(2003) 02 MAD CK 0086

In the Madras High Court

Case No : Writ Petition No. 1705 of 2000

K.K. Janarthanam @ Jafer APPELLANT

Vs

Canara Bank RESPONDENT

Date of Decision : 20-02-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 02 MAD CK 0086

Hon'ble Judges : E. Padmanabhan, J

Bench : Single Bench

Advocate : G. Rajan, for the Appellant; T.R. Sathiyamohan, for the Respondent

Final Decision : Dismissed

Judgement

E. Padmanabhan, J.—The petitioner prays for the issue of a writ of certiorarified mandamus to call for and quash the proceedings of the

respondent in Ref. No. CNC SSW 11094 E113(i) RJN dated 12.1.2000 and quash the same and direct the respondent to reinstate the petitioner

with continuity of service with all backwages.

2. The petitioner was a clerk in the respondent Bank since 1981 and he was posted to various Branches. The petitioner was prosecuted for

offence u/s 420 IPC in C.C. No. 272 of 1992 on the file of the Judicial Magistrate-I, Tirunelveli. The Judicial Magistrate convicted the petitioner

to undergo rigourous imprisonment for one year as well as pay a fine. Being aggrieved, the petitioner preferred C.A. No. 114 of 1999 on the file of

the Sessions Court, Tirunelveli. Pending the appeal, the respondent Bank, by proceedings dated 12.1.2000, on coming to know about the

conviction, in exercise of powers conferred under Regulation 21 (3)(a) read with Regulation 21 (4) of Chapter XI of the Canara Bank Staff

Regulations, dismissed petitioner from the service of the bank from the date of conviction. Challenging the said dismissal, the petitioner moved the

present writ petition, as according to him when the criminal appeal is pending before the Sessions Court, the dismissal is arbitrary and illegal,

besides it is in violation of principles of natural justice. Challenging the said dismissal based upon conviction, the present writ petition has been filed.

3. Pending the writ petition, the petitioner moved Crl.M.P.208 of 2000 in C.A. No. 114 of 1999 on the file of the 2nd Additional Sessions Judge,

Tirunelveli, with the consent of the complainants, for leave to compound. The learned Sessions Judge granted leave as the complainants have filed

a consent affidavit and the offence being compoundable u/s 420. The Appellate Court, in exercise of powers conferred u/s 320(5) granted leave as

a result of which the learned Sessions Judge passed orders u/s 320(8) of The Code of Criminal Procedure. Based upon this order of the learned

Sessions Judge, Mr. Rajan, learned counsel appearing for the writ petitioner mainly contended that the conviction having been set aside and the

dismissal being based upon conviction, the order impugned has to be quashed and a mandamus should be issued to reinstate the petitioner with all

benefits.

4. Per contra, Mr. Sathiyamohan, learned counsel appearing for the respondent Bank contended that the writ petitioner was prosecuted for

offence u/s 420 I.P.C., as he cheated 16 persons by representing to them that he will arrange for securing jobs to them in Saudi Arabia and he had

received Rs.1.40 lakhs in all, took those persons to Mumbai and left them stranded there and the petitioner absconded from the place. As against

the petitioner''s wife, she was charge-sheeted as a accomplice to her husband and in certain cases she issued a cheque in her name. After

examination of 31 witnesses and full-fledged trial, the Judicial Magistrate convicted the petitioner and his wife and imposed the punishment of

rigourous imprisonment for one year, besides a fine of Rs.5,000/= by judgment dated 15.7.99.

5. Based upon the conviction, the Board of Directors of the respondent Bank, on a consideration of the conviction and in exercise of powers

conferred under Regulation 21 (3)(a) read with Regulation 21 (4), dismissed the petitioner from service under Regulation 4 (a) of Chapter XI of

Canara Bank Employees Service Regulation.

