
(2000) 04 KL CK 0013
In the High Court Of Kerala
Case No : W.A. No. 1531 of 1997

A.G.M. (P), Syndicate Bank and Others	APPELLANT
Vs	
B.K. Mahim	RESPONDENT

Date of Decision : 06-04-2000

Acts Referred:

Syndicate Bank Officer Employees (Conduct) Regulations, 1976 — Regulation 24, 3(1)

Citation : (2000) 2 ILR (Ker) 615 : (2001) 1 LLJ 52

Hon'ble Judges : Arijit Pasayat, C.J;K.S. Radhakrishnan, J

Bench : Division Bench

Advocate : M.P. Ashok Kumar, for the Appellant; P. Ravindran, for the Respondent

Final Decision : Allowed

Judgement

K.S. Radhakrishnan, J.—This appeal is preferred by the Syndicate Bank and its officers against the judgment of the learned single Judge interfering with the order of dismissal of the first respondent from service on the basis of Syndicate Bank Officer Employees (Conduct) Regulations, 1976. Learned single Judge also set aside the enquiry report dated July 20, 1989 and various orders issued pursuant thereto.

2. Short facts which are necessary for the disposal of the appeal are as follows. One M. Damodaran, applied for a vehicle loan of Rs. 17,000/-, from the Mulleria Branch of the Syndicate Bank for the purchase of a new autorikshaw. First respondent was functioning as the Manager of the said Branch at that time. First respondent-delinquent Officer agreed to arrange the loan, and as a precondition complainant was directed to remit margin money of Rs. 6000/- Complainant remitted the margin money in various instalments, final instalment of which was remitted on September 1, 1984. For sanctioning the loan, delinquent officer demanded a sum of Rs. 2,000/- which, the complainant found difficult to pay. Complainant later visited the bank on October 5, 1984 and made enquiries about his loan application. Delinquent officer informed the complainant to come after a

few days. When the complainant met him on October 12, 1984 he reiterated the demand.

3. Complainant then filed a complaint before the Central Bureau of Investigation, Cochin, about the illegal demand made by the: delinquent officer. CBI took up the complaint and decided to lay a trap. Thomas John, Inspector, CBI registered R.C. No. 23 of 1984 against the delinquent officer, and he along with Inspector Vijayakumar and other CBI. officials reached Kasaragod at about 9 pm on October 16, 1984. On October 17, 1984, they secured the presence of K. Kumaran, Inspector (Complaints) (Postal) and the presence of C.K. Narayanan, Head Clerk, Income Tax Office, Kasaragod, to witness the trap. On October 17, 1984, at about 9.45 a.m. the Inspector demonstrated Soda Phenolphthalein test in the presence of complainant, Kumaran and Narayanan and prepared an entrustment mahazar. An amount of Rs. 1,000/- produced by the complainant was returned to him with specific instruction to hand over the same to the delinquent officer if he repeated his demand for the bribe. The notes were smeared with phenolphthalein powder before the same were entrusted with the complainant.

4. Inspector Thomas John, complainant, Kumaran., Narayanan and other CBI officials reached the premises of the bank. Complainant proceeded to the bank along with Kumaran. Complainant then entered the room of the delinquent officer and occupied the chair placed in front of him. At that time Inspector Thomas John and Narayanan were standing in the verandah of the bank. Kumaran stood in front of the counter under the pretext of getting some forms from the bank. Delinquent officer enquired from the complainant about the money. Complainant replied that he had brought Rs. 1000/-. Delinquent officer insisted that balance amount of Rs. 1000/- should also be paid for which the complainant agreed. Complainant then took the currency notes from his pocket and handed over the same to the delinquent officer. Delinquent officer accepted the currency notes with his right hand and after counting the same he kept it on his table. The incident happened at about 12.15 p.m. on October 17, 1984. On receipt of the money by the delinquent officer, complainant came out of the cabin and showed the prearranged signal. Inspector Thomas John, Inspector Vijayakumar and other members of the party accordingly entered the cabin of the delinquent officer and arrested him. Thereafter delinquent officer's right hand fingers were subjected to the sodium carbonate solution test which yielded positive result.

