



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**Reserved on:17.07.2025
CWP-9290-2024 (O&M)
Pronounced on: 12.08.2025**

Girish Kumar Mehtani

...Petitioner

VERSUS

SBI & Another

...Respondents

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

Present :- Mr. Raghav Sharma, Advocate for the petitioner.

Mr. Anurag Jain, Advocate with
Ms. Chahat, Advocate for respondents no. 1 & 2.

VINOD S. BHARDWAJ, J.

Facts

1. The petitioner has approached this court seeking issuance of a writ of certiorari for quashing the impugned orders dated 10.11.2023 and 13.02.2024, passed by the respondent-Bank, whereby the petitioner's request for legal assistance and representation by an Advocate in ongoing departmental proceedings was rejected.

2. The facts relevant for adjudication of the present petition are that the petitioner was initially appointed to the post of Cashier-cum-Clerk in the erstwhile State Bank of Patiala, pursuant to an appointment letter dated 22.04.1993, and he thereafter joined duties at the Vikas Nagar Branch, Bhiwani. Upon the merger of State Bank of Patiala with the State Bank of



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India, the petitioner became an employee governed by the service conditions and disciplinary framework of the respondent-Bank.

3. The petitioner successfully completed the prescribed period of probation, and continued in service, discharging his responsibilities with regularity and diligence.

4. In the course of his service, while being posted as a Single Window Operator at the AMM Branch, the petitioner came to be placed under suspension vide order dated 14.09.2016, on account of certain alleged irregularities pertaining to financial entries. The suspension remained in force for an extended period of over two years and was ultimately revoked vide order dated 20.02.2019.

5. However, vide a show cause notice dated 25.01.2017, issued by the Assistant General Manager, the petitioner was directed to submit his explanation in respect of certain financial transactions on different dates, which the Bank deemed to be irregular. The petitioner submitted a detailed written reply to the said show-cause notice on 30.01.2017.

6. Without objectively considering the same, a formal charge sheet dated 19.12.2017 was served upon the petitioner. The petitioner submitted his written defence to the said charge sheet on 10.01.2018 but the Bank none-the-less appointed Shri Satish Chander Gupta as the Inquiry Officer to conduct the regular departmental inquiry.

7. In view of the gravity and complexity of the allegations, which involved accusations of fraudulent transactions, financial discrepancies, and potential misconduct of a technical nature, the petitioner submitted a



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representation dated 23.05.2018 before the Inquiry Officer, seeking permission to be represented by a legal practitioner in the inquiry proceedings.

8. The said request, however, came to be rejected by the Regional Manager vide letter dated 23.07.2018, who instead directed the petitioner to avail assistance from one of two named Bank officials, viz. Shri Parmod Kumar Jain or Shri Rajeshwar. It is the contention of the petitioner that both such proposed officials declined to assist him, thereby rendering the purported opportunity illusory and devoid of practical utility. Dissatisfied with the rejection of his request, the petitioner preferred an appeal before the Zonal Manager/DGM, which was also dismissed vide order dated 01.09.2018.

9. Aggrieved thereby, the petitioner approached this Court by way of CWP No. 5318 of 2019, wherein the primary grievance espoused was the denial of legal representation in disciplinary proceedings. The said writ petition was allowed by this Hon'ble Court vide order dated 05.10.2023 and a direction was issued to the respondent-Bank to reconsider the petitioner's request.

10. The petitioner thus submitted a fresh application dated 02.11.2023 requesting for permission to engage a lawyer to assist him in his defence before the Inquiry Officer. The same was again declined by the respondent-Bank vide order dated 10.11.2023 received on 14.12.2023. His subsequent appeal against this rejection also met the same fate vide order



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dated 13.02.2024, which was received by the petitioner on 04.03.2024. Hence the present writ petition.

