

(1999) 10 KAR CK 0014
In the Karnataka High Court
Case No : Writ Petition No. 1606 of 1994

G.M.S. Prabhu

APPELLANT

Vs

Canara Bank

RESPONDENT

Date of Decision : 05-10-1999

Acts Referred:

Canara Bank Officer Employees (Discipline and Appeal) Regulation, 1976 — Regulation 24, 3 (1), 6
Constitution of India, 1950 — Article 226

Citation : (1999) ILR (Kar) 4500 : (2000) 3 KCCR 1871 : (2001) 3 LLJ 354

Hon'ble Judges : H.L. Dattu, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

H.L. Dattu, J.—An Officer of the respondent Canara Bank is before this Court aggrieved by the orders framed by the Disciplinary Authority imposing certain punishments as provided in the Regulations of the Canara Bank Officer Employees (Discipline and Appeal) Regulations, 1976.

2. In order to appreciate the nature of controversy between the parties, it is necessary to note a few background facts.

3. Petitioner was working in the respondent-Bank in the Junior Management Grade Scale I. While posted as Officer at its Chitradurga Branch, he was served with a charge memo dated June 2, 1990, containing charges of misconduct as an Officer at Consumer Banking Division, Head Office, Bangalore, during the period May 23, 1988 to December 3, 1989. The allegations in the charge are as under:

"Charge sheet vide Regulation 6 of The Canara Bank Officer Employees" (Discipline and Appeal) Regulations, 1976.

In the matter of alleged misconduct on the part of:

Name Sri G.M.S. Prabhu Staff Number 985 Designation Officer Branch/ Customer

Service Office at Section, which PD & P Wing, working H.O. Bangalore. To,

Sri G.M.S. Prabhu (985) Officer, Canara Bank Customer Service Station PD & PB Wing H.O. Bangalore

Whereas, it is proposed to hold an enquiry against you under Regulation 6 of the Canara Bank Officer Employees" (Discipline and Appeal) Regulations, 1976, in respect of Articles of Charge and Statement of Imputations of Misconduct mentioned below, you are hereby required to submit within 15 days of receipt of this charge sheet, your explanation in writing setting forth your defence and stating cause as to why departmental proceedings should not be taken against you.

Articles of Charge

You were working as an Officer at our Consumer Banking Division, H.O. Bangalore, from May 23, 1988 to December 3, 1989.

On November 2, 1988 a Can card bearing No. AC 6067886 in the name of one Sri Anil Nath has been issued. No application and other required particulars have been obtained while issuing the Can card as per procedure. In the Issue Register particulars of issue of the Card has been entered by you. We have reasons to believe that the above Can card has been caused to be issued by you in a fictitious name in order to derive pecuniary benefit by misusing your official position in the bank. Several charge slips have been used in the name of the said Sri Anil Nath to the tune of Rs.11,188.87 besides withdrawal of cash of Rs. 1,000/- each on April 18, 1989 and July 29, 1989 respectively at our Vaniambady branch. The details are mentioned in the statement of imputation.

By your above action in causing issuance of the Can card in a fictitious name by misusing your official position in order to derive pecuniary benefit, you have failed to discharge your duties with utmost integrity, diligence, devotion and honesty, and acted in manner which is unbecoming of a Bank Officer, thereby contravened Regulation 3(1) read with Regulation 24 of the CBOE (Conduct) Regulations 1976, which is punishable under the provisions of CBOE (Discipline and Appeal) Regulations, 1976.

Statement of Imputation

Sri G.M.S. Prabhu was working as an Officer at our Consumer Banking Division, H.O. Bangalore, during the period from May 23, 1988 to December 3, 1989.

On November 2, 1988, a Can card bearing No. AO 6067886 in the name of one Sri Anil Nath has been issued. In the Issue Register particulars of issue of the Card have been entered by Sri G.M.S. Prabhu. While issuing the Can card, application and other relevant details required as per procedure have not been obtained. We have reasons to believe that title said Can card has been caused to be issued by Sri G.M.S. Prabhu in a fictitious name in order to derive pecuniary benefit by misusing his official position in the Bank. Several charge slips to the

tune of Rs. 11,188.87 have been used in the name of the said Sri Anil Nath under the abovesaid Can card at various Member Establishments besides cash withdrawal of Rs. 1,000/- each on April 18, 1989 and July 29, 1989 respectively at our Vaniambady branch. The details are mentioned in the annexure.