5. CBI then initiated enquiry in the matter and lodged a First Information Report No. RC 23/1984 dated October 16, 1984 before the Special Judge, CBI/SPE, Ernakulam. Bank also simultaneously took steps to keep the delinquent officer under suspension under the Syndicate Bank Officer Employees (Discipline and Appeal) Regulations, 1976. However, the matter before the CBI Court was ultimately closed for want of adequate evidence. Bank however decided to initiate departmental proceedings. Accordingly charge-sheet was issued to the

delinquent officer in accordance with Regulation of the Syndicate Bank Officer Employees (Discipline and Appeal) Regulations, 1976. Articles of charges dated July 24, 1985 levelled against the delinquent officer are as follows:

That during the period between June 11, 1981 and October 31, 1984, you were working as Manager at our Mulleria Branch and that while functioning in your position as such, during 1984, you demanded and accepted gratification other than legal remuneration of Rs. 1,000/- on October 17, 1984 at 12.15 p.m. from Sri M. Damodara, S/o. Krishnan Chettiyar, Melangal House, P.O. Paika, Kasaragod, as a motive or reward for sanctioning an amount of, Rs. 17,000/- as a loan from the bank for purchase of an autorickshaw. By your above acts, you exhibited lack of integrity, honesty, devotion and diligence and acted in a manner unbecoming of the status of Bank Officer and thereby violated Regulation 3(1) read with Regulation 24 of the Syndicate Bank Officer Employees (Conduct) Regulations, 1976.

Pending enquiry, suspension of the delinquent officer was revoked by order dated September 12, 1985 without prejudice to the right of the bank to initiate disciplinary action against the delinquent officer.

6. Delinquent officer submitted his written explanations dated November 14, 1985 and May 6, 1986 in response to the charge-sheet issued to him. Those explanations were found to be not satisfactory and it was decided to proceed with disciplinary proceedings and one Sri. J. Hariharan was appointed vide order dated September 12, 1986 as the Enquiry Officer to go into the charges levelled against the delinquent officer. Enquiry Officer commenced the hearing on January 22, 1987. On that date delinquent officer and defence assistant were present. Delinquent Officer did not co-operate with the Enquiry Officer. Later enquiry was adjourned to February 20, 1987. Delinquent officer, though, was present on the said date, he did not co-operate with the enquiry and suggested that enquiry should be proceeded with exparte. On the said date, enquiry officer passed an order directing the Presenting Officer to present a list of witnesses and the documents which they proposed to rely on to prove the articles of charges. Delinquent Officer was also directed to verify those documents within five days, and submit his list of witnesses and documents. The list of witnesses by whom and documents by which the presenting officer proposed to establish the charges was sent by the enquiry officer to the delinquent on June 10, 1987. Photostat copies of statement of witnesses listed by the Presenting Officer were also sent to the delinquent officer by the enquiry, officer on July 11, 1987. The enquiry was adjourned to September 15, 1987. On September 15, 1987 defence submitted their list of witnesses and documents by which they wanted to sustain their defence. On September 16, 1987 MWs 1 to 4 were examined and they were cross-examined. Enquiry was subsequently adjourned to September 17, 1987. Thereafter it was adjourned to October 30, 1987. On October 30, 1987 enquiry began at 11 am and the delinquent officer was present. Delinquent officer made an application not to proceed with the enquiry. The said request was overruled

and MWs 5 to 7 were examined. Delinquent officer walked out of the enquiry hall. Enquiry was subsequently adjourned to September 2, 1987 on which date MW 8 was examined.

