(2011) 09 AHC CK 0095

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 15782 of 2004

Braj Bhushan Shukla APPELLANT

Vs

The General Manager (Operation-I) and Another RESPONDENT

Date of Decision : 23-09-2011

Acts Referred:

Constitution of India, 1950 — Article 226, 32

Citation : (2011) 9 ADJ 1

Hon'ble Judges : Sunil Ambwani, J;K.N. Pandey, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. We have heard Shri R.K. Ojha, learned Counsel for the Petitioner. Shri Manoj Misra appears for the Respondents-bank.

2. The Petitioner was appointed as a Clerk in the United Commercial Bank, a Nationalized and Scheduled Bank in the year 1973 and was posted in Rohtak Branch of the Bank in the State of Haryana. He was promoted as Scale-I Officer through departmental examination in 1980, and Middle Management Scale-II officer in the year 1997; transferred from Allahabad to Varanasi in the year 2000 and was posted as System Administrator in the Regional Office, Varanasi.

3. On 20.12.1999 a statement of imputation or lapses was prepared and served upon the Petitioner alleging that on 16.12.1999, in the morning the Petitioner serving as System Administrator at Civil Lines Branch Allahabad informed that the computer had gone out of order, and that the prints were not available on Computer terminal, on which work was carried out manually. Since the balances of Savings Bank and Current Accounts did not tally, the Senior Manager decided to make routine payments to VIP customers. At around 12.00 noon, on 16th December, 1999, Mr. Shukla again informed that he was carrying out mock Y2K (year 2000) trial exercise. Around 01.00 p.m. on 16th December, 1999, he informed that the computer is in order; and thus the Petitioner disrupted the

functioning of the computer. He did not give correct information on account of which customer-service was affected. In the second paragraph of the statement of imputation and lapses, it was alleged that the Petitioner was given two cheques both dated 15.12.1999, for Rs. 5,01,000/- and Rs. 39,875.49 respectively by some VIP customers for issuance of demand drafts. The cheques were entered in their respective accounts maintained on the computer and were checked by the Supervisor. Due to some reasons, these cheques were not accepted by the computer, on which the casting of balance in the respective account was not done. The Petitioner assured that he will get the things corrected in the evening. On the next morning the prints of the supplementary was taken out, from which it was observed by the Supervisor that the entries of these cheques were deleted. These lapses agitated the clerks and the sub-staff showing that the Petitioner had deliberately deleted the two entries despite his assurance to get the things corrected. After heated discussions, the Petitioner agreed to feed the transactions on 16th December, 1999. The Petitioner was thus accountable for creating hindrance in smooth functioning of the branch, and in disrupting the customer services.

4. It was further alleged in para 3 that the Petitioner had written a letter on 16.12.1999 to the Zonal Manager directly on bank''s pad for which he was not authorized. In para 4 of the allegations it was stated that the Chief Cashier of Civil Lines, Allahabad Branch had reported that the Petitioner, very often creates obstacles in the smooth functioning of the branch by playing tricks with the computers. In the last paragraph of the imputation it was alleged that the Petitioner did not open the computer terminal in time and closed the same very late. He did not provide the prints of the day''s transactions for checking to the respective Supervisors and officers.

The allegations were reduced to charges as follows:

1. He does not take all possible steps to ensure and protect the interest of the Bank which is violative of Regulation-3 of UCO Bank Officer Employees (Conduct) Regulations, 1976 as amended.

2. He does not discharge his duties with utmost devotion and diligence which is violative of Regulation-3 of Uco Bank Officer Employees (Conduct) Regulations, 1976 as amended.

5. The Petitioner submitted his reply on 30.12.1999. He submitted that the letter has been issued to cover up the shortcomings and mischief of Shri U.N. Misra, who is not fair in transactions. The Petitioner demanded photocopies of the complaints and stated that all VIP customers on 16.12.1999 were obliged and the payment was made to them even in the absence of the computer entries. The Petitioner demanded the copies of the three cheques and the transfer scroll maintained by the branch on 15.12.1999 and 16.12.1999, and also requested for the copies of the letter issued by the Deputy G.M.C.P.P.D. ordering the System Administrator, to write directly in case of any difficulty in computerization of the

branch.