6. It is contended that in terms of Section 10(1)(b)(i) of the Banking Regulations Act, 1949, no banking company shall employee or continue

employment of any person, who is or at any time has been convicted for an offence involving moral turpitude. The various allegations set out in the

affidavit filed in support of the writ petition has been denied and it is a fact that the petitioner was convicted. Hence, it is contended that on the date

when the order was passed there was a valid conviction and based upon conviction punishment of dismissal was imposed and the compounding

claimed by the petitioner will not exonerate the petitioner nor it is an acquittal on merits by the appellate court and, therefore, the order of dismissal

is not liable to be interfered. It is further contended that the respondent Bank has taken into consideration of the entire facts, the judgment of the

Sessions Court and, thereafter, imposed the punishment of dismissal. It is contended that the compounding will not in any manner exonerate the

petitioner and the compounding would mean that the petitioner has accepted the offence, which involves moral turpitude and, therefore, no

interference is called for with the order of dismissal passed by the respondent Bank.

7. The points that arise for consideration in this writ petition are :-

i) Whether compounding of offence by the appellate court is a meritorious acquittal and, consequently, whether the order of dismissal is liable to

be set aside and reinstatement has to be ordered with all consequential benefits?

ii) What is the effect of compounding of offence and whether compounding of offence u/s 320(8) amounts to acquittal on merits ?

iii) To what relief, if any, the petitioner is entitled to ?

8. There is no controversy that 16 persons complained to the Police against the writ petitioner and his wife. The police investigated the complaint,

laid a charge sheet in C.C. No. 272 of 1992 on the file of Judicial Magistrate-I, Tirunelveli. The Judicial Magistrate, after full trial, convicted the

petitioner and sentenced him to under-go rigourous imprisonment for a period of one year and to pay a fine of Rs.5,000/=. The petitioner''s wife,

who was the 2nd accused, was also convicted and sentenced to rigourous imprisonment for a period of six months and to pay a fine of

Rs.2,500/=. The Judicial Magistrate-I convicted the petitioner by judgment dated

15.7.99. By the impugned proceedings dated 12.1.2000, the

Board of Directors of the respondent Bank, who is the competent authority, after considering the conviction, in exercise of powers conferred

under Regulation 21 (3)(a) read with Regulation 21 (4) of Chapter XI, imposed the punishment of dismissal from service from the respondent

Bank.

9. As against the conviction, the petitioner preferred an appeal on 2.8.99, but the appeal was taken on file on 13.8.99 and the petitioner was

enlarged on bail on 19.8.99. The 2nd Additional Sessions Judge, Tirunelveli, by order dated 25.8.2000, granted leave to compound the offence as

all the 16 complainants have sworn to an affidavit and expressed their consent. The compounding was ordered and leave was granted u/s 320(5)

of The Code of Criminal Procedure and, consequently, the petitioner was acquitted u/s 320(8) of The Code of Criminal Procedure and appeal

was disposed of accordingly. The above facts are not in dispute.

10. After the said compounding, as well as order passed u/s 320(8) of The Code of Criminal Procedure, the writ petitioner moved the respondent

Bank, while placing the fact that the Criminal Court granted leave to enter into a compromise and the petitioner was permitted to compound the

offence committed by him u/s 420 I.P.C. The appellate court passed an order u/s 320(8). The respondent Bank dismissed the said

appeal/representation as pointed out by the learned counsel for the respondent. Though the said order has been passed pending the proceedings,

the learned counsel for the petitioner contended that this Court could examine the points raised in this writ petition and even the formality of

amending the prayer to include the proceedings of the Appellate Court need not be insisted.

11. The conviction in this case is admitted and the petitioner has been convicted to undergo rigourous imprisonment for one year and pay a fine of

Rs.5,000/= in default to undergo rigourous imprisonment. Section 320(5) of The Code of Criminal Procedure confers powers on the appellate

court to grant leave to compound in respect of compoundable offences. In this case, the 16 complainants appeared before the learned Additional

Sessions Judge, Tirunelveli, filed affidavits of compromise entered and after receipt of certain sums from the petitioner and leave was granted to compound the offence. On the leave being granted to compound, the petitioner has been acquitted u/s 320(8) of The Code of Criminal Procedure.