7. Delinquent officer in the meantime filed a Writ Petition O.P. No. 17575 of 1987 before the Karnataka High Court against the conduct of the enquiry by J. Hariharan. While the matter was pending before the Karnataka High Court another enquiry officer by name K.G. Gadiyar was appointed on April 10, 1987. However, Gadiyar could not proceed with the enquiry since he was transferred to Delhi. Consequently one Premananda Pai was appointed as Enquiry Officer on August 22, 1988. The said fact was informed to the Court. Consequently writ petition was closed. The newly appointed enquiry officer proceeded with the enquiry and enquiry was further posted to January 4, 1989 at Ernakulam. On January 4, 1989 no evidence was recorded since delinquent officer was absent. Enquiry was then adjourned to April 4, 1989 and delinquent officer was present. He wanted to shift the venue. But the enquiry officer did not accede to his request. MW 9, CBI Inspector, was examined on the date. Delinquent officer did not cross-examine the said witness and did not participate in the enquiry. Enquiry was therefore concluded on January 4, 1989.

8. After evaluating the entire oral and documentary evidence Enquiry Officer came to the conclusion that the delinquent officer demanded bribe for sanctioning and release of loan amount accepted the same. Enquiry officer submitted his report dated July 20, 1989 before the Personnel Officer, who is the disciplinary authority. Disciplinary authority accepted the report and imposed the punishment of dismissal from service as per the Syndicate Bank Officer Employees (Conduct) Regulations, 1976. Delinquent officer then preferred appeal before the appellate authority. Appeal was rejected confirming the punishment of dismissal from, service. Aggrieved by those orders delinquent officer has preferred the present writ petition. Learned single Judge took the view that there was no evidence whatsoever to support the alleged demand and acceptance of bribe by the delinquent officer. Learned Judge also felt that Enquiry Officer has wrongly cast the burden on the delinquent officer to show that he had not demanded the bribe. With regard to the delinquent officer's acceptance of bribe, according to learned Judge, there is no evidence. Consequently, learned Judge interfered with the order of dismissal and quashed the enquiry report and other orders issued pursuant thereto.

9. Learned counsel appearing for the bank Shri. M.P. Ashok Kumar submitted that learned Judge has erred in interfering with Enquiry report as well as order of dismissal. According to counsel, the finding of the learned single Judge that there was no evidence in support of the charges is erroneous. Counsel submitted that several witnesses were examined by the Enquiry Officer and delinquent officer did not cross-examine some of the witnesses. Defence also took no steps to examine its witnesses or produce documents. Counsel submitted that the standard of proof in a criminal proceeding and disciplinary proceeding is distinct

and different. Counsel submitted that in any view of the matter, learned Judge committed an error in quashing the enquiry officer's report and the orders passed by the disciplinary and appellate authorities.

10. Counsel for the delinquent officer Shri. P. Ravindran submitted that there is no evidence whatsoever to prove the charges levelled against delinquent officer. Counsel submitted that the entire enquiry proceedings were vitiated since enquiry officer initially appointed was junior to him in service. Counsel submitted that the said fact was brought to the notice of the Karnataka High Court, and consequently bank removed the enquiry officer and a new enquiry officer was appointed. Counsel submitted that no effective opportunity was given to the delinquent officer to adduce evidence or to cross-examine the witnesses. Counsel submitted that no reliable evidence was adduced by the bank to prove the demand and acceptance of the bribe by the delinquent officer. In any view of the matter, in this case an amount of Rs. 1,000/- was brought by the complainant so as to deposit the same in his SB account and credit slip for depositing the amount was already prepared and given to the complainant. Counsel further submitted that an incompetent person has passed the order of dismissal and consequently the said order is bad and issued without jurisdiction. Counsel further submitted that before imposing the punishment of dismissal by the disciplinary authority, enquiry report was not furnished to the delinquent officer.