There are reasons to believe that Sri G.M. S. Prabhu has used the above said Card at our various Member Establishments and at Canara Bank and derived pecuniary benefit.

By his above action in causing issuance of the Can card, in a fictitious name, by misusing his official position in order to derive pecuniary benefit, Sri G.M.S. Prabhu has failed to discharge his duties with utmost devotion, diligence, integrity and honesty and acted in a manner which is unbecoming of a bank officer, and thereby contravened Regulation 3(1) read with Regulation 24 of the CBOE (Conduct) Regulations 1976, which is a misconduct, punishable under the provisions of CBOE (Discipline and Appeal) Regulations, 1976."

4. The delinquent officer, after receipt of the charge memo had requested the disciplinary authority to grant him more time to reply the allegations contained in the charge memo. After rejecting the request, the disciplinary authority had appointed one Sri R. Arvinda Rao, an Officer Middle Management Grade Scale III as enquiry Officer and Sri B.V. Janardhan as Presenting Officer. The Management had examined several witnesses in support of their allegations in the charge memo. The delinquent officer had examined himself before the enquiry officer. After completion of the enquiry proceedings, the enquiry officer had submitted his report together with the records of the enquiry proceedings and other documents to the disciplinary authority. That after considering the report of the enquiry officer and record of the proceedings, the disciplinary authority had issued second show cause notice dated September 27, 1990, calling upon the delinquent officer to make his representations on the findings of the enquiry officer. Petitioner by his representation dated October 26, 1990 had pointed out the perversity in the findings of the enquiry officer and had requested him to exonerate him and to drop the proposed punishment. The disciplinary authority after considering the report of the enquiry officer and record of the proceedings and after concurring with the findings has passed an order dated November 22, 1990 and has imposed a punishment of reduction to lower stage in time scale by two stages and recovery from pay or such other amounts as may be due to the petitioner of the whole or part of any pecuniary loss caused to the Bank for negligence or breach of orders. This order is confirmed by the appellate authority in the appeal filed by the delinquent officer by his order dated March 30, 1991, even the review petition filed against these orders is rejected by the authorities of the Bank. It is the correctness or otherwise of these orders, which are called in question by the delinquent officer before this Court, being aggrieved by the same.

5. Sri Naik, learned counsel for the petitioner firstly contends that the enquiry proceedings are vitiated for the reason, the management had examined one Sri B.R Kamath, the Divisional Manager, who is official superior to the enquiry officer

was examined as MW8 and he having deposed in support of the charges and against the petitioner, the enquiry officer, who is subordinate to the witness had no choice but to accept the version of the witness without independent application of mind to the evidence on record and basing on such a finding, the disciplinary authority could not have passed the impugned order imposing penalty. In support of this contention, the learned counsel relies upon the observations made by this Court in the case of Union of India v. Srinath 1978 (2) KLJ 47. In the said decision, the Court was pleased to observe:

"Almost a similar question came before this Court in Amiruddin v. Divisional Superintendent, South Central Rly., Upon certain accident, there was an interdepartmental enquiry conducted by the superior officers in the Railways followed by disciplinary proceedings against a Railway servant by a Junior Officer. The accused Officer therein was found guilty in the interdepartmental enquiry. Dealing with the contention that the inferior Officer could not have taken an independent attitude in disciplinary proceedings without the likelihood of bias, this Court observed:

".....He was subordinate to the Officers who conducted the interdepartmental enquiry and a person who was at the beck and call of the General Manager. He could not have disregarded the findings given by the G. M. to the effect that the petitioner was guilty of the charges. He could have done so at his own peril. In this state of affairs, and on an over all consideration of the facts and attending circumstances or the case, it appears to me that the apprehension of the petitioner that his case was prejudiced or prejudged by the Enquiry Officer was reasonable, and it is sufficient to quash the impugned order. It is not necessary for me, as observed by the Supreme Court in Parthasarathi 's case to enquire whether the Enquiry Officer was really prejudiced..."

Those observations are also applicable to the present case.