Section 320(8) of The Code of Criminal Procedure reads thus :-

The composition of an offence under this Section shall have the effect of an acquittal of the accused with whom the offence has been

compounded.

12. The compounding of the offence has been allowed with the leave of the Court pending the appeal by the learned 2nd Additional Sessions

Judge to enter into a composition by the petitioner (who is the accused) with the complainants. The petitioner, the accused, compounded with the

complainants. In this respect, we have to examine the effect of composition of offence. A reading of Section 320(8) just provides that such

composition shall have the effect of an acquittal of the accused with whom the offence has been compounded. But it is not acquittal. However, by

the composition, the petitioner has entered into a compromise as a result of which an order has been passed u/s 320(8), which would only mean

that he is protected from being sentenced or saved from undergoing sentence, but it will not have the effect to clear his character vindicating his

conduct.

13. In The Divisional Personnel Officer, Southern Railway and Another Vs. T.R. Chellappan and Others, : the Supreme Court had occasion to

consider the case of a delinquent employee convicted by a criminal court, but released on probation, where the Supreme Court held that

conviction is not obliterated by merely releasing the delinquent under The Probation of Offenders Act, 1958. The Apex Court approved the

decision of this Court in R. Kumaraswami Aiyar Vs. Commissioner, Tiruvannamalai Municipality and Others, .

14. In Union of India and Another Vs. Tulsiram Patel and Others, : a five Judges Bench of the Supreme Court did not agree with the approach

adopted in The Divisional Personnel Officer, Southern Railway and Another Vs. T.R. Chellappan and Others, : with respect to the interpretation

placed on Rule 14 of The Railways Service Rules. In Union of India and Another Vs. Tulsiram Patel and Others, : the Apex Court sustained the

powers of the employer based upon conviction and indicated the procedure to be followed. It may not be necessary to refer to details of the said pronouncement or the legal principles laid down therein in detail in this writ petition.

15. In Govind Das v. State of Bihar and Ors., (1997) 11 SCC 361 : it was contended that the appellant has been acquitted in the criminal case,

the order of termination of his service should have been set aside. In the said case, while finding that the acquittal of the appellant is based on the

view that charges are not proved beyond reasonable doubt and the standard of proof required to prove the charge of misconduct in departmental

proceeding is not the same as required to prove the criminal charge, the Supreme Court held that the acquittal of the appellant in the criminal case

would not be made the basis for setting aside the order of termination of the service of the appellant passed in the disciplinary proceedings on the

basis of evidence adduced in the departmental enquiry.

16. In the present case, a perusal of the service rules, which is relevant and has a bearing provides that an employee of the bank, when convicted,

he may be dismissed with effect from the date of conviction or be given any lesser punishment or discharge under Regulation 11. The Regulation

further provides that in the event of acquittal, the competent authority may proceed against the delinquent regarding misconduct and if after enquiry

it is decided not to continue the employee in service, he shall be liable only for termination of service with three months pay and allowance in lieu of

notice and he shall be deemed to have been on duty during the period of suspension. The said clause merely refers to an employee being convicted

on a criminal charge and it does not speak of sentence or punishment awarded.

17. In Deputy Director of Collegiate Education (Administration), Madras Vs. S. Nagoor Meera, : while examining the question as to whether

suspension of sentence by the appellate court, whether there could be disciplinary proceedings under the rules, in that context, the Apex Court,

while pointing out that mere suspension of sentence by the appellate court is not a bar for departmental proceedings. The Apex Court held that

when once a Government servant is convicted of a criminal charge, it is not necessary to await for the appeal or revision as the case may be, but

pass orders. However, if the Government servant/accused is acquitted on appeal, the order could always be revised and the Government servant

could be reinstated with benefits to which he would have been entitled to had he continued in service.