11. We heard counsel on either side at length. Before examining the rival contentions, it is worthwhile to deal with some of the principles laid down by the Apex Court while dealing with the cases of departmental proceedings. Supreme Court in *State of Rajasthan Vs. B.K. Meena and others*, held that in the disciplinary proceedings the question is whether the delinquent is guilty of such conduct as would merit his removal from service or a lesser punishment, as the case may be whereas in the criminal proceedings the question is whether the offences registered against him under the Prevention of Corruption Act (and the Indian Penal. Code, if any) are established and, if established, what sentence should be imposed upon him. The standard of proof, the mode of enquiry, and the rules governing the ; enquiry and trial in both the cases are entirely distinct and different. In the matter of departmental proceedings the standard of proof is not proof beyond reasonable doubt, but the preponderance of probabilities tending to draw I an inference that the fact must be more probable. Supreme Court in *Maharashtra State Board of Secondary and Higher Secondary Education Vs. K.S. Gandhi and Others*, held that no mathematical formula could be laid on degree of proof. The probative value could be gauged from facts and circumstances in a given case. The standard of proof is the same both in civil cases and domestic enquiries. It was pointed out that in such proceedings, it is open to the authorities to receive and place on record all the necessary, relevant, cogent and acceptable material facts, though not proved strictly in conformity with the Evidence Act. It was pointed out in grave cases like forgery, fraud, conspiracy, misappropriation, etc., seldom direct evidence would be available. Only the circumstantial evidence would furnish the proof. Inference from the

evidence and circumstances must be carefully distinguished from conjectures or speculation.

12. We may notice in the instant case earlier Enquiry Officer J. Hariharan held a preliminary hearing on January 22, 1987. Delinquent Officer, his defence Assistant and bank officers attended the preliminary enquiry. Later enquiry was adjourned to February 20, 1987. Enquiry Officer explained to the delinquent Officer the procedure of conducting enquiry. However, delinquent officer objected to the continuance of the enquiry. Objection was overruled by the Enquiry Officer. On the same day itself, Enquiry Officer passed an order directing the Presenting Officer to submit a list of witnesses by whom and documents by which he proposes to prove the article of charge. List of witnesses and documents was later forwarded by the Enquiry Officer to the delinquent Officer on June 10, 1987. We notice enquiry was posted subsequently on several dates. Delinquent Officer did not examine any of the defence witnesses or produce documents. Therefore the enquiry was posted to September 16, 1987 and September 17, 1987 respectively. On September 16, 1987 MWs 1 to 4 were examined and they were cross-examined by the delinquent officer. Later it was adjourned to October 27, 1987. Enquiry was subsequently adjourned to October 30, 1987. On October 30, 1987 again certain objections were raised by the delinquent Officer who stated that he had no faith in the Enquiry Officer. However, the enquiry was proceeded with on July 30, 1987. MWs. 5 to 7 were examined. Delinquent Officer, though present, did not participate in the enquiry and staged a walk out.

13. The delinquent Officer had filed Writ Petition No. 17575 of 1987 before the Karnataka High Court but there was no stay of continuance of the enquiry. There was no finding by the Court that the enquiry so far conducted was in any way vitiated. Even if it is assumed that Enquiry officer initially appointed was junior to the delinquent officer in service, there was no justification for the delinquent officer in not co-operating with the enquiry proceedings, and delaying the enquiry." Further, the change of Enquiry Officer would not vitiate the proceedings already held and evidence recorded. Regulation 20 of the Syndicate Bank Officer Employees (Discipline and Appeal) Regulations, 1976 stipulates that whenever any inquiring authority, after having heard and recorded the whole or any part of the evidence in an inquiry ceases to exercise jurisdiction therein, and is succeeded by another inquiry authority which has, and which exercises, such jurisdiction, the inquiring authority so succeeding may act on the evidence so recorded by its predecessor, or partly recorded by its predecessor and partly recorded by itself. It is also provided that if the succeeding inquiring authority is of the opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interest of justice, it may recall, examine, cross-examine and re-examine any such witnesses as hereinbefore provided. Evidence of some of the witnesses were recorded by the previous Enquiry Officer. MWs. 1 to 4 were examined. MW9, CBI Inspector was examined by the newly appointed Enquiry Officer. Still the delinquent officer did not take any steps to cross-examine the said witness. We find that his evidence is very

crucial in this case. In this connection it is worthwhile to extract a portion of the enquiry report submitted by the newly appointed Enquiry Officer, which is as follows:

.....I therefore made one more request to CSOE to participate in the enquiry. CSOE continued to make irrelevant and illogical submission even then. I therefore called upon the PO to produce his next witness. At this stage at 3.55 p.m. on April 4, 1989 the CSOE walked out, after receiving the pages No. 35 to 41 of the proceedings, indicating that he will not participate further. I have therefore held further proceedings ex parte on April 4, 1989. As it was very clear that CSOE has no intention whatsoever to complete the enquiry and he has boycotted the enquiry earlier on October 30, 1987 also and did not avail the opportunities repeatedly given to cross-examine the management witnesses and participate in the process, I have concluded the enquiry on April 4, 1989 by directing the CSOE/PO to submit their written briefs, if any. CSOE has failed to produce his witnesses and documents in evidence having abstained from the inquiry.

