(2026) 05 CAL CK 1472

In the Calcutta High Court, Original Side

Case No : Writ Petition No. 684 Of 2024

Nitya Ranjan Mallick APPELLANT

Vs

Punjab National Bank & Anr RESPONDENT

Date of Decision : 20-05-2026

Acts Referred:

Constitution Of India, 1950 — Article 12, 21, 226, 227
Indian Penal Code, 1860 — Section 409, 420, 467, 468, 471
Industrial Disputes Act, 1947 — Section 2(s)

Citation : (2026) 05 CAL CK 1472

Hon'ble Judges : Amrita Sinha, J

Bench : Single Bench

Advocate : Sudeep Sanyal, Tutun Das, Ketaki Ghosh, S. M. Obaidullah, R. N. Majumder

Final Decision : Dismissed

Judgement

Amrita Sinha, J

1. The petitioner was serving as a general clerk in the United Bank of India, currently merged with the Punjab National Bank. A disciplinary proceeding was initiated against him and he was placed under suspension with effect from 10th November, 1994. Subsistence allowance was paid to him. Charge sheet was issued on 30th January, 1996. An enquiry was conducted and the petitioner was provided opportunity to defend himself. The enquiry report was submitted on 19th June, 1998.

2. The disciplinary authority passed order of dismissal of the petitioner from service without notice on 25th March, 1999. Appeal was preferred by the petitioner on 8th May, 1999 mentioning that the grounds of appeal would be submitted at the time of hearing. The petitioner submitted his grounds of appeal on 1st October, 2010.

3. A writ petition being WP No.13950 (W) of 2012 was filed by the petitioner

alleging non-disposal of his appeal. The said writ petition was heard and disposed of by the Court on 14th August, 2023 directing the competent appellate authority to consider and dispose of the appeal within four months by passing a reasoned order after giving the petitioner opportunity of hearing and to allow the petitioner to rely upon relevant documents in support of his defence.

4. After issuance of the charge sheet against the petitioner and during pendency of the departmental proceeding, the Branch Manager of the bank where he was serving, filed a written complaint against him before the police giving rise to Bongaon Police Case no. 35 dated 15th February, 1995 under Sections 420/468/467/471/409 of the Indian Penal Code. Charge sheet in the criminal case was filed against the petitioner on 19th March, 1999. On trial of the criminal case the petitioner stood acquitted vide judgment dated 25th February, 2010 passed by the learned Judge, Special Court, Prevention