6. The Zonal Manager allowed the Petitioner inspection of all the documents and cheques and thereafter the departmental enquiry proceeded against the Petitioner.

7. In the enquiry report dated 29.9.2003 after narrating the details of the enquiry in which documents were allowed to be inspected and dates were fixed, the enquiry officer found that the Petitioner did not attend the enquiry inspite of information given to him on 27.9.2003. On the earlier dates on 25.9.2003 the presenting officer was unable to attend the proceedings. The Petitioner did not submit any explanation for his absence nor any witnesses were presented by him on 27.9.2003, in the Allahabad Branch.

8. On the first charge the enquiry officer found in respect of the allegations, that on 16.12.1999 the Petitioner had informed that the computer was out of order and had made available the prints to manage the work. Around 12.00 noon the Petitioner informed that he was carrying out Y2K exercises and thereafter informed at 1.00 p.m., that the computer is in order and was working. Once he had stated that computer was out of order, on which manual work was started, his report in the afternoon that the computer is working amounts to giving incorrect information to the Senior Manager, disrupting the functioning of the branch.

9. On allegations No. 2 the enquiry officer found from the vouchers that the cheques given by M/s Kapoor Sons and M/s Agrawal Automobiles confirmed the transactions on 15.12.1999. Their accounts were debited in the supplementary on 15.12.1999. The Petitioner did not take the errors seriously, on account of which the staff did not feel secure while dealing with computer. The explanation given by the Petitioner on the steps taken by him, did not show that he tried to contact the software vendor in this regard, and assured the staff that the error will be corrected in the evening. The enquiry officer found that the Petitioner as System Administrator did not understand the gravity of the error, and dealt with the situation negligently creating hindrance in smooth functioning of the Branch.

10. The allegation No. 3, to the effect that he had written a letter to the Zonal Manager on the bank''s pad the charge was not proved as the presenting officer could not produce the letter either in original or its photocopy.

11. The allegations No. 4, that the Petitioner was playing tricks with the computer adversely affecting the computer services in the Bank was found partly proved on the ground that the complainant''s statement could not be obtained nor the Chief Cashier Mr. S.N. Misra could be produced as witness.

12. On the last allegation that the Petitioner did not open the computer terminal in time and closed the terminal early, which did not allow the prints of the day''s transactions to be checked by the Supervisor in the evening was found proved on the basis of the supplementary/ transactions, which was entered later. However,

No. proof could be presented that he did not open the terminals early in the morning. The enquiry officer thus only found allegation Nos. 1 and 2 to be proved against the Petitioner.

13. In his reply dated 13.11.2003, to the enquiry report, the Petitioner requested to extend the time limit to give his reply as his defence representative at Allahabad is 400 kMs. Away from Gorakhpur and No. leave was provided to him. He requested for extending the time upto 17.10.2003. The comments were submitted on 12.10.2003 alleging that the enquiry officer had adopted the role of presenting officer. He could not prosecute the Petitioner as enquiry officer. He was not allowed to lead the witnesses on 25.9.2003, when he had reached the venue of the departmental enquiry along with witnesses. He was at Allahabad Main Branch on 25.9.2003 upto 5.00 p.m. but was not informed that the enquiry proceedings have been adjourned to 27.9.2003. The allegations that his daughter and son have been informed were incorrect, as the telephone number on which the alleged information was given was not provided by him. He had never given his residential telephone number of Allahabad, to the office. When the enquiry officer was aware that the Petitioner is living in the hotel in which the witnesses banks prosecutions were also staying, he could have been informed of the next date fixed instead of telephoning his son.