14. It is therefore evident from the above mentioned proceedings of the Enquiry Officer that even though newly appointed Enquiry Officer gave sufficient opportunities to examine witnesses or to cross-examine the witnesses, delinquent officer did not take any steps to cross-examine the management witnesses and examine his witnesses, but kept away from the enquiry. In the enquiry complainant was examined as MW-5. He deposed in accordance with his earlier statement MEx. 17 and MEx. 18. He identified the currency notes offered as bribe to the delinquent officer. He also identified the certified copy of the complaint, MEx. 23, given by him to CBI and also confirmed its contents. In his statement before the CBI, which was reiterated before the Enquiry Officer, he stated that delinquent officer demanded a sum of Rs. 2000/-. He also deposed that currency notes shown to him were the notes offered by him as bribe to the delinquent officer. However, he was not cross-examined by the delinquent officer. In fact Enquiry Officer himself put certain questions to the complainant with regard to the circumstances under which he has paid the amount by way of bribe. It was answered by the complainant that it was given as bribe. Complainant also deposed that on October 30, 1987 he was threatened by the delinquent officer not to give evidence against him. Narayanan, who was working as Head Clerk in the Income Tax Office, was examined as MW-6. He also narrated the steps taken by the CBI Officials and the manner in which delinquent Officer was taken into custody on October 17, 1984. According to him, delinquent officer received the amount with his right hand, counted the same and kept it on the table. He also deposed that Inspector Thomas John asked the delinquent officer whether he had accepted bribe of Rs. 1000/- from the complainant. The delinquent officer became perplexed and was found gasping for breath. Then the delinquent officer admitted that he had accepted bribe of Rs. 1000/- from the complainant and kept the currency notes on his table. Kumaran was examined as PW-7. As we have already indicated, Kumaran was working in

the Postal department. MW-8, who was working as Asst. Sub Inspector of Police, CBI, also deposed in the same line. Evidence of Thomas John, CBI Inspector, who was examined as MW-9 was crucial. He was examined by the newly appointed Enquiry Officer and delinquent officer could have cross-examined him, if he wanted. He categorically stated that when he asked the delinquent officer whether he had accepted as bribe of Rs. 1000/- from the complainant the delinquent officer became perplexed and was found gasping for breath. Then he admitted that he had accepted bribe of Rs. 1000/- from the complainant and kept the same on his table. This is the consistent version of witnesses, MWs-5 to 8 as well.

15. Supreme Court in *Hazari Lal Vs. State (Delhi Administration)*, dealing with Section 5(1)(d) and (2) of the Prevention of Corruption Act held where the evidence of the police officer who laid the trap is found entirely trustworthy, there is no need to seek any corroboration. There is no rule of prudence, which has crystallised into a rule of law nor indeed any rule of prudence which requires that the evidence of such officers should be treated on the same footing as evidence of accomplices and there should be insistence on corroboration. In the facts and circumstances of a particular case a Court may be disinclined to act upon the evidence of such an officer without corroboration, but equally, in the facts and circumstances of another case the Court may unhesitatingly accept the evidence of such an officer. It is all a matter of appreciation of evidence and on such matters there can be no hard and fast rule, nor can there be any precedential guidance. The above mentioned decision was subsequently followed by the Supreme Court in *State of U.P. Vs. Zakauallah*, wherein the Supreme Court held that evidence of a trap officer can be relied upon even without corroboration. In that case evidence of the complainant was corroborated by the evidence of trap officer as well. It may be noted that in this case MW-9 was the trap officer, who deposed in categorical terms that delinquent officer accepted an amount of Rs. 1,000/- as bribe and the same was admitted by the delinquent officer before him. Statement of the trap officer was corroborated by the evidence of MWs 5 to 8.