Arguments of the Petitioner

11. Counsel submits that following the earlier intervention of this Hon'ble Court in *CWP No. 5318 of 2019*, which culminated in a reasoned order dated 05.10.2023 directing reconsideration of the petitioner's request for legal representation in the ongoing departmental proceedings, the petitioner, in faithful compliance with the said order, submitted a fresh representation dated 02.11.2023 seeking permission to be represented through a counsel of his choice. However, despite the binding nature of this Court's directions, the respondent-Bank, vide order dated 10.11.2023, summarily rejected the request again in a mechanical and non-speaking manner, thus denying the petitioner the opportunity to defend himself adequately. An appeal preferred against the said rejection also met with a similar fate, being dismissed vide order dated 13.02.2024 (received on 04.03.2024), without due application of mind or reference to the directions earlier issued by this Hon'ble Court.

12. Counsel contends that the respondent-Bank has persisted in offering the petitioner to be represented only through two named individuals, purportedly office-bearers of the employees' union, however despite the petitioner's specific plea that neither those individuals nor any other union members were willing to represent him in the matter since they declined to provide assistance. Consequently, the so-called opportunity offered to the



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petitioner under the guise of compliance with the Bipartite Settlement dated 10.04.2002 is illusory and devoid of any real efficacy. In such circumstances, it is argued that the petitioner is effectively left without any representation, which frustrates the very object of the Bipartite Settlement.

13. Counsel urges that the allegations levelled against the petitioner in the charge sheet dated 19.12.2017 are of a technical and complex nature, involving serious charges of fraud, forgery, and financial misappropriation. It is submitted that the inquiry requires scrutiny of voluminous documents, expert scrutiny of transactional records, and understanding of legal implications concerning forgery and criminal misconduct, matters which necessitate the assistance of a trained legal professional. The petitioner, being without any legal expertise, cannot be expected to conduct his defence meaningfully or effectively. It is argued that denial of legal representation in such circumstances violates the principles of natural justice.

14. It is further submitted that considering the severity of the charges and the potential consequences, including termination from service, loss of livelihood, and irreparable harm to the petitioner's reputation and dignity, the right to be heard through legal counsel assumes even greater significance. Counsel emphasises that the Supreme Court has consistently held that in cases involving serious consequences, the denial of adequate opportunity to defend oneself amounts to denial of a fair hearing.

15. Counsel also relies upon the provisions of the Bipartite Agreement dated 10.04.2002, which confers discretion upon the Disciplinary Authority to permit legal representation where justified by the facts and



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complexity of the matter. It is submitted that such discretion should be exercised reasonably and not arbitrarily. The respondent has failed to assign any cogent reason for the rejection of the petitioner's request.

16. In addition, learned counsel refers to the deteriorating medical condition of the petitioner and is stated to be under constant medical treatment for acute anxiety, depression, and stress-induced disorders, and has been advised complete rest and avoidance of mental strain by medical professionals at PGIMS Rohtak as well as Sir Ganga Ram Hospital, New Delhi. Counsel submits that the Bank is fully aware of the petitioner's health condition, and yet has failed to extend any accommodation or relief, thereby subjecting the petitioner to unjust psychological and procedural hardship.

17. To buttress his arguments, learned counsel for the petitioner has placed reliance on the judgment of the Division Bench of the Bombay High Court in *Antonio B. Furtado v. Chairman & Managing Director, Bank of India & Others*, reported as 1986 LIC 613; the judgment of the Calcutta High Court in *Khitish Chandra Rebidas v. Union of India & Others*, reported as 2005 (2) LLJ 1015; and the judgment of this Court in ***Anil Bamania v. Managing Director, State Bank of Patiala***, reported as 2016 Lab. L.R. 539.

18. In view of the foregoing, counsel for the petitioner prays for the issuance of an appropriate writ of *Certiorari* quashing the impugned orders dated 10.11.2023 and 13.02.2024, and for a consequential direction to the respondent-Bank to permit the petitioner to engage a legal practitioner of his choice in the ongoing disciplinary proceedings.

**Arguments of the Respondents**

19. Per Contra, learned counsel appearing on behalf of the respondent Bank submits that the petitioner's prayer is wholly untenable and contrary to settled principles of law. It is contended that in the context of domestic enquiries, there exists no inherent, vested, or absolute right in favour of a delinquent employee to be represented by a legal practitioner. Such representation, it is submitted, is governed strictly by the rules, regulations, or standing orders applicable to the establishment.