14. On the merits of the findings the Petitioner replied that about 300 branches of UCO Bank are fully computerized, out of which 100 branches were supplied software by TCS of Allahabad. There are four Senior Managers in MMGS-III, who are working in the branches with TCS Software and several auditors of EDP Cell. Out of 16 Regional Inspectors, only four Inspectors were well versed in the computer. A layman ignorant of computers was appointed as enquiry officer. The Petitioner submitted that Shri R.P. Maheshwari and Shri S.K. Nagar was appointed as Enquiry and Presenting Officer as they were of the same caste, that of the Disciplinary Authority. The entire enquiry proceedings were vitiated. It was also proved that the Petitioner was not allowed to lead his evidence, as he was not intimated with the date of enquiry.

15. On Y2K problem the Petitioner stated that the computers around the world were to be affected, when the date changed from 1999 to 2000. The problem had arisen because of the computer programmes, which was using two digits rather than four digits to define the year. The computer softwares recognized the date using ''oo'' as the year 1900 rather than 2000. The system and programme could not correctly compute the date beyond 1999. These possible outcomes were referred to as Y2K (year 2000) problem. In view of the Y2K problem the performance and functionality of all computers using dates as parameters of banking transactions were affected. All the offices/ branches were to be made Y2K compliant by replacement, repairment and upgradation. By the circular issued to all the offices/ branches on 16.12.1999, Y2K patches were to be loaded in the main server and all the remaining terminals by CMC engineers. Shri U.N. Mishra, the only management witness had confirmed that Y2K patch loading

report exhibited to him as DE-1A, B & C on the page No. 15 of the enquiry proceeding, was genuine. He also admitted that installation work of Y2K patches started on 14.12.1999 and continued upto late evening on 15.12.1999. The Y2K patch loading report of the concerned branch was signed by Shri U.N. Mishra as Senior Branch Manager. Since Y2K patches could not be loaded upto 15.12.1999, the loading continued on 16.12.1999 upto 12.00 noon and in the circumstances the Petitioner had informed that the computer was not in order in the morning and had become functional at 12.00 noon. This fact was treated by the enquiry officer as disruption of the business of the bank by the Petitioner.

16. The Petitioner, thereafter, stated in his reply in paras 8 and 9 (page 37) that Y2K problem was not only haunted the bank, it was going to affect the entire banking industry, the Reserve Bank of India, the Ministry of Finance and the entire financial world in the end of the year 1999. A number of articles were published, and all the newspapers around the world had published the reports. Every branch was required to give certificate to Head Office by 7th December, 1999 that it was Y2K free, and all the safeguards/ precautions have been taken. A similar certificate was to be given to RBI and Ministry of Finance and IBA. In view of the circular dated 4.12.1999 and 6.12.1999 the patches were to be installed and validation/ Dry Run/ Mock Trial and drill contingency was to be carried out to ensure successful services to the customers. In the meeting of all the System Administrators held at Lucknow on 7.12.1999, in which Shri Mishra was also invited, Y2K compliance report was to be given by him.

17. On allegation No. 2 the Petitioner stated in his reply that the copy of the preliminary investigation report was not provided to him. Out of 40 members in Allahabad Main Branch No. one had come forward to narrate the alleged incident dated 15.12.1999 and 16.12.1999. Not a single voucher of transfer could be posted until and unless contra vouchers were of the same amount. A single voucher does not form batch, and that a single voucher cannot be posted in computer without contra debit and or credit vouchers. Both the alleged cheques were not posted in computer. There was No. mention of any batch number on the respect draft vouchers of the alleged customer Shri U.N. Mishra was aware that vouchers once posted and passed in the computer could not disappear. If the vouchers and entries disappeared, it was the fault of the software vendor and not the System Administrator. The System Administrator can deal with the entries, which are appearing on the screen. He cannot deal with the entry, which had disappeared as alleged by Shri U.N. Mishra. If it was found that two cheques had disappeared, they were expected to repost the cheque on the computer again. The Petitioner was not told and was aware that they were posted again. The Petitioner had informed that the computers are machines. They are neither human beings nor they behave like human beings. He further stated that computers do not make any mistakes. The mistakes are committed by persons, who operate them and enter data into it. The computers are not allergic to any person or any VIP. They have No. sentiments. The computers cannot refuse to accept the cheques of any customers like human being. They only take

commands, if they are given properly. There is No. reason that the computer should not accept the commands for debiting a particular amount. The computer do not refuse to accept the cheques of the customers. The enquiry officer has, like a layman wrongly concluded that both the cheques of VIP customers were not accepted by the computer.