16. We are therefore of opinion that the finding of the learned single Judge that there is no evidence to support the charges is erroneous. Contention of counsel for the delinquent officer that punishment was imposed by incompetent officer cannot be sustained. In the present case order of dismissal was passed by the Personnel Manager. Regulation 5 of the Syndicate Bank Officer Employees (Discipline and Appeal) Regulations, 1976 deals with authority to institute disciplinary proceedings and impose penalties. Penalties are mentioned in Regulation 4. Delinquent Officer was an MMGS-II Officer. As far as he is concerned, Personnel Manager was the competent authority as per Regulation 3(g) of the Discipline and Appeal Regulations. Personnel Manager is competent to impose any of the penalties specified in Regulation 4 of the Discipline and Appeal Regulations. Dismissal from service of the bank is also one of the penalties included in the said regulation. It may be noted that the provisions of 1979

Regulations do not apply to the disciplinary matters as they are concerned exclusively with matters relating to appointment, probation, confirmation and other related service matters. Under such circumstances, it is difficult to accept that Personnel Manager has no jurisdiction to issue the order of dismissal.

17. Contention of counsel for the delinquent officer that witnesses were examined by an Enquiry Officer who was junior to him in service and consequently the evidence recorded by him cannot be relied upon is unsustainable. In any view Regulation 20 of the Conduct Regulations enables the succeeding inquiring officer to rely upon the evidence already recorded by the previous Enquiry Officer. Contention that copy of the enquiry report was not made available to the delinquent officer before imposing the punishment of dismissal, and consequently, the dismissal order is vitiated cannot be accepted. In the Regulations governing the officers of the bank, there is no provision to furnish enquiry report to the delinquent officer before imposing the punishment. In any view of the matter, in the instant case, punishment was imposed by the disciplinary authority by his order dated July 20, 1989, before the decision of the Supreme Court in *Union of India and others Vs. Mohd. Ramzan Khan*, which was rendered on November 29, 1990. Supreme Court in that case held that non-supply of copy of the report to delinquent before passing the order of termination would not invalidate the proceedings held prior to November 20, 1990. In the instant case, punishment was imposed prior to November 20, 1990. Reference may also be made to *State Bank of India and Others Vs. Samarendra Kishore Endow and Another*, Therefore we are of the view that non-supply of enquiry report before imposing the punishment of dismissal from service would not vitiate the enquiry proceedings. The disciplinary authority sent the enquiry report along with the order of dismissal to the delinquent officer to enable him to file appeal. Appeal filed by the delinquent officer was rejected by the appellate authority.

18. We are of the view that learned Judge was not justified in sitting in judgment over the decision of the Enquiry officer as well as the orders passed by the disciplinary authority and appellate authority. Supreme Court in *B.C. Chaturvedi Vs. Union of India and others*, , held that the disciplinary authority and on appeal, the appellate authority, being fact, finding authorities, have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the, misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute their own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary, authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/ appellate authority to reconsider the penalty imposed, or to shorten, the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof. Supreme Court in several cases has pointed out that 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. When the authority accepts the evidence and the conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The disciplinary authority is the sole Judge of facts. Where appeal is presented, the appellate authority has co-extensive power to reappreciate the evidence or the nature of punishment. 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 therefore 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 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 that case.

19. In the instant case, as we have already pointed out, there is sufficient evidence to prove the charges levelled against the delinquent officer which was accepted by the disciplinary and appellate authorities. Finding of the learned single Judge that this is a case of no evidence is erroneous and misplaced. Finding of the learned Judge that the Enquiry Officer has wrongly cast the burden on the delinquent officer cannot be sustained. A close reading of the enquiry report would show otherwise. We are of the view that the management has discharged the burden in establishing the charge levelled against the delinquent officer. We, therefore, set aside the judgment of the learned single Judge and allow the appeal.