6. Secondly, the learned counsel relies upon the observations made by the Andhra Pradesh High Court in the case of B. Rajagopal v. General Manager, Nizam Sugar Factory Ltd. and Anr. 1996 Lab IC 1913. In the said decision, the Court was pleased to observe:

"When a Court, judicial authority, quasi-judicial authority or a statutory authority or any other authority including administrative authority takes a decision which has civil consequences and/or effects the rights of a person, the doctrine of bias would apply. The maxim that a person cannot be made a judge in his own cases is applied not only to avoid the possibility of a partial decision, but also to ensure public confidence in the impartiality of the administrative adjudication process because it is not only "No man be judge in his own case" but also "justice should not only be done but should manifestly and undoubtedly be seen to be done." It is now well settled that a person need not establish that he had admittedly suffered civil damages or that the action caused prejudice. The non-observance of principles of natural justice is itself a prejudice caused. Thus where the

delinquent employee was charged for misconduct of misbehaving with the General Manager and the charges were framed, enquiry officer, was appointed and show cause notice was presented by the General Manager himself who was the complainant party he could not be judge in his own cause and the enquiry officer being much below the rank of the complainant General Manager, said enquiry was clearly vitiated by bias. Even though the plea of bias was not raised before the authorities initially yet, it is open for the employee to plead the same, as it goes to the root of the question and the facts are not in dispute. Hence mere fact that plea was not taken before Tribunal would not amount to waiver."

7. Thirdly, the learned counsel relies upon the observations made by Andhra Pradesh High Court in the case of M. Koteswara Rao Vs. APSRTC, Tirupati and Others, . In the said decision, the Court was pleased to observe:

"47. Admittedly, the person who issued the charge sheet figured as a witness before the Enquiry Officer, who is subordinate in rank. So also, appointing authority who is a complainant is higher in rank to that of Enquiry Officer, who also gave statement before the Enquiry Officer, a subordinate Officer by many stages. In fact, the petitioner right from the beginning has been making a hue and cry not to allow the Enquiry Officer to proceed with the enquiry as the Enquiry Officer being subordinate would be susceptible for leaning towards his superiors when they are examined before him. In such a situation, it is always reasonable to think that the mind of the Officer of a lower rank is prone to influence when his higher Officers present before him and give statement against the delinquent officer. Therefore, the Enquiry Officer cannot be said to act independently, howsoever clean his conscience may be and inescapable conclusion one can draw is that there was real likelihood of bias. The crucial test that has to be applied in such cases is whether there was a real likelihood of bias. If a reasonable man of ordinary prudence appraised of the facts and situation comes to the bona fide conclusion that there was real likelihood of bias, it is- sufficient to invalidate the proceedings, and actual bias need not be proved. Thus, I hold that the bias is inherent in the proceedings."

8. Per contra, Sri T.R.K. Prasad, learned counsel for the respondent-Bank submits that the enquiry officer while coming to the conclusion that the delinquent officer is guilty of the charges alleged in the charge memo has not merely relied on the evidence of MW8 and it is only after taking into consideration the entire evidence on record has found that the petitioner is guilty of the charges alleged in the charge memo. Secondly, submits merely because management had examined MW8, who is superior officer to the enquiry officer, it cannot be said the entire enquiry proceedings are vitiated. In support of his stand, the learned counsel relies upon the observations made by the Apex Court in the case of Pankajesh Vs. Tulsi Gramin Bank and another, and also the observations made by the Himachal Pradesh High Court in the case of Jitram v. The Executive Engineer 1974 Lab I.C. 883.

9. The Supreme Court in Tulsi Gramina Bank's case, while considering the

question whether an enquiry should be held by an enquiry officer, who is higher in rank than delinquent Officer was pleased to observe:

"6. Thus an enquiry, under the Regulation may be delegated to a person higher in rank than the delinquent officer, in the case of an officer. But in this case we do not find any substantial miscarriage of justice prejudicial to the petitioner for the reason that though it is always desirable that an officer higher in rank than the delinquent officer should be directed to conduct an enquiry, the enquiry is conducted as a delegate of the disciplinary authority. Therefore, the ultimate decision is to be taken by the disciplinary authority. By merely delegating the enquiry whether the enquiry officer is of the same cadre or of higher grade than that of the petitioner, it did not cause any material irregularity nor resulted in any injustice to the petitioner. Under these circumstances, we do not find any illegality warranting interference."

10. In Jit Ram's case, the Himachal Pradesh High Court while considering the similar contention canvassed by the learned counsel for petitioner in the present case was pleased to observe:

"8. The last contention is that the enquiry was not properly conducted because the Executive Engineer represented the Project authorities in the enquiry and was a witness therein, and as he was superior in rank to the enquiry officer his influence dominated the judgment of the enquiry officer. This contention, we think, is also not warranted. Even if the enquiry officer was subordinate in rank, it cannot be said that his judgment would be necessarily influenced thereby against the appellant."