18. The Petitioner further stated that hundreds of cheques are posted in ledgers and computers daily. It is not the practice of the bank to verify whether a particular cheque has been appearing or not. If the CTO or Supervisor saw these two cheques allegedly disappear from the computer, they could appear and verify the statement as witnesses. They were not produced as witnesses instead only Shri U.N. Mishra was produced. Shri V.K. Srivastava and Shri K.S. Srivastava being the natural witnesses could have confirmed about alleged disappearance of the cheques.

19. The Petitioner further stated in his long reply that, whereas Shri Hanuman Prasad was also named as management witness, he was not produced. He was posted as Asstt. Manager of Mirzapur Branch. He was called for deposition and he knew that the alleged cheques and draft vouchers of the VIP customers were actually posted on the computer on 15.12.1999. Shri Hanuman Prasad was not produced intentionally and deliberately. The Petitioner had also demanded transfer patch report of 15.12.1999, which was not given to him.

20. The Petitioner, thereafter, stated in his reply in para 8 & 9 to the statement of the allegation No. 2 drawn by the enquiry officer as follows:

8. BOTH THE CHEQUES of THE V.I.P. CUSTOMERS WERE POSTED IN A.L.P.M. BUT THEY WERE NOT POSTED IN COMPUTER WHICH IS ALSO EVIDENCE FROM MANAGEMENT EXHIBIT-ME 9 WHICH IS PHOTOCOPY of SUPLEMENTARY GENERATED FROM A.L.P.M. PASSING POWER of SHRI V.K. SRIVASTAVA, THE SPECIAL ASSISTANT INCHARGE of THE CURRENT SEAT WAS RUPEES FIFTY THOUSANDS (IN TRANSFER) WHEREAS THE AMOUNT of THE CHEQUE WAS RUPEES FIVE LACS. SHRI V.K. SRIVASTAVA NEVER USED OT SIGN CHEQUES of HIGHER AMOUNTS HE ALWAYS USED TO SEND ALL CHEQUES/ INSTRUMETNS of HIGHER AMOUNT DIRECTLY TO SHRI SRINATH, THE MANAGER/SECOND IN COMMAND of THE BRANCH WHO USED TO SIGN SUCH CHEQUES/ INSTRUMENTS. SHRI SRINATH WAS NOT AWARE of THE ART of COMPUTER. No. COMPUTER WAS KEPT ON HIS TABLE. AFTERSIGNING THE CHEQUES, SINCE HE HAD KEPT THE CHEQUES IN HIS DRAWER and WERE NOT AVAILABLE FOR MAKING ENTRY IN TO THE COMPUTER, THE MATTERS WAS REPORTED BY THE APPELLANT VIDE HIS LETTERS DATED 16.12.99, THE REFERENCE of WHICH HAS BEEN MADE IN THE STATEMETN of ALLEGATION No. 3 of THE LETTER of IMPUTATION DATED 20.12.1999. Instead of taking any action for non providing of cheques for making entry into the computer, the matter was falsely twisted against the Appellant in the same manner as the loading of Y2K patches on the computer has been misquoted in the statement of allegation No. 1 of the letter of imputation.

9. THUS NEITHER THE APPELLANT HAD DISRUPTED THE WORKING of THE BRANCH NOR HE HAD CAUSED ANY LOSS TO THE BANK. BOTH THE STATEMENT of ALLEGATION of THE LETTER of IMPUTATION HAS BEEN MISQUOTED and IT NOT REFLECTING THE TRUE PICTURE.