20. Referring to the facts of the present case, learned counsel points out that the disciplinary proceedings initiated against the petitioner are regulated by the Memorandum of Settlement (MoS) dated 10.04.2002, which has statutory force under the Industrial Disputes Act, 1947 and binds the parties. Clause 12 of the said MoS, which governs the manner of representation in disciplinary enquiries, does not confer any automatic entitlement upon the delinquent employee to engage a legal practitioner. Instead, Clause 12(a)(ii) specifically provides that the engagement of a legal practitioner 'may' be permitted by the competent authority of the Bank 'only' where, in its discretion, the circumstances of the case are found to be sufficiently complex or exceptional to justify such indulgence.

21. It is further argued that the charges levelled against the petitioner are not of a legal or technical nature but are purely factual, pertaining to alleged irregularities in discharge of duties. The Enquiry Officer appointed by the Bank is not a legally trained person, and no lawyer has been appointed to represent the Bank in the proceedings. Moreover, the



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Bank had offered the petitioner the option of being represented by any Award Staff member or by two specifically named Union representatives, but the petitioner chose not to avail of either alternative. In such a scenario, the rejection of the petitioner's request for engagement of an Advocate is stated to be a reasoned, lawful, and proportionate exercise of discretion by the competent authority.

22. In support of these submissions, reliance is placed on the authoritative pronouncement of the Hon'ble Supreme Court in *D.G., Railway Protection Force & Ors. v. K. Raghuram Babu*, AIR 2008 SC 1958. In the said decision, the Apex Court held that the right to legal representation in departmental enquiries is not a component of natural justice unless expressly provided for by the governing rules. While interpreting Rule 153(8), the Court observed that the grant of such representation is not absolute but conditional, and refusal to permit an Advocate does not in itself amount to denial of a fair hearing. The Court further emphasized that discretion in this regard must be exercised with due regard to the nature and complexity of the charges, and not merely on the demand of the delinquent officer.

23. Further reliance is placed on the judgment of the Hon'ble Madras High Court in *V. Mathivanan v. State Bank of India*, 2012 (1) CWC 910, which considered Clause 12 of the very same MoS and reiterated, by applying the principles laid down in *K. Raghuram Babu* (supra), that there is no vested right in an employee facing disciplinary action to insist upon legal representation. The Court held that even when the rules permit such



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representation, it remains subject to regulatory control and may be denied if the nature of the charges does not require legal expertise.

24. The respondent Bank also places reliance upon the judgment of the Hon'ble Supreme Court in *Rajasthan Marudhara Gramin Bank v. Ramesh Chandra Meena*, (2022) 3 SCC 44, where the Court reaffirmed the principle that domestic enquiries are a matter of internal discipline governed by the employer's service rules. Unless such rules specifically provide for representation through an Advocate, no such claim can be entertained under Article 226 of the Constitution.

25. Lastly, it is argued that the writ petition is devoid of merit and is liable to be dismissed. The petitioner has failed to demonstrate any violation of statutory rules, any breach of natural justice, or any circumstances of exceptional hardship. The discretion exercised by the Bank, as per Clause 12 of the MoS, is supported by established jurisprudence and does not call for judicial interference. The respondent, therefore, prays that the writ petition be dismissed.

Consideration

26. The core issues that fall for determination before this Court are twofold and are intrinsically linked to the question of procedural fairness in the disciplinary proceedings instituted against the petitioner and are as under:-

- (i) Whether, on the facts and circumstances of the present case, the petitioner is entitled, either as a matter of legal right or by reason of exceptional circumstances, to be represented by a



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legal practitioner in the departmental inquiry conducted by the respondent Bank?

- (ii) Whether the denial of such legal representation, when viewed in conjunction with the overall conduct of the disciplinary proceedings, has occasioned a breach of the principles of natural justice, thereby resulting in the petitioner being denied a fair and reasonable opportunity to defend himself?