18. In Hari Pada Khan Vs. Union of India and others, : the validity of rule which enables the Government to dismiss without holding a domestic

enquiry was challenged. While holding that the principles of natural justice has no application when the authority concerned is of the opinion that it

would be inexpedient to hold an enquiry, besides holding that natural justice cannot supplant, but supplement the law. The rule impugned has been

held to be valid. In that context, the Apex Court held thus :-

4. It is seen that the rule has been made by the Corporation with the intention to prevent an employee of the Corporation served with a charge-

sheet and arrested in furtherance thereof, from continuing in service. Of course it would be subject to the result of the trial. Continuance of the

officer involved in an offence would be an affront to good and disciplined conduct of workmen. His continuance in service of the Corporation

would demoralise the service. Therefore, it was most expedient in the public interest not to hold any further enquiry and terminate his services

forthwith. However, it would be subject to the result of the trial.

5. The doctrine of principle of natural justice has no application when the authority concerned is of the opinion that it would be inexpedient to hold

an enquiry and that it would be against the interest of security of the Corporation to continue in employment the offender-workman when serious

acts are likely to affect the foundation of the institution. In Union of India v. Tulsiram Patel, a Constitution Bench of this Court upheld the validity of

the similar provisions under Article 311 of the Constitution. Recently, in SLP (C) No. 11659 of 1992 the matter had come up before this Court on

13-11-1995, where the validity of a pari materia provision was questioned. This Court upheld the validity stating that the above clause will operate

prospectively.

6. A contention has been raised by Mr Krishnamani that in Tulsiram Patel case this Court had upheld the validity of the rule subject to the principle

of natural justice. It is needless to mention that the principle of natural justice requires to be modulated consistent with the scheme of the rules. It is

settled law that the principle of natural justice cannot supplant but can supplement the law. In that view of the matter, the rule having been made to

meet specified contingency the principle of natural justice by implication, stands excluded. We do not think that the rule is ultra vires of Articles 14

and 21 as stated earlier.

19. In The Divisional Personnel Officer, Southern Railway and Another Vs. T.R. Chellappan and Others, : Fazil Ali, J., (as he then was), speaking

for the Bench, held thus :-

11. This brings us to the consideration of two interconnected questions, namely, as to what is the effect of the order of the Magistrate releasing the

accused on probation and the effect of Section 12 of the Probation of Offenders Act. It was suggested by the respondents that if the Magistrate

does not choose, after convicting the accused, to pass any sentence on him, but releases him on probation then the stigma of conviction is

completely washed out and obliterated, and, therefore. Rule 14(i) of the Rules of 1968 will not apply in terms. We are, however, unable to agree

with this somewhat broad proposition. A perusal of the provisions of the Probation of Offenders Act, 1958, clearly shows that the mere fact that

the accused is released on probation does not obliterate the stigma of conviction. The relevant portion of Section 3 of the Probation of Offenders

Act, 1958, hereinafter referred to as ''the Act'' runs thus:

. . . notwithstanding anything contained in any other law for the time being in force, the Court may, instead of sentencing him to any punishment or

releasing him on probation of good conduct u/s 4, release him after due admonition.

Similarly the relevant part of Section 4(1) of the Act runs thus:

. . . notwithstanding anything contained in any other law for the time being in force, the Court may, instead of sentencing him at once to any

punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during

such period, not exceeding three years, as the Court may direct, and in the meantime to keep the peace and be of good behaviour.

Section 9(3) and (4) of the Act reads as under:

9. (3) If the Court, after hearing the case, is satisfied that the offender has failed to observe any of the conditions of the bond or bonds entered into

by him, it may forthwith -

(a) sentence him for the original offence; or

(b) where the failure is for the first time, then, without prejudice to the continuance in force of the bond, impose upon him a penalty not exceeding

fifty rupees.