21. The Disciplinary Authority by his order dated 14.10.2003 concured with the findings of the enquiry officer on charge Nos. 1 and 2, and found these charges to be serious. He found the allegations against the interest of the bank and to be dealt with sternly. The Disciplinary Authority reported that the Petitioner was chargesheeted in the past also and did not have a good track record, punished him on charge No. 1 with reduction of present basic pay by two stages, which will have the effect of postponing future increments. On charge No. 2 he was punished with reduction of basic pay by one stage having effect of postponing his future increments. Both the punishments were allowed to have cumulative effect. The Petitioner filed an appeal requesting the appellate authority to read his reply to the enquiry officer''s report. The appellate authority held that the Petitioner did not submit his reply to the statement of imputation dated 20.12.1999, though he applied for inspection/ verification of the related records and was duly allowed inspections. The enquiry officer submitted his report to which the Petitioner submitted his reply. Thereafter, the appellate authority observed as follows:

As regards point No. 1, I find No. merit in the contention of CSOE, because the order passed by the DA related to the letter of imputation dt.20.12.99 issued to the CSOE. The order has been passed by the DA based on the enquiry findings and other relevant records of the case.

As regards point No. 2, I find that the DA was of the opinion that there were grounds for inquiring into the truth of the imputation of the misconduct against the CSOE and accordingly ordered for an inquiry into the truth of the charges. I therefore do not find any merit in the contention of the CSOE.

As regards point No. 3, I find that the notice of enquiry held on 27.9.03 was duly given to the CSOE on 26.9.03 over telephone to the residence through his son and daughter. A letter was also reported to have been faxed to the Defence Representative, who in turn confirmed having sent the letter to the CSOE''s residence which however was returned undelivered. A message was reported to have been dropped to the CSOE in this regard. I therefore do not agree with the contention of CSOE.

As regards point No. 4, I find that the CSOE was duly given the opportunity of inspection/ verification of the documents which were made available to him. On the date of enquiry i.e. 22.8.03, the CSOE was also given time for presenting his defence witnesses at the next date of enquiry i.e. 22.9.03. However, as the CSOE could not produce the witnesses on 22.9.03, another opportunity was given to him on 25.9.03. However, as the presenting officer could not be present on 25.9.03, the enquiry was postponed to 27.9.03 and the message was conveyed to the CSOE and the defence representative over phone. While the defence representative participated in the enquiry, the CSOE had not turned up. No. witnesses were made available by the DR also. By 2.00 PM, neither the CSOE nor any of the witnesses were presented in the enquiry. The enquiry was therefore dealt with accordingly. Full opportunity has been provided to the CSOE to present his defence witnesses. I therefore do not find any merit in the contention of the CSOE.

As regards point No. 5, I find that out of the 5 allegations levelled against the CSOE, 2 allegations stand proved, while 2 stand as partly proved. The remaining allegation stands as not proved. Based on the above, the charges levelled against Shri Shukla stand as proved. I therefore find No. merit in the CSOE''s contention.

22. The appellate authority, thereafter, observed based on what has been stated in the foregoing paragraphs that he fully concurred with the views of the DA and held that charge Nos. 1 and 2 to be proved. He also found punishment commensurate to the misconduct committed by the officer and rejected his appeal.

23. Learned Counsel appearing for the Petitioner submits that the Petitioner was not given copies of the document and opportunity to inspect them. The enquiry officer did not given sufficient opportunity to the Petitioner to participate in the enuquiry proceedings and to lead evidence. The Petitioner was present in the enquiry proceedings on 25.9.2003. The Presenting Officer deliberately absented himself. The enquiry was fixed two days later on 27.9.2003 at Allahabad. The enquiry officer referred in his enquiry report that the Petitioner was staying in same hotel in which the witness Shri U.N. Mishra was staying but did not care to inform him about the adjourned date of the enquiry two days later; rather he telephoned the son and daughter of the Petitioner at Gorakhpur. He did not inform as to how he got the telephone number of the residence of the Petitioner at Gorakhpur and treated the information to be sufficient for the Petitioner to have traveled back 400 kMs. within a day to attend the enquiry. The enquiry had by that time closed examination of only one witness namely Shri U.N. Mishra, who also did not inform him that the enquiry was to be held two days later. The Petitioner''s daughter had to appear at Rudrapur in PCS examination. The Petitioner was required to accompany her to Rudrapur, to appear in the examination on 28.9.2003.