27. Adverting to the first issue, the resolution of the question as to whether the petitioner is entitled to legal representation in the departmental inquiry necessitates a careful examination of the governing service rules, certified standing orders, and, most significantly, Clause 12 of the applicable Memorandum of Settlement (MoS) dated 10.04.2002, which regulates the conduct of disciplinary proceedings within the respondent Bank. For the aforesaid purpose, Clause 12(a) of the Memorandum of Settlement dated 10.04.2002 is reproduced herein below for ready reference:

12. The procedure in such cases shall be as follows :-

- (a) An employee against whom disciplinary action is proposed or likely to be taken shall be given a charge-sheet clearly setting forth the circumstances appearing against him and a date shall be fixed for enquiry, sufficient time be given to him to enable him to prepare and give his explanation as also to produce any evidence that he may wish to tender in his defence. He shall be permitted to appear before the Officer conducting the enquiry, to cross-examine any witness on whose evidence the charge rests and to*



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examine witnesses and produce other evidence in his defence. He shall also be permitted to be defended -

(i) (x) by a representative of a registered trade union of bank employees of which he is a member on the date first notified for the commencement of the enquiry.

(y) where the employee is not a member of any trade union of bank employees on the aforesaid date, by a representative of a registered trade union of employees of the bank in which he is employed

OR

(ii) at the request of the said union by a representative of the state federation or all India Organisation to which such union is affiliated;

OR

(iii) with the Bank's permission, by a lawyer.

He shall also be given a hearing as regards the nature of the proposed punishment in case any charge is established against him.

28. A careful perusal of Clause 12 of the Memorandum of Settlement reveals that the Clause provides that the delinquent employee shall be permitted to be defended either: (i) by a representative of a registered trade union of bank employees of which he is a member; (ii) where not a member, by a representative of a registered trade union of the bank in which he is employed; (iii) alternatively, at the request of the said



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union, by a representative of a state federation or all-India organisation to which the union is affiliated; or (iv) with the Bank's permission, by a lawyer.

29. In any disciplinary proceedings that are instituted, the principles of natural justice demand that a reasonable and fair opportunity to defend oneself. Being quasi judicial proceedings by nature, justice must not only be done but must also seem to be done. The reasonable opportunity would thus require being given an opportunity to deny his guilt and establish his innocence; an opportunity to defend himself in inquiry by not only being allowed opportunity to cross examine the witnesses but also to lead evidence in his defence and an opportunity to defend as to why the proposed punishment should not be imposed. The above principles were specifically noticed by a constitutional bench of Hon'ble Supreme Court in the matter of **Major U.R. Bhatt Vs. U.O.I.** reported as **AIR 1962 SC 1344**. The relevant extract is as under :

5. As pointed out by this court in Khem Chand v. Union of India [(1958) SCR 1080] in dealing with what is contemplated by reasonable opportunity to show cause in Article 311(2) of the Constitution "the reasonable opportunity envisaged by the provision under consideration includes : (a) an opportunity to deny his guilt and establish his innocence, which he can only do if he is told what the charges levelled against him are and the allegations on which such charges are based; (b) an opportunity to defend himself by cross-examining the witnesses produced against him and by examining himself or any other witnesses in support of his defence; and finally



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(c) an opportunity to make his representation as to why the proposed punishment should not be inflicted on him, which he can only do if the competent authority, after the enquiry is over and after applying his mind to the gravity or otherwise of the charges proved against the government servant tentatively proposes to inflict one of the three punishments and communicates the same to the Government servant". The content of the reasonable opportunity under Article 311 of the Constitution is the same as in Section 240(3) of the Government of India Act.

(emphasis supplied)

30. Whether a person has been given a fair hearing or not is a question of fact and this Court has the power to see whether a fair opportunity has been given or not as per the judgment of the Hon'ble Supreme Court in the matter of **Sardar Kapur Singh Vs. Union of India** reported as **AIR 1960 SC 493**.