(4) If a penalty imposed under clause (b) of sub-section (3) is not paid within such period as the Court may fix, the Court may sentence the

offender for the original offence.

These provisions would clearly show that an order of release on probation comes into existence only after the accused is found guilty and is

convicted of the offence. Thus the conviction of the accused or the finding of the Court that he is guilty cannot be washed out at all because that is

the sirte qua non for the order of release on probation of the offender. The order of release on probation is merely in substitution of the sentence to

be imposed by the Court. This has been made permissible by the statute with a humanist point of view in order to reform youthful offenders and to

prevent them from becoming hardened criminals. The provisions of Section 9(3) of the Act extracted above would clearly show that the control of

the offender is retained by the criminal court and where, it is satisfied that the conditions of the bond ''have been broken by the offender who has

been released on probation, the Court can sentence the offender for the original offence. This clearly shows that the factum of guilt on the criminal

charge is not swept away merely by passing the order releasing the offender on probation. Under Sections 3, 4 or 6 of the Act, the stigma

continues and the finding of the misconduct resulting in conviction must be treated to be a conclusive proof. In these circumstances, therefore, we

are unable to accept the argument of the respondents that the order of the Magistrate releasing the offender on probation obliterates the stigma of

conviction.

12. Another point which is closely connected with this question is as to the effect of Section 12 of the Act which runs thus:

Notwithstanding anything contained in any other law, a person found guilty of an offence and dealt with under the provisions of Section 3 or

Section 4 shall not suffer disqualification, if any, attaching to a conviction of an offence under such law.

It was suggested that Section 12 of the Act completely obliterates the effect of any conviction and wipes out the disqualification attached to a conviction of an offence under such law. This argument, in our opinion, is based on a gross misreading of the provisions of Section 12 of the Act.

The words ""attaching to a conviction of an offence under such law"" refer to two contingencies: (i) that there must be a disqualification resulting from

a conviction; and (ii) that such disqualification must be provided by some law other than the Probation of Offenders Act. The Penal Code does not

contain any such disqualification. Therefore, it cannot be said that Section 18 of the Act contemplates an automatic disqualification attaching to a

conviction and obliteration of the criminal misconduct of the accused. It is also manifest that disqualification is essentially different in its connotation

from the word ''misconduct''. Disqualification cannot be an automatic consequence of misconduct, unless the statute so requires. Proof of

misconduct may or may not lead to disqualification, because this matter rests on the facts and circumstances of a particular case or the language in

which the particular statute is covered. In the instant case neither Article 311(2) proviso (a) nor Rule 14(i) of the Rules of 1968 contain any

express provision that the moment a person is found guilty of a misconduct on a criminal charge he will have to be automatically dismissed from

service. Article 311(2) proviso (a) is an enabling provision which merely dispenses with the various stages of the departmental inquiry and the

show-cause notice. Rule 14 despite incorporating the principles of proviso (a) to Article 311(2) enjoins on the disciplinary authority to consider the

circumstances of the case before passing any order. Thus, in our opinion, it is a fallacy to presume that the conviction of a delinquent employee

simpliciter without anything more will result in his automatic dismissal or removal from service.

20. In a case where the delinquent, an employee was convicted for an offence by the criminal court, but released u/s 4 of The Probation of

Offenders Act, 1958, while examining the release u/s 4 of The Probation of Offenders Act, as well as Section 12 of the said Act, in Union of India

and others Vs. Bakshi Ram, : the Apex Court held thus:-

10. In criminal trial the conviction is one thing and sentence is another. The departmental punishment for misconduct is yet a third one. The court

while invoking the provisions of Section 3 or 4 of the Act does not deal with the conviction; it only deals with the sentence which the offender has to undergo. Instead of sentencing the offender, the court releases him on probation of good conduct. The conviction however, remains untouched

and the stigma of conviction is not obliterated. In the departmental proceedings the delinquent could be dismissed or removed or reduced in rank

on the ground of conduct which has led to his conviction on a criminal charge [See Article 311(2)(b) of the Constitution and Tulsiram Patel case].