24. He further submits that there is No. charge of misappropriation or embezzlement. The allegations only relate to telling the Senior Manager that the computer was not functioning in the morning and thereafter started functioning in the afternoon, thereby finding that the Petitioner has disrupted the functioning of the bank. The Senior Manager and the enquiry officer did not understand the Y2K problem, which the Petitioner had to attend for which the patches were given to the Petitioner, which could not be installed upto 16.12.1999. When the computer started working on the afternoon of 16th, the functioning became normal. The Petitioner was not responsible of posting of two cheques. If there

was any error in the software, the same had to be attended by the software provider. If the cheques were actually posted, the computer could not have ignored the entires. There was No. allegation of any deliberate tampering or malfunctioning of the computer by the Petitioner. Both the Disciplinary Authority and the Appellate Authority were completely ignorant of the reply of the Petitioner and without considering his explanation, which was more technical in nature rather than based on evidence, the punishment has been awarded. Complete ignorance of technical knowledge and awareness by the enquiry officer and the appellate authority has come to the misfortune of the Petitioner.

25. Learned Counsel appearing for the bank submits that the Petitioner was supplied with all the documents and was made aware of the date of the enquiry proceedings. He did not lead his evidence. He was telephonically informed about the next date of the enquiry on 27.9.2003. A letter was also sent to his address at Allahabad, which returned undelivered. No. document was sought by him and thus enquiry was concluded after examining the management witnesses. The Petitioner''s reply was considered by the enquiry officer and that the grounds of appeal were also considered and discussed by the appellate authority.

26. We agree with learned Counsel for the Petitioner that there was No. allegation of any mischief, misappropriation and loss to the bank. The Petitioner as System Administrator was responsible for maintaining the functioning of the computers of the Bank. It is alleged that he reported that the computers were not functioning on the morning of 16.12.1999, and thereafter again reported when they started functioning by 12.00 noon, and thus concluded that the Petitioner disrupted the work of the bank. The allegation does not take into account the functioning of the computers. It is not denied that Y2K problem had affected the banking and financial institutions all over the world. The computer softwares recognised ''00'' as 1900 and not 2000. They were not programmed to do so. All over the world banks and financial institutions started taken steps to modify the software to recognise the year 2000. The bank also issued circulars and had instructed all System Administrator to load patches, which would enable the computer to recognise the year 2000, and accordingly the Petitioner was working on it. In the circumstances, it was most natural for the Petitioner, while loading software on the computer to inform the Manager as soon as the loading was complete and the functions became normal. The sincere effort made by the Petitioner to load the patches on the software, and to immediately inform the Senior Officers as well as the computer starting functioning has been treated as disruption of the work of the bank.

27. We further find that there is No. allegation that the Petitioner had any motive or had committed any mischief in posting the two cheques of the VIP customers on 15.12.1999. The Enquiry Officer, the Disciplinary Authority and the Appellate Authority did not have the basic knowledge and understanding of the computer operations, when they observed that the cheques posted by the bank officials had disappeared from the computer. The computer never recognises any

customer, unless it is programmed to receive such commands. If the entries were posted on the server, there could be No. reason for such entries to disappear, unless there was some fault in the server. There was No. evidence led by the Bank that the Petitioner had tempered with the computer programme, or had deliberately erased the entries, which were made by the clerks on duty.

28. The departmental enquiry was adjourned on 25.9.2004, and the Petitioner was not informed personally, whereas the management witness was living in the same hotel in which the Petitioner was living and was reported to be ill. Instead of informing the adjourned date to the Petitioner, who was in the town living in the same hotel, the bank officials made telephone calls to Petitioner''s residence and sent information to him in writing of the date, which was two days later, and on which date the Petitioner was required to accompany his daughter to appear in the competitive examination in the State of Uttarakhand.