31. It is held by the Hon'ble Andhra Pradesh High Court that right to have assistance of a lawyer is a part of natural justice but the same has to be decided on a case to case basis. It was held in the matter of **M.V. Jogarao v. State of Madras**, reported as **AIR 1957 AP 197** that representation by an Advocate can be claimed in special circumstances. The relevant extract is as under :

13. Every member of the civil service holds his employment at the pleasure of the State. But the undoubted power of the State to dismiss him is controlled by the provisions of Article 311 of the Constitution. Except in the cases governed by the proviso to sub-



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clause (2) of Article 311, such a servant cannot be dismissed or removed by an authority subordinate to that by which he was appointed and that he could be removed only after he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him. The action proposed to be taken in regard to a civil servant will be known only after an enquiry is held and after the authority concerned comes to a tentative conclusion on the merits, for, the punishment would necessarily depend upon the gravity of the offence committed by the civil servant. Therefore, whatever machinery is provided by the State for the enquiry, whether it be through one of its executive officers or through a Tribunal for Disciplinary Proceedings, the entire enquiry from the beginning till the punishment is imposed on the officer is one process. It is an inquiry held by the authority empowered to remove the servant. Though the enquiry may have to be held in two stages, one up to the time the authority comes to a conclusion on the question of the offence committed by the civil servant and the other from the stage notice is given to show cause against the action proposed to be taken in regard to him, the entire process of the enquiry will have to be scrutinised by ascertaining whether reasonable opportunity is given to the servant to show cause against the action proposed to be taken in regard to him. The opportunity to show cause is qualified by the word “reasonable”. It is for the Court on the facts of each case to scrutinise the entire record to come to a conclusion whether such a reasonable opportunity was given to the civil servant. If, as a matter of fact, every opportunity was given to the civil servant to defend himself by examining witnesses and by cross-examining the prosecution witnesses, it would be unreasonable to compel the authority to repeat the entire inquiry after the second stage is reached. It is true that reasonable opportunity to show cause against the action proposed to be taken



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includes an opportunity to canvass the correctness of the reasons for taking the proposed action. The authority should necessarily in its order requiring the civil servant to show cause should give not only the punishment proposed to be inflicted on him but also the reasons for coming to that conclusion. A civil servant can show cause by pleading that the Tribunal's report is vitiated by gross irregularities committed by it or by violating the principles of natural justice such as preventing him from examining his witnesses or cross-examining the witnesses who spoke against him or similar others. If the finding of the Tribunal is the basis for the proposed punishment, he can also attack the correctness of the finding by showing that the finding was not based on the evidence or is not supported by evidence. But it would be unreasonable to compel the authority to have two trials as it were, one up to the stage of the notice contemplated by Article 311 and the repetition of it again after notice, though in a particular case, if the inquiry is vitiated by any of the reasons mentioned above, a further inquiry may reasonably be asked by the civil servant. To put it shortly, the entire proceedings of the inquiry must be looked into carefully to ascertain whether reasonable opportunity within the meaning of Article 311 is afforded to a civil servant or not.

(emphasis supplied)

32. It was held that even though principles of natural justice may not warrant representation by a professional lawyer but if there is a service rule giving a right of representation, the right of the servant will be governed by it, as per the judgment of this Court in the matter of **S. Harjit Singh Vs. I.G. Police, Punjab** reported as **AIR 1963 P&H 90**.

33. The judicial pronouncements relied upon by the respondents also show that the same have been passed in the circumstances where the



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rules did not stipulate any assistance of a legal practitioner. Undisputedly, in the case in hand, the memorandum of understanding executed between the parties and as admitted to be binding by both the parties, a provision for engagement has been made but with the permission of the Bank. Hence, the applicable rules do provide for being represented by a lawyer.