11. Section 12 of the Act does not preclude the department from taking action for misconduct leading to the offence or to his conviction thereon as

per law. The section was not intended to exonerate the person from departmental punishment. The question of reinstatement into service from

which he was removed in view of his conviction does not therefore, arise. That seems obvious from the terminology of Section 12. On this aspect,

the High Courts speaks with one voice. The Madras High Court in R. Kumaraswami Aiyar v. Commissioner, Municipal Council, Tiruvannamalai

and Embaru, P. v. Chairman, Madras Port Trust the Andhra Pradesh High Court in A. Satyanarayana Murthy v. Zonal Manager, LIC, the

Madhya Pradesh High Court in Prem Kumar v. Union of India, the Punjab and Haryana High Court in Om Parkash v. Director Postal Services

(Posts and Telegraphs Deptt.) Punjab Circle, Ambala, the Delhi High Court in Director of Postal Services v. Daya Nand have expressed the same

view. This view of the High Courts in the aforesaid cases has been approved by this Court in T.R. Challappan case.

12. In Trikha Ram v. V.K. Seth this Court after referring to Section 12 has altered the punishment of dismissal of the petitioner therein into

removal from service"", so that it may help him to secure future employment in other establishment.

13. Section 12 is thus clear and it only directs that the offender ""shall not suffer disqualification, if any, attaching to a conviction of an offence under

such law"". Such law in the context is other law providing for disqualification on account of conviction. For instance, if a law provides for

disqualification of a person for being appointed in any office or for seeking election to any authority or body in view of his conviction, that

disqualification by virtue of Section 12 stands removed. That in effect is the scope and effect of Section 12 of the Act. But that is not the same

thing to state that the person who has been dismissed from service in view of his conviction is entitled to reinstatement upon getting the benefit of probation of good conduct. Apparently, such a view has no support by the terms of Section 12 and the order of the High Court cannot, therefore,

be sustained.

21. The effect of composition in respect of compoundable offence would mean that the delinquent official admits the commission of offence, but he

enters into an arrangement or settlement with the persons so offended by him. Such a composition, though permissible under The Code of Criminal

Procedure, and if with the leave of the Court the offence is compounded, that does not ipso facto results in obliteration of the conviction. It cannot

also be contended that the petitioner has been given a blanket coverage of acquittal on merits, which alone would enable him to seek reinstatement.

The composition is admission of guilt, but acquittal u/s 320(8) merely saves the petitioner from undergoing sentence. In this case, the petitioner has

been convicted and by composition he reiterated or accepted the guilt, which would mean that the petitioner is guilty of charge of criminal

misconduct punishable u/s 420.

22. In TRIKHA RAM VS. V.K.SETH reported in 1987 SUPP. SCC 39 the Apex Court held that when a civil servant convicted for criminal

offence is not entitled to hearing by disciplinary authority, any departmental enquiry before imposing punishment of dismissal, further held that since

the delinquent has been released under The Probation of Offenders Act, held that the punishment of dismissal be converted into order of removal

from service. In this context, the Apex Court held thus :-

The question raised in this appeal as to whether or not the appellant who was convicted for a criminal offence should have been heard by the

disciplinary authority before imposing the punishment is concluded against the appellant by a decision of a five Judge Bench of this Court in Union

of India v. Tulsiram Patel. As a matter of fact the case of Tulsiram Patel which has been dealt with in paragraph 149 [SCC p. 513, SCC (L&S) p.