29. From the admitted facts, we are of the opinion that deliberate mischief was played with the Petitioner by not informing the date of enquiry, which was adjourned from 25.9.2003 to 27.9.2003, and thereafter closing the enquiry proceedings by only examining one witness of the bank on 27.9.2003. The Petitioner could be easily informed with the adjourned date of enquiry and asked to stay back upto 27.9.2003.

30. After going through the Petitioner''s reply and the orders, we find that both the disciplinary authority and the appellate authority did not consider Petitioner''s reply at all. There is No. mention of Petitioner''s defence in his reply dated 12.10.2003 running into 69 pages along with 47 enclosures. The Disciplinary Authority and the Appellate Authority did not even refer to his defence and the documents submitted by him in reply to the enquiry officer report. They have arrived at conclusions about mischief without having any knowledge of computer software. They have not discussed the explanation given by the Petitioner for working on Y2K problem on the dates, when he is alleged to have disrupted the banks functioning. Instead of appreciating the Petitioner''s efforts for taking care of Y2K problem in terms of circulars issued by the bank and by loading patches in the server, they have blamed him for delay in starting computer operations and in allowing the entires to disappear.

31. We further find that the relevant witnesses, who had made the posting of the two cheques, and thereafter alleged that they have disappeared from the computer were not examined to prove the charges and in any case the bank did not suffer any financial loss, on account of the alleged misconduct.

32. In our opinion the findings are perverse and thus we can interfere in the matter. In Parry''s (Calcutta) Employee''s Union Vs. Parry and Co. Ltd. and Others, the Court observed that ''perverse finding'' means a finding which is not only against the weight of evidence but is altogether against the evidence itself. In M/s. Triveni Rubber and Plastics Vs. Collector of Central Excise, Cochin, the Supreme Court observed that the Court can interfere, where the findings are

based on No. evidence or that they are so perverse that No. reasonable person would have arrived at such findings. In M.S. Narayanagouda v. Girijamma, AIR 1977 Can 58 the Court observed that any order made in conscious violation of pleading and law is a perverse order. A ''perverse verdict'' may probably be defined as one that is not only against the weight of evidence but is altogether against the evidence. In Arulvelu and Another Vs. State represented by the Public Prosecutor and Another, the Supreme Court relied upon Godfrey v. Godfrey, 106 NW 814 in which the Court defined ''perverse'' as turned the wrong way, not right; distorted from the right; turned away or deviating from what is right, proper or correct. The Supreme Court in Kuldeep Singh Vs. The Commissioner of Police and Others, observed while dealing with the scope of Article 32 and 226 of the Constitution as follows:

9. Normally the High Court and this Court would not interfere with the findings of fact recorded at the domestic enquiry but if the finding of "guilt" is based on No. evidence, it would be a perverse finding and would be amenable to judicial scrutiny.

10. A broad distinction has, therefore, to be maintained between the decisions which are perverse and those which are not. If a decision is arrived at on No. evidence or evidence which is thoroughly unreliable and No. reasonable person would act upon it, the order would be perverse, But if there is some evidence on record which is acceptable and which could be relied upon, howsoever compendious it may be the conclusions would not be treated as perverse and the findings would not be interfered with.

33. We are of the opinion that the charges against the Petitioner were cooked up by the complainant, with ulterior motive. The Disciplinary Authority and Appellate Authority had No. knowledge of the working of computer. There was No. disruption of the work of the bank, nor any loss was caused to any customer of the bank. The entire proceedings were drawn in ignorance of the Y2K problem with the computers in banks and financial sectors, just before the beginning of the year 2000 and the challenge faced by the software experts and system administrators to tackle the problem.

34. The writ petition is allowed. The order dated 14.10.2003 passed by the Asstt. General Manager, UCO Bank, Regional Office, Varanasi (Disciplinary Authority); and the appellate order dated 17.1.2004 passed by the General Manager Operation-I, UCO Bank, Kolkata (Appellate Authority) are set aside. If these orders were implemented, the Petitioner will be restored the benefits of the increments and the pay scales. The Respondent bank will pay costs of Rs. 25,000/- to the Petitioner for pursuing the litigation.