34. While justifying its decision to deny permission, counsel for the respondents has argued that the same can be invoked only when the employee does not have a representative in the first two categories. Hence, the argument that it is a preferential manner that a representation can be claimed and only when first two eventualities fail, that representation by a lawyer can be asked for is tested against the provision. A plain reading of the same shows that it nowhere provides for any sequential engagement/representation. Rather, the use of the expression ‘or’ after each clause brings all three at par and vests a discretion with the employee to elect an option. If the intent behind the settlement would have been such, Clause 12(a) (iii) would have been made subject to such an eventuality. Instead, the only restriction imposed is ‘permission of the Bank’. Under such circumstances, the discretion conferred is not to be exercised as an absolute prerogative to veto each request but to examine the circumstances pleaded by an employee claiming representation by the lawyer. It is only upon such consideration that the power should be exercised. Once the rules stipulate a clause for representation by a lawyer, the precedents in matters where no such provision existed cannot be cited as a binding precedent.



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35. The object behind incorporation of such a clause providing representation by a lawyer was to come to the aid of an employee and is not to be read as a dead letter. The employee should not display an absolute unbridled right to determine who would represent an employee, as in some situation, the same may be itself amount to denial of principles of natural justice.

36. In the said background, the order passed by the disciplinary authority declining legal representation needs to be examined. The same reads thus:-

“Please refer to your letter no.1432 dated 02.11.2023 received on 09.11.2023, forwarding the request of captioned CSE for engaging Advocate as his Defense Representative to defend his case during Departmental Enquiry process. Our reply on the request of the CSE as under:

The copy of the request letter approaching the registered Trade Union and the denial thereof is required to be submitted to the Bank to take a view for considering allowing a Lawyer if permissible otherwise.

2. *The Departmental Enquiry is not a legal procedure as given in the Memorandum of Bipartite Settlement 10.04.2002.*

3. *The point is based on assumption and does not carry any factual position as final decision is to be taken by the Disciplinary Authority by applying his mind independently.*



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4. *The matter was examined as such, please be guided by Circular no.: CDO/P&HRD-IR/66/2016-17 dated 09.09.2016, relevant excerpts are reproduced hereunder:*

CSE shall be defended by:

- a) *by a representative of a registered trade union of bank employees of which he is a member on the date first notified for the commencement of the enquiry. Bank employees on the aforesaid date, by a representative of a registered trade union of employees of the bank in which he is employed.*
- b) *At the request of the said union by a representative of the state federation or all India Organization to which such union is affiliated.*

5. *CSE advised that he is under treatment and is not mentally fit to understand the charges framed against him in Charge Sheet. Therefore, CSE be advised to join the Departmental Enquiry after taking the fitness certificate from the concerned Doctor.”*

37. During appeal, the Appellate Authority rejected the appeal by reasons as under:-

“I have considered the submissions made in your appeal and have also perused the relevant Clauses/Provisions of Bipartite Settlement dated 10.04.2002.



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Departmental action in your case is governed by Bipartite settlement/ agreement dated 10:04 2002 the relevant procedure has been provided in clause 12 of the Bipartite Settlement which reads as under:-.

12. The procedure in such cases shall be as follows:-

(a) An employee against whom disciplinary action is proposed or is likely to be taken shall be given a charge-sheet (Detailed instructions regarding charge sheet are contained in Annexure-D) clearly setting forth the circumstances appearing against him and a date shall be fixed for enquiry, sufficient time being given to him to enable him to prepare and give his explanation as also to produce any evidence that he may wish to tender in his defense. He shall be permitted to appear before the Officer conducting the enquiry, to cross-examine any witness on whose evidence the charge rests and to examine witnesses and produce other evidence in his defense. He shall also be permitted to be defended-

(i) by a representative of a registered trade union of bank employees of which he is a member on the date first notified for the commencement of the enquiry.

bank employees on the aforesaid date, by a representative of a registered trade union of employees of the bank in which he is employed;



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OR

(ii) *at the request of the said union by a representative of the state federation or all India Organization to which such union is affiliated;*

OR

(iii) *with the Bank's permission, by a lawyer.*

Although the above clause provide that a charge-sheeted employee may be permitted to be defended with the Bank's permission', by a lawyer, however, I am of the view that there is no absolute or vested right to any charge-sheeted employee for representation through a lawyer.