11. Keeping in view the law declared by the Apex Court and the observations made by various other High Courts, let me now consider the fact situation and the legal issues canvassed by the learned counsels for the parties to the lis. In the instant case, petitioner is an Officer working in the respondent-Bank as Junior Management, Grade Scale I Officer. The enquiry officer is one Sri P. Arvinda Rao, an officer, Middle Management Grade Scale III, an officer of the superior rank than that of the petitioner. The General Manager of the Bank is the disciplinary authority. The Management to prove its allegation against the petitioner, apart from other witnesses had examined one Sri B.P. Kamath in the enquiry proceedings, who was working as Divisional Manager, superior to the enquiry officer but subordinate to the disciplinary authority.

12. The role of the enquiry officer in the enquiry proceedings is to hold an enquiry in accordance with Rules and Regulations which govern the parties to the proceedings and in accordance with law and thereafter to submit his report to the disciplinary authority. It is for the disciplinary authority to consider the report and the findings thereon and reappraise both the oral and documentary evidence and award suitable punishment according to the circumstances of the case. The punishment is awarded by the disciplinary authority and not by the enquiry officer. The disciplinary authority can differ from the findings of the

enquiry officer, who has held the employee/ officer to be guilty and hold that he is innocent. This only means the disciplinary authority as a general rule need not follow the findings and the recommendation of the enquiry officer. This in my view, is the correct legal position if this is accepted merely because management had examined MW8, who is superior officer to the enquiry officer, first and foremost, the enquiry officer need not blindly accept his evidence, since in an enquiry proceedings he is independent person and he is expected to be fair and impartial. Secondly, he was not the only witness before the enquiry officer and there were nearly seven other independent witnesses. Taking into consideration the entire evidence on record, the enquiry officer has found that the delinquent officer is guilty of the charges. Thirdly, as observed by the Supreme Court in Tulasi Gramina Banks case, since the final decision is to be taken by the disciplinary authority, it cannot be said that any injustice has been caused to be delinquent officer. Lastly, merely because one of the witnesses of the management before the enquiry officer was of a superior rank, it cannot be said that his findings would be necessarily influenced against the petitioner. The onus of proving bias is on the delinquent officer and this allegation should be clearly proved if the enquiry proceedings are sought to be set aside. Petitioner has not discharged his burden. Therefore, I do not find any merit in the first contention canvassed by the learned counsel for the petitioner. Accordingly, it is rejected.

13. Second limb of the argument advanced by the learned Counsel for the petitioner is that the findings of the enquiry officer is based on no evidence and therefore, the enquiry proceedings are vitiated and punishment imposed based on such a finding is not only invalid but wholly illegal.

14. Judicial review over the decision of the authorities holding departmental enquiry against its workers, employees and officers is very much limited. The Supreme Court in the case of State of Andhra Pradesh Vs. Sree Rama Rao, , was pleased to observe:

"The High Court is not constituted in a proceeding under Article 226 of the Constitution as Court of appeal over the decision of the authorities holding a departmental enquiry against a public servant. It is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and if the rules of natural justice are not violated, where there is some evidence which the authority entrusted with the duty to hold the enquiry is accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition under Article 226 to review the evidence and to arrive an independent finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities have held that proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and merits of the

case or by allowing themselves to be influenced by irrelevant considerations or where the conclusions on the very face of it is wholly arbitrary and capricious that no reasonable person could ever arrive at that conclusion or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which these findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceedings for a writ under Article 226 of the Constitution."

15. Keeping in view this well settled position of law, let me consider the contention canvassed by the learned counsel for the petitioner.

In the charge memo, it was alleged that the petitioner was working as an Officer at Consumer Banking Division, Head Office, Bangalore from May 23, 1988 to December 3, 1989 and that on November 2, 1988 a Can card bearing No. AO. 6067886 in the name of One Sri Anilnath has been issued. It was further alleged that no application and other required particulars have been obtained while issuing the Can card as per procedure and that in the issue register particulars of issue of the card has been entered by the petitioner. The allegation was that the disciplinary authority has reasons to believe that the above Can card has been caused to be issued by the petitioner in a fictitious name in order to derive pecuniary benefit by misusing the official position in the bank. It was also alleged that several charge slips have been used in the name of the said Sri Anilnath to the tune of Rs. 11,188.87 besides withdrawal of cash of Rs. 1,000/- each on April 1, 1989 and July 29, 1989 respectively at Vaniambady branch of the bank. It was alleged that there are reasons to believe that the petitioner has used the above said card at various member establishments and at Canara Bank and derived pecuniary benefit. On the basis of these allegations, charge was levelled against the petitioner that by his action in causing issuance of the Can card in a fictitious name by misusing his official position in order to derive pecuniary benefit he has failed to discharge his duties with utmost integrity, diligence and honesty and acted in a manner unbecoming of a bank officer thereby contravening Regulation 3(a) read with Regulation 24 of the Canara Bank Officer Employees" (Conduct) Regulations 1976 which is punishable under the provisions of the Canara Bank Officer Employees" (Discipline and Appeal) Regulations, 1976. To prove these charges, management had examined eight witnesses, before the enquiry officer and those witnesses were subjected to cross- examination by defence representative. The enquiry officer after holding a detailed enquiry and after carefully scrutinising and appreciating the evidence on record has furnished his positive holding that the delinquent officer is guilty of the charges in the charge memo. In my opinion, this is not a fit case where findings are based on no evidence or the findings are wholly perverse and merely based on mere assumptions and presumptions. The enquiry officer in his well considered report adverts to the evidence of all the witnesses and thereafter, analyses the evidence of these witnesses with reference to the allegations in the charge memo and then only comes to the conclusion that the charges are clearly proved against the

delinquent officer. At this stage, it would be useful to extract the findings recorded by the enquiry officer. It is as under:

"Let me now analyse the evidence:

Sri K.G. Pai MW1 and Mr. G.H. Pai MW5 who conducted the investigation in the matter have stated that the photograph of Sri G.M.S. Prabhu, CSO, when shown to the employees of Mattson's Supermarket viz., MW3 and MW4, they have identified the person shown in the photo for having used the Can card in question in their shop. This was recorded vide Ex. M9 i.e. statement given by MW3 and MW4. However, the said witnesses namely MW3 and MW4 i.e. employees of Mattson's Supermarket denied having seen Mr. G.M.S. Prabhu in their shop. Further they also deposed to the effect that the statements given by them were dictated. Here I have to observe that Mr. K.G. Pai and Mr. G.H. Pai are responsible officers of the bank whose credibility is not shaken. Neither they have any ulterior motive to implicate the charged officer. Besides the employees MW3 and MW4 are not illiterates who require to be dictated on such simple matters. The matter involved is quite simple in as much as whether these witnesses identify the person shown in the photo as to one who used to come to their shop and used the Can card in question. When these officers of the bank visited their shop the two employees MW3 and MW4 without any hesitation have given their statement. It is difficult to believe at this stage that these employees who were speaking good English require any dictation. It is an after thought for reasons best known to them to say that they have signed a dictated statement without knowing or understanding the contents of such statement. Presuming for a while that the statements were dictated to them, they cannot allege that they are not aware of the contents. No indication of any coercion, compulsion or force having been used by the officers of the bank is given to me by these witnesses i.e. MW3 and MW4. I am judging the veracity of these witnesses not solely on their individual statement but from their testimony taken in conjunction with all other facts brought out in the course of enquiry.

The depositions of the handwriting expert Mr. S.M. Maka (MW2) is very clear that handwriting of "Anilnath" appearing in the inward register Ex. M5 is that of Sri G. M. S. Prabhu. This expert witness is a retired examiner of Government documents, Forensic Science Laboratory, CID, Bangalore and has been working as handwriting expert for the last thirty years. He has explained at length the reasons to arrive at his opinion which is unbiased. If the matter supplied to him for opinion is insufficient he would have asked for more particulars/information. I agree that in the absence of material evidence with regard to the handwriting of a person the opinion evidence has no evidentiary value. However, if other circumstances of the case are such that opinion evidence can be relied upon nothing precludes me from giving weightage to the value of handwriting expert opinion. The basis on which the opinion is given is detailed in the report submitted by the expert which according to me does not suffer from vice of insufficient matter.

The depositions of Mr. G.H. Pai, Manager, HOSA Section, MW5 and Mr. K.S. Karanth, senior Manager, CBD, Bangalore, MW5 and Sri B.R. Kamath, DM, PD & PB Wing, HO, MWB all in the same tune. All these witnesses have categorically stated that Mr. Balasubramaniam, Manager, Vaniambady branch has identified Mr. G.M.S. Prabhu as the person who visited the branch on July 29, 1989 for encashment of Rs. 1,000/- under the Can card in question. Mr. G.H. Pai's deposition is very clear that when he visited the branch the photograph of Sri G.M.S. Prabhu was identified by Mr. Balasubramaniam as the same person having encashed the Can card at Vaniambady branch on July 29, 1989.

These three witnesses are holding responsible position in the Bank. No animosity has been established, between the charge sheeted officer and these three witnesses. In the absence of this, it is difficult to believe the contention of the defence that these three witnesses have stated falsehood. Atleast there should be some reasoning if they want to make false statements and in the absence of any such indication, the allegation of the defence cannot be construed as "bald" and without any reasoning. I could find these witnesses least interested in implicating the charged officer nor any ulterior motive. I also do not find any contradictions in their depositions. The evidence brought on record is straight forward.

Mr. Balasubramaniam, Manager, Vaniambady branch was called as witness from the management side, MW7. I have already narrated his depositions. His depositions made during the course of enquiry, (examination in chief) is different from his earlier versions. Hence, at the request of the Presenting Officer the witness was treated "hostile" and permission was accorded to the P.O., to cross examine the witness. I do not agree with the contention of the defence the statement made by Mr. Balasubramaniam never collided with each other. I have closely watched the demeanour and bearing of this witness. There has been total hesitation on his part. There has been variations in his utterances. His answer to my question that "he does not remember" and his answer " I am not very sure" to the last question put to the defence representative very clearly go to show that he intentionally tried to suppress the fact. His replies to the questions, variation in language, hesitation, lack of confidence, contradictions and ambiguities have created confusion and unsavory contraventions.

Mr. Balasubramaniam has stated that the gentleman who came to the branch on July 29, 1989 was made to wait for a considerable time. i.e. nearly an hour and therefore, he went to the Accountant Mr. Prabhakaran and instructed him to dispose the cardholder early. This being the fact, he could have either identified Mr. Prabhu or totally denied of having seen Mr. Prabhu in encashment of card in question. But he hesitated to tell the truth. Besides the copy of the letter stated to have been given by him to Mr. Pai has not been produced before me.

The material evidence placed before me reasonably supports the conclusions that the charge sheeted officer is guilty. There is reliable evidence of probative value. The evidence adduced before me has been carefully analysed as well as the

arguments advanced considered in depth. The circumstantial evidence brought on record also satisfy the following tests:

a) Depositions of three witnesses MW5, MW6, MW8 along with handwriting expert's opinion, an inference of guilt can be drawn.

b) These circumstances taken cumulatively form a chain so complete that there is no escape from the conclusion that within all human probability the fraud was committed by the accused officer and none else.

The evidence brought before me are qualitatively such that on every reasonable hypothesis the conclusion cannot be none other than holding the charge sheeted officer guilty.

In appreciating the evidence against the charge sheeted officer, I have ensured that the evidence is legally admissible, that the witnesses are credible and have no interest in implicating the charged officer or have ulterior motive.

The veracity of these witnesses are judged not solely on their individual statements but from their testimony taken in conjunction with all other facts brought out in the course of enquiry. It is not safe to assume that case must be false if some of the evidence in support of it appears to be doubtful or is clearly untrue, I agree there is some discrepancy in the testimony of witnesses. But these discrepancies do not demolish testimony.

Discrepancy in the deposition of Mr. Balasubramaniam cannot be slightly passed over as the same seriously affects the value of his testimony. His depositions in a very confusing manner is an after thought. The material and evidence brought before me are sufficient to prove that the charged officer has by misuse of his official position caused the Can card in question issued in the name of "Anilnath" without observing usual systems and procedures laid down by the bank. For the reasons explained above, I hold the charge sheeted officer Mr. G. M. S. Prabhu guilty of the charges."

16. To appreciate the contentions canvassed by the learned counsel for petitioner, I have carefully, examined the evidence of the witnesses and the findings of the enquiry officer. In my opinion, there is enough evidence on record to implicate the petitioner of the charges alleged in the charge memo, Therefore, it is difficult to accept the second contention canvassed by the learned counsel for the petitioner.

17. These are the only two contentions canvassed by the learned counsel for the petitioner. Since I have negated both the contentions, the petition deserves to be rejected.

18. In the result, petition fails. Accordingly, it is dismissed. Rule discharged. In the facts and circumstances of the case, parties are directed to bear their own costs. Ordered accordingly.