
(2016) 12 BOM CK 0049
In the Bombay High Court
Case No : Writ Petition No.3671 of 2005

Gopal Vajani

APPELLANT

Vs

State Bank of India

RESPONDENT

Date of Decision : 20-12-2016

Acts Referred:

Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 — Section 19
Constitution of India, 1950 — Article 14

Citation : (2017) 1 AIRBomR 647 : (2017) 2 MhLJ 826

Hon'ble Judges : B.R. Gavai and V.M. Deshpande, JJ.

Bench : Division Bench

Advocate : Mr. S.P. Dharmadhikari, Senior Advocate with Mr. S.A. Dharmadhikari, Advocate, for the Petitioner; Mr. R.M. Bhangade, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

V.M. Deshpande, J. - The present writ petition is directed against the order of punishment passed by the respondent on 16.01.2004 together with order dated 29.12.2004 passed by the appellate authority and order dated 11.11.2005 passed by the reviewing authority whereby the appellate as well as the reviewing authority upheld the order of punishment dated 16.01.2004 by which the disciplinary and the appointing authority imposed the penalty of "Removal from service" in terms of rule 67 (i) of the State Bank of India Officers Service Rules (hereinafter referred to as the "Rules" for the sake of brevity).

Factual Matrix:

2. The petitioner entered into the service of the respondent State Bank of India (For short the "Bank") in the year 1978. He joined the services in the Bank as Clerk-cum-typist. In the year 1984, he was selected as Scale-I officer and in the year 1990 was selected as Scale-II officer. Thereafter, he was selected as Scale-III officer in the year 1993. According to the petitioner, he participated in the selection process of Scale-IV officers and was declared successful in the written

examination. However, he could not be selected for the said post as the interviews for the said post were held on 31.01.2004 and the order of punishment was served on the petitioner on 29.01.2004.

3. The charges which were levelled against the petitioner were in respect of the period when the petitioner was discharging his duties as Branch Manager at Ballarpur from October-1994 to January-1998.

4. The petitioner is governed by the Rules. On 27.11.2000, the petitioner was served with a charge-sheet containing articles of charge and statement of imputation of misconduct for irregularities committed by him when he was posted at Ballarpur branch of the Bank as Branch Manager. The charge-sheet was served in terms of Rule 68 (2) (iii) of the Rules. The said charge-sheet was served upon the petitioner as he, while functioning as Branch Manager at Ballarpur during the period from October-1994 to January-1998, failed to discharge his duties with integrity, honesty and diligence and acted in the manner unbecoming of a bank official and highly prejudicial to the bank's interest in violation of Rule 50 (4) of the Rules.

5. Following is the gist of the charges along with statement of imputation served upon the petitioner.

i) That a unit by name M/s. Balaji Vastra Bhandar was granted DCC limit of Rs.70,000/- in the year 1993. Though, this account was continuously irregular since its inception, the petitioner enhanced the limit from Rs.70,000/- to Rs.2,10,000/-. That while enhancing the limit, the petitioner accepted the face value sales of Rs.17,20,000/- projected by the unit even though the actual sales effected in the year 1992-93 and 1993-94 were only Rs.4,50,000/- and Rs.5,08,000/-. As per the charge, enhancement in the limit was sanctioned by the petitioner despite the account being persistently irregular and it was not reported to the controllers and in the Control Return submitted by him in respect of the enhancement, he reported the projected sales as only Rs.7,20,000/- instead of Rs.17,20,000/-. Thus, as per the charge, the petitioner has unduly accommodated this unit thereby causing substantial loss to the bank.

ii) The another charge is in respect of Shri Azam Hussain Biabani and M/s. Azam Hussain Biabani. Shri Azam Hussain Biabani, a civil contractor was sanctioned a cash credit limit of Rs.25,00,000/- in November-1995 for executing the civil works for Government department. After his demise, a newly constituted partnership firm consisting of his father, brothers and his wife was granted cash credit limit of Rs.20,00,000/- by the controlling authority in July-1996 to execute the work order of Rs.1,38,00,000/- left incomplete by the deceased. While sanctioning the limit, the controllers had stipulated that the aggregate outstanding in the account of late Shri Azam Hussain Biabani and M/s Azam Hussain Biabani should not exceed Rs.25,00,000/- at any point of time. Ignoring these stipulations, as per the charge, the petitioner allowed overdrawing in the account on 03.06.1997 and instead of bringing down the outstanding to

Rs.25,00,000/-, the petitioner further allowed drawings by permitting cash payment of cheques in the account on 06.10.1997 and 31.12.1997 for Rs.4,00,000/- and Rs.4,28,000/-, resulting aggregate outstanding exceeding the stipulation of Rs.25,00,000/-. It is also charged that these overdrawings were not reported to the controller and were also not referred to the Cheques Referred and Returned Register. These two accounts were continuously irregular till they were transferred to Protested Bills Account on 07.01.1998.

iii) The petitioner granted term loan for the purchase of vehicles to the Road Transport Operators without obtaining blank transfer forms duly signed by the borrowers.

iv) The petitioner accepted Rs.20,000/- as consideration for sanctioning the advance of Rs.6,00,000/- to one Shri Satyanarayan Raju, a contractor.

v) The petitioner demanded and obtained Rs.4,000/- in cash as consideration for the loan granted to him.

vi) Despite the branch having two Field Officers, the entire advances work including the preparation of proposals, documentation and opening of accounts etc. were handled by the petitioner himself without involving the Field Officers.

vii) The STDR accounts were opened at the branch by the petitioner in the name of Shri A. Chandra, Shri B. Jyoti, Shri A. Bhalchandra and Shri S. Chandra without obtaining the full names of the depositors. The photographs of the depositors were also not obtained and affixed on the application forms and signatures of B.Jyoti on the account opening form was in vernacular but on the credit voucher, it is in English.

viii) The petitioner sanctioned the credit limit of Rs.9,00,000/- and Rs.8,00,000/- to M/s. Deepali Trading Corporation (DTC), a proprietary concern of one Shri Yashpal Arora and M/s. Deepali Roadlines (P) Ltd. (DRL), through Shri Yashpal Arora and Smt. Deepa Arora as Directors respectively. It is charged that the petitioner extended undue favour to these companies by allowing them to withdraw freely amounts over and above the sanctioned limits. With the result, the accounts became irregular by Rs.7,17,000/- and Rs.4,34,000/- on 12.12.1997.

ix) In violation of the instructions of the Bank, the petitioner permitted overdrawings continuously in the cash credit account of M/s. Deepali Trading Corporation (DTC) from June- 1997 to the end of September-1997 without reporting to the controlling authority.

x) The petitioner, vide branch letter HO/ADV/136 dated 22.09.1997, recommended to the controlling authority to permit overdrawings of Rs.5,00,000/- to M/s. Deepali Trading Corporation (DTC) pending sanction to the enhanced working capital limit of Rs.25,00,000/-, a proposal for which was already submitted by him. He also sent a reminder to the controlling authority on 03.10.1997. However, on 03.10.1997, without waiting for the controlling

authority's sanction, the petitioner allowed the said M/s. Deepali Trading Corporation (DTC) to overdraw on their account up to Rs.5,07,568/-, which fact he did not disclose to the controlling authority. The petitioner also permitted overdrawing up to Rs.5,33,779/- on the same day, which fact was also not advised to the controlling authority. Further, much more overdrawing were continued till 04.12.1997 as stated in the charge-sheet.

xi) Even though the petitioner had not received sanction from the sanctioning authority for overdrawing up to Rs.5,00,000/-, he recklessly allowed the excess overdrawing in the account of M/s. Deepali Trading Corporation (DTC) to the extent of Rs.8,00,000/- from 05.12.1997 for seven days and sought sanction on 05.12.1997. However, he suppressed the fact from the controlling authority that he had already permitted overdrawing in excess of Rs.8,00,000/- on various dates which was not reported to the controlling authority. Even after sanction of the enhanced limit of Rs.25,00,000/-, the petitioner again permitted overdrawing beyond Rs.25,00,000/- continuously without reporting to the controlling authority.

xii) The petitioner, vide branch letter No. HO/ADV/230 dated 06.12.1997, recommended to the controlling authority a temporary overdrawing for Rs.5,00,000/- to M/s. Deepali Roadlines (P) Ltd. (DRL) over the sanctioned limit of Rs.8,00,000/-. It is charged in this letter that the petitioner has not disclosed that he had already granted overdrawing right from 17.07.1997 itself. Thus, it was charged that the petitioner not only shown undue favour but also concealed material facts from the controlling authority.

xiii) Despite the fact that temporary overdrawing for seven days of Rs.5,00,000/- in the name of M/s. Deepali Roadlines (P) Ltd. (DRL) over and above cash credit limit of Rs.8,00,000/- was approved by the controlling authority on 22.12.1997, the petitioner allowed overdrawing of Rs.5,00,000/- to accept overdrawing of Rs. 5,00,000/- which was sanctioned and this was neither reported nor post facto confirmation was obtained from the controlling authority.

xiv) In order to show undue favour to Shri Yashpal Arora, the proprietor of M/s. Deepali Trading Corporation (DTC), the petitioner on 22.12.1997, deducted Rs.6,95,971/- to the account of M/s. Deepali Roadlines Pvt. Ltd. (DRL) and issued a demand draft of Rs.4,75,000/- in favour of the LIC Housing Finance Ltd. for liquidation the housing loan. Thus, the petitioner permitted diverting the working capital funds by violating the terms and conditions stipulated at the time of sanctioning the cash credit facilities to M/s. DRL Pvt. Ltd.

6. In the articles of charge dated 27.11.2000 itself, the petitioner was directed to submit written statement in his defence in terms of Rules 68 (2) (iii) of the Rules within a period of 15 days from the receipt of the charge-sheet.

The petitioner vide his detailed written statement dated 25.01.2001 and also dated 18.02.2002, filed his written statement of defence.

On 22.02.2001 the bank appointed Shri V. B. Phadnis, Officer SNGS-IV to hold

and conduct the departmental inquiry to find out veracity of the charges.

In the departmental inquiry proceeding, the bank was represented by Presenting officer Shri C. P. Kulkarni, Officer NGS-IV while the petitioner was represented by his defence representative Shri R. B. Dubey, Officer SNGS-IV. The preliminary hearing of the departmental inquiry proceeding was held on 15.02.2002 and also sittings were held on the subsequent dates. The Inquiry Officer submitted his inquiry report dated 31.01.2003. The copy of the said inquiry officer's report was furnished to the petitioner for making his submissions and the petitioner made his submissions thereto vide his letter dated 10.04.2003.

7. The disciplinary authority vide order dated 16.01.2004 exercised its powers vested in it under the Rules and imposed the penalty of removal from service. It was also informed by the said order that the petitioner has a right to prefer an appeal within a period of 45 days before the appellate authority in terms of Rule 69 (i) and (ii) of the Rules.

The petitioner availed the said opportunity and filed his appeal before the appellate authority on 20.02.2004. The appellate authority, vide order dated 29.12.2004 dismissed the appeal and confirmed the order of punishment. The petitioner further availed the remedy of filing of review before the reviewing authority. However, since even after the lapse of 4 months, his review petition was not decided, the petitioner approached this Court under Article 226 of the Constitution of India on 15.06.2005 by filing the present petition.

During the pendency of the present writ petition, the reviewing authority dismissed the review petition vide order dated 11.11.2005. The petitioner, therefore, moved an application for amendment in the present petition to challenge the order of reviewing the authority also. The said application was allowed and the petitioner suitably amended his pleadings in the body of petition as well as the prayer clause. Hence this petition.

Submissions :

8. We have heard Shri S.P. Dharmadhikari, the learned Senior Counsel for the petitioner-employee and Shri R.M. Bhangde, learned counsel for the respondent-Bank in extenso.

9. It is the submission of learned Senior Counsel that the impugned order must go, since second stage advice of the Central Vigilance Commission [hereinafter referred to as "CVC", for short] was not forwarded to the petitioner along with the Show-cause-Notice given by the Disciplinary Authority for the proposed penalty. He submitted that the said was forwarded to the petitioner along with the order of punishment dated 16th January, 2004. On this count, it is his submission that at least from the stage of issuance of the show cause to the proposed punishment, the action of the Bank is vitiated. Thus, according to him, matter needs to be remanded to furnish his submission to the Disciplinary Authority in the light of second stage advice of CVC.

He invited our attention in that behalf to a communication dated 28th September, 2000, issued to all Chief Vigilance Officers of Ministries/Departments of Govt. of India/Nationalized Banks/Public Sector Undertakings/Autonomous Bodies/Societies etc. This communication is from the Officer on Special Duty of CVC. The learned Senior Counsel read out the said communication. He submitted that from the said, it is clear that the CVC, at present, is being consulted at two stages in disciplinary proceedings, i.e., first stage is an advice is obtained on the investigation report before issuance of the charge sheet and second stage advice is obtained either on receipt of reply to the charge-sheet or on receipt of enquiry report. According to him, since second stage advice is not forwarded to the petitioner, it breaches principles of natural justice, as CVC recommendation was prepared behind the back of the petitioner and without his participation and, therefore, unless the petitioner's views are obtained, the entire action must fall. He relied on the decision of Hon'ble Apex Court in *State Bank of India & others v. D.C. Aggarwal & another* [(1993) 1 SCC 13].

10. It is the further submission of the learned Senior Counsel that in the present case, there is blatant violation of principles of natural justice at the hands of the enquiry officer while conducting the Departmental Enquiry. It is his submission that it was expected from the Enquiry Officer to conduct the enquiry proceedings strictly by adhering to principles of natural justice and since the Enquiry Officer has given a complete go-by to this cardinal principle of law, the entire enquiry stands vitiated.

It is further submitted on behalf of the petitioner that the serious charge like accepting amount for sanctioning loan was found to be unproved by the Enquiry Officer himself and that on account of proved charges, the Bank has not suffered any financial loss. He further submitted that the proved misconduct on the part of the petitioner could, at the most, would be procedural lapses. Therefore, it is his submission that the penalty of removal from service imposed upon the petitioner is disproportionate.

It is his faint submission that the material, which was placed before the Enquiry Officer, was such that Enquiry Officer ought not to have recorded a finding of guilt against the petitioner.

11. In order to buttress his submission in respect of breach of principles of natural justice, he invited our attention to the proceedings of Departmental Enquiry dated 14th March, 2002. He pointed out that since the inception, the petitioner has raised an objection about exhibiting certain documents filed and sought to be relied upon by the management. He submitted that a request was made to the Enquiry Officer that unless the maker of those documents is not examined and unless an opportunity is given to the petitioner to cross-examine the maker, the documents must not be exhibited. He, therefore, submitted that the entire exercise of holding a departmental enquiry against the petitioner was nothing but a farce and hence the impugned order of removal from service and consequent order of dismissal of his departmental appeal and order of review

dismissing the review petition must go.

12. Per contra, the learned counsel Shri R.M. Bhangde strenuously urged before us that the Enquiry Officer has strictly followed the principles of natural justice. He invited our attention that the petitioner was duly represented by the officer who was equivalent in rank of the Presenting Officer who represented the management in the enquiry. He further submitted that the documents which the Bank relied upon were duly verified by the petitioner and it is the petitioner who never doubted the genuineness and authenticity of the documents, except the few ones in respect of which though the petitioner is submitting that the maker of those documents is not examined, the same has no relevance, since those documents were the outcome of discharging official duty. He further submitted that at no point of time, petitioner and his representative were either obstructed or restrained by the management or the enquiry officer from cross-examining the witnesses. He further submitted that fullest opportunity was also given to the petitioner to examine his defence witnesses, which opportunity is availed by the petitioner. He submitted that a detailed submission in the nature of proof for defence was also made by the petitioner and his every objection is duly adjudicated by the Enquiry Officer, as it could be seen from a detailed Enquiry Report which the petitioner himself has filed before this Court along with the petition.

13. The learned counsel for the Bank submitted that reliance placed by the learned Senior Adv., for the petitioner on the communication from CVC is highly misplaced. He submitted that though the second stage advice was not forwarded to the petitioner, it has no relevance in the present case, inasmuch as, according to him, the Disciplinary Authority has not even referred to the CVC advice, leave apart its consideration before imposing the penalty. In that behalf, he relied upon a decision of Hon"ble Apex Court in *State Bank of India & others v. Bidyut Kumar Mitra & others* [(2011) 2 SCC 316].

14. He further submitted that even assuming for the sake of argument that the documents which, according to the petitioner, were wrongly exhibited and were considered by the Enquiry Officer, will not make much difference in the ultimate result. He submitted that there are certain charges which stand duly proved against the petitioner without considering those documents. He, therefore, submitted that even some of the charges are duly proved, then the Disciplinary Authority was perfectly justified in imposing the penalty. For the said proposition, he relied upon the Constitutional Bench verdict of Hon"ble Apex Court in *State of Orissa & others v. Bidyabhushan Mohapatra* [AIR 1963 SCC 779].

He submitted that the petitioner was discharging his duties as a Branch Manager and, therefore, exercise of higher standard of honesty and integrity was expected from him. He submitted that the charges which are duly proved clearly show that the petitioner has suppressed material facts from the controlling authority and such an act, according to learned counsel for the Bank, is highly objectionable. He, therefore, submitted that in the given set of facts, this Court should be very

slow while exercising the writ jurisdiction, and prayed for dismissal of the petition.

Consideration :

15. In so far as first submission of the learned Senior Counsel for the petitioner is concerned, it rallies behind the communication dated 28th September, 2000. To a pertinent question from the Court, the learned Senior Counsel fairly submitted that there is no whisper in respect of the second stage advice in the order of punishment imposed by the Disciplinary Authority.

Thus, it is crystal clear that the second stage advice of CVC was not considered by the Disciplinary Authority. Further, it is clear from the impugned order of punishment that neither the second stage advice of the CVC was a foundation, nor it weighed in the mind of the Disciplinary Authority before imposing the punishment. Further, though the petitioner in the petition has pleaded that non-issuance of CVC's recommendation resulted into violation of principles of natural justice, the petition is blissfully silent regarding the prejudice. In our view, since the Disciplinary Authority has not considered the second stage advice of the CVC, the question of prejudice is completely ruled out.

16. It would be beneficial to reproduce paragraph 35 from the judgment of the Apex Court in the case of *State Bank of India & ors. v. Bidyut Kumar Mitra & others* (2011 AIR SCW 798) [cited supra], which reads thus:-

"35. In our opinion, the Division Bench has erroneously relied on the judgment in *D.C. Aggarwal case* . As rightly observed by the learned Single Judge, in that case this Court considered a situation where the disciplinary authority passed an elaborate order regarding findings against the charge-sheeted officer agreeing on each charge on which CVC had found against him. In these circumstances, this Court observed that : (SCC p. 16, para 5)

"5. ?.The order is vitiated not because of mechanical exercise of powers or for nonsupply of the inquiry report but for relying and acting on material which was not only irrelevant but could not have been looked into. Purpose of supplying document is to contest its veracity or give explanation. Effect of non-supply of the report of inquiry officer before imposition of punishment need not be gone into nor is it necessary to consider validity of sub-rule (5). But nonsupply of CVC's recommendation which was prepared behind the back of the respondent without his participation, and one does not know on what material which was not only sent to the disciplinary authority but was examined and relied on, was certainly violative of procedural safeguard and contrary to fair and just enquiry."

These observations would not be applicable in the facts of the present case as the disciplinary authority did not take into consideration any recommendations of CVC,. The judgment was, therefore, rightly distinguished by the learned Single Judge."

17. Since it is abundantly clear that the recommendations of CVC were not taken into consideration by the authority concerned, in our view, the submission put

forth by the learned Senior Counsel that the petition needs to be allowed on this short count is required to be rejected.

18. The proceeding dated 14th March, 2002 shows that the petitioner and his representative verified all the copies of the documents filed by the Bank and tallied them with the originals. It is also not the case of the petitioner that the copies of the documents which the Bank has relied were not supplied to him. According to petitioner, Exhs. 12, 12A, 12B, 16, 17 and 30 are the statements made by the various persons and, therefore, unless those are produced in the enquiry, the statements cannot be exhibited. In so far as Exhs. 9, 9/1 to 9/5, 9A, 9A1 to A3 are concerned, unless an opportunity to cross-examine the maker of these documents is given, they cannot be admitted.

19. A detailed enquiry report is placed on record along with the petition. The enquiry officer, in our view, has rightly reached to the conclusion that the principles of Evidence Act cannot be made applicable in the Departmental Enquiry proceedings strictly. Further, Exhs. 12, 12A, 12B, 16, 17 and 30 are duly proved by the Bank witnesses 1 to 3 who deposed that the said are their handwritings. Further, it is not the case of the petitioner that cross-examination of these Bank witnesses was not permitted by the enquiry officer. Once the petitioner has availed the opportunity of the cross-examination ? vis-a-vis those documents and nothing could be elicited from the bank witnesses in respect of the truthfulness and genuineness of these documents, the petitioner cannot be permitted to assail those documents and the finding of the Enquiry Officer in the writ jurisdiction on the ground of principles of natural justice.

Further, the documents [Exhs. 12, 12A, 12B, 16, 17 and 30] are prepared and sent by the responsible officers and, in fact, it is the observation of the Enquiry Officer that the petitioner has himself produced the identical documents and relied upon the same in his defence and those documents are exhibited as Exhs. D21, 78/1 to 5. In so far as the documents - P Exhs. 9 to 9/5, 9A to 9A3 and P. Exhs.41, 42, 42A, 42B, 43A and 43B are concerned, in our view, no fault can be found in the evidence recorded by the enquiry officer that since these are the copies of official record, these documents can very well be taken on record and considered.

20. It is well settled that in the matter of disciplinary proceedings, the High Court should exercise a limited power.

21. When the misconduct of a delinquent stood proved by evidence and material on record, it is not open to the Court to substitute the said findings by its own. When a finding of fact is recorded in enquiry, it should not be interfered with unless such finding is based on "no evidence" or is perverse. In the present case, the learned Senior Counsel was unable to point out that the finding recorded by the Enquiry Officer is based on "no evidence."

22. It is impermissible to assail in the Court the factual findings of the disciplinary authority recorded after holding a detailed enquiry and after going

through elaborate evidence unless the petitioner points out the blatant breach of principles of natural justice.

23. In the present case, before issuance of the charge-sheet, a show cause was given to the petitioner and being dissatisfied with the reply to the show cause, a charge-sheet was served upon the petitioner. The charges were well articulated and defined. Those were not vague charges. Therefore, at the time of issuance of the charge sheet itself, the petitioner was aware of type of charges he was required to face during the course of the disciplinary enquiry. The petitioner was well represented throughout during the course of the enquiry proceedings by a representative of his choice. His representative was of the same rank as that of the Presenting Officer who represented the Bank in the enquiry proceedings. Further, it is not in dispute that all the documents which the Bank relied upon were duly supplied to the petitioner and not only that before actual commencement of recording of the evidence, the petitioner and his representative verified those copies and tallied the same with their originals. The petitioner was afforded the opportunity to cross examine the bank witnesses. He availed of that opportunity. The petitioner has also examined defence witnesses and also filed the documents in support of his case. Lastly, a detailed defence brief was also submitted by the petitioner. All this amply shows that right from the beginning, the principles of natural justice were duly complied with by the Bank and the Enquiry Officer. Even after the culmination of the enquiry, a copy of Enquiry Report was furnished to the petitioner to submit his views on the findings recorded by the enquiry officer. The petitioner forwarded his submissions to the disciplinary authority under his letter dated 10th April, 2003. The impugned order of imposing punishment of removal from service shows that the disciplinary authority has minutely considered the submissions of the petitioner in respect of the findings recorded by the enquiry officer against him. Thus, the fullest opportunity was given to the petitioner to defend himself. No doubt, it is true that the petitioner was absolved by the enquiry officer of the charge that he accepted amount for sanctioning loan. However, the other charges, which were proved during the course of the enquiry are serious in nature. The enquiry Officer, on the basis of the available evidence on record came to the conclusion, which shows that the petitioner has committed breaches in not reporting to the controlling authority.

24. We cannot forget that the petitioner, at the relevant time, was discharging his duties as a Branch Manager. It would be useful to reproduce paragraph 14 from the verdict of Hon"ble Apex Court in the case of Chairman & Managing Director, United Commercial Bank & others v. P.C. Kakkar (2003) 4 SCC 364, which reads thus:-

"14. A Bank officer is required to exercise higher standards of honesty and integrity. He deals with money of the depositors and the customers. Every officer/employee of the bank is required to take all possible steps to protect the interests of the bank and to discharge his duties with utmost integrity, honesty,

devotion and diligence and to do nothing which is unbecoming of a bank officer. Good conduct and discipline are inseparable from the functioning of every officer/employee of the bank. As was observed by this Court in Disciplinary Authority-cum-Regional Manager v. Nikunja Bihari Patnaik, it is no defence available to say that there was no loss or profit resulted in case, when the officer/employee acted without authority. The very discipline of an organization more particularly a Bank is dependent upon each of its officers and officers acting and operating within their allotted sphere. Acting beyond one's authority is by itself a breach of discipline and is a misconduct. The charges against the employee were not casual in nature and were serious. These aspects do not appear to have been kept in view by the High Court."

25. In our view, the counsel for the bank has rightly relied on paragraph 9 of the Judgment of Constitutional Bench in State of Orissa & ors. v. Bidyabhushan Mohapatra [cited supra]. It is clear that some of the charges levelled against the petitioner are proved even without considering the documents to which the petitioner had objected. In that view of the matter, the law laid down by the Constitution Bench of Hon'ble Apex Court in aforesaid State of Orissa v. Bidyabhushan Mohapatra applies to the present case with full force.

26. The aforesaid discussion leads us to pass the following order:-

ORDER

Writ Petition is dismissed. Rule is discharged. No order as to costs.