You have requested to permit representation through a lawyer on the ground that

- (i) *None of the employer/ leader has consented to represent your case*
- (ii) *The allegation made in Charge-Sheet are of complex nature*
- (iii) *Considering the allegation, you may lose your job*
- (iv) *Bank has no predicament to allow the application for representation through lawyer*
- (v) *It is physically impossible for you to conduct and defend yourself.*

I have considered your request and from the perusal of request as well as appeal filed by you, I observe that it is not a case



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where you are seeking permission to be defended by a lawyer because the Disciplinary Authority. Inquiring Authority or the Presenting Authority are from legal background. It is also not a case where you are being pitted against a legally trained mind, which also may justify granting permission to be represented through a lawyer.

Therefore, I am of the view that it would not be justifiable to permit you to avail services of a lawyer as you are a member of a Trade union, you may avail services of representative of Trade union as provided in Clause 12(1) & 12(ii)."

38. The petitioner, while submitting his request for engagement of a lawyer cited following reasons:-

"That the applicant seeks the permission to engage the counsel as:

***Firstly**, the applicant has already approached the named persons and other office bearers of the Union/Association and none of the employee/leaders has consented to represent the case of applicant. Thus the opportunity provided vide letter dt. 23.07.2018 of Regional Manager and provision of Bipartite Settlement dt. 10.04.2002 has been rendered redundant as none of the member of registered union/Association and named persons by regional Manager has given the consent to represent.*



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Secondly, the allegation made in the chargesheet are of complex nature as allegations of fraud, forgery and misappropriation are levelled against the applicant and multiple documents are needed to be proved by/against the applicant which will need appropriate legal knowledge and experience.

Thirdly, considering the nature of allegation and provisions of penalty, the applicant might loose his job/livelihood and reputation including the right to live with dignity, which is substantial/fundamental right of all the citizen as per the Constitution of India.

Fourthly, the Bank has no predicament to allow the application for representation through counsel as the same is provided as per the Bipartite Agreement dt. 10.04.2002. An authority to grant permission cannot be exercised in an arbitrary manner.

Fifthly, it is physically impossible for the applicant to conduct and defend himself in the department proceedings as since last one year the applicant is having anxiety attacks and acute depression and the pressure of defending the departmental proceedings against himself can prove to be fatal for his mental heath. The applicant is under regular treatment from PGI Rohtak and Sri Ganga Ram Hosptial New Delhi for the same. and he has been time and again advised rest and no stress by the doctor. The fact is already verified by the Bank. The copy of



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Medical record is attached alongwith the present application.

Hence, as per the current medical condition, the applicant is not at all capable to defend his case during the departmental proceedings.”

39. Evidently, the respondent-authorities did not delve into the reasons cited by him or record any finding as to the same and why they are not valid. Clearly the orders do not reflect application of mind to the application and instead reflect an established mindset of rejection, under a fear that presence of a lawyer may delay the proceedings. Such apprehension based rejection cannot be upheld as a valid reason under all circumstances.

40. Given the reasons cited by the petitioner, the facts in hand are closer to the ratio in the matter of **Anil Bamania** (supra). Even though it was held by the Division Bench that it be not treated as a precedent, however, the reasons and circumstances mentioned therein can still be looked into for guidance.

41. Since the impugned orders have not examined, discussed or ruled on the circumstances cited by the petitioner while claiming for an Advocate, this Court refrains from commenting on the same, since the same are factual aspects to be verified and ascertained at the first instance. Any comment by Court, on merits of the claim, may have an effect on final outcome.

42. The present writ petition is accordingly **allowed**. The impugned order dated **10.11.2023 (Annexure P-9)** passed by the Disciplinary



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Authority and the order dated **13.02.2024 (Annexure P-10)** passed by the **Appellate Authority** are **set aside**. The matter is remanded to the Disciplinary Authority to pass a fresh order as per law and after examining the claim on its merits.

43. All pending civil misc. application(s), if any, stand disposed of.

(VINOD S. BHARDWAJ)
JUDGE

12.08.2025

Mangal Singh

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