787] onwards was very similar to the facts of the present case. Under the circumstances, so far as this point is concerned, the appellant cannot

succeed. Learned counsel for the appellant has, however, called our attention to the fact that the appellant was released on probation by the

learned Magistrate who recorded the order of conviction. It is contended with justification that having regard to Section 12 of the Probation of

Offenders Act, 1958, the punishment of dismissal from service which would disqualify him from future government service should not have been

imposed. Section 12 of the Probation of Offenders Act, 1958 reads thus:

Notwithstanding anything contained in any other law, a person found guilty of an offence and dealt with under the provisions of Section 3 or

Section 4 shall not suffer disqualification, if any, attaching to a conviction of an offence under such law:

Provided that nothing in this section shall apply to a person who, after his release u/s 4, is subsequently sentenced for the original offence.

Since it is statutorily provided that an offender who has been released on probation shall not suffer disqualification attaching to a conviction of the

offence for which he has been convicted notwithstanding anything contained in any other law, instead of dismissing him from service he should have

been removed from service so that the order of punishment did not operate as a bar and disqualification for future employment with the

government. Under the circumstances, the impugned order of dismissal is converted into an order of removal from service. Subject to this

modification the appeal fails and is dismissed. There will be no order as to costs.

23. In Biswabahan Das Vs. Gopen Chandra Hazarika and Others, : the Apex Court held that composition of offence has not the effect of

acquittal. In this context, the Supreme Court held thus :-

6. .... It is, therefore, clear that to have the effect of an acquittal that offence compounded must be one specified either under sub-section (1) or

sub-section (2). The principle behind the scheme seems to be that wrongs of certain classes which affect mainly a person in his individual capacity

or character may be sufficiently redressed by composition with or without the leave of the court as the case may be but any such composition

would have the effect of an acquittal. It was urged by Mr Sarjoo Prasad that assuming the effect of an acquittal to be the wiping out or negation of

the wrongful conduct on the part of the accused, the scope of sub-section (6) was only limited to the offences specified in sub-sections (1) and (2)

of Section 345 and the principle thereof could not be extended to offences under other Acts unless there was a provision similar to sub-section (6)

in those Acts. It must be borne in mind that although the marginal note to Section 62 of the Assam Regulation is ""power to compound offences"" the word ""compounding"" is not used in sub-section (1) clause (a) of that section. That provision only empowers a forest officer to accept

compensation for a forest offence from a person suspected of having committed it. The person so suspected can avoid being proceeded with for

the offence by rendering compensation. He may think that he was being unjustly suspected of an offence and he ought to defend himself or he may

consider it prudent on his part to pay such compensation in order to avoid the harassment of a prosecution even when he is of the view that he had

not committed the offence. By adopting the latter course he does not remove the suspicion of having committed the offence unless he is to have

such benefit conferred on him by some provision of law. In effect the payment of compensation amounts to his acceptance of the truth of the

charge against him. Sub-section (2) of Section 62 only protects him with regard to further proceedings, but has not the effect of clearing his

character or vindicating his conduct.

24. In the light of Staff Regulation 20, it follows that the petitioner on the basis of his being permitted to compound the offence cannot be equated

to that of honorable acquittal, which alone would enable the writ petitioner to claim reinstatement. In the present case, the appellate authority also

considered the orders passed by the appellate court in permitting the petitioner to compound and rejected the same, in my view rightly too. Being

an employee of a bank, the petitioner cannot wash himself clean whatever may be the medium and, however solemn it may be, by which he seeks

to clean himself of the of the offence involving moral turpitude (in this case composition) and, therefore, the respondent Bank is well founded in

dismissing the appeal and declining to interfere with the order of dismissal. As already pointed out, mere acquittal u/s 320(8) by way of

composition will not mean acquittal on merits. In this case, on the date on which the impugned order of dismissal has been passed, it has been

passed validly and subsequent composition also will not in any way render the said dismissal invalid, inoperative nor it is required to be reviewed.

Hence, both the points are answered against the writ petitioner.

25. In the result, this writ petition is dismissed. The parties shall bear their respective costs.

