural Regional Bank & another vs. Munn Lal Jain**, (2005) 10 SCC 84, has, while dealing with a case of a Bank Officer, observed as under:

“17. 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 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] , there is no defence available to say that there was no loss or profit resulting 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.”

33. From the foregoing analysis of legal position, it is clear that once it is found that all the procedural requirements have been complied with, the courts would not ordinarily interfere with the quantum of punishment imposed upon a delinquent employee. It is only in a case where decision of an employer is grossly disproportionate to the charge proved against a delinquent employee that doctrine of proportionality can be invoked.

34. In the present case, as already stated, the petitioner happened to be an officer of the respondent-bank. In that capacity, he was expected to exercise higher standard of

honesty and integrity while dealing with the funds deposited with the respondent- Bank, of which the said bank was a trustee. Once the petitioner was found guilty of having acted to the prejudice of interests of the respondent-Bank, it was but natural for the authorities of the Bank to lose their confidence upon him. His remaining in service would have been detrimental to the interests of the Bank and its customers. Therefore, there was no option left with the disciplinary authority except to impose major punishment of removal of service upon the petitioner. The said punishment can, by no stretch of reasoning, be termed as unreasonable or excessive.

35. For the foregoing reasons, I do not find any ground to interfere in the impugned action of the respondents. The writ petition lacks merit and is, accordingly, dismissed.

(SANJAY DHAR)
JUDGE

JAMMU
13.02.2026
Naresh/Secy.

Whether the judgment is speaking: **Yes**

Whether the judgment is reportable: **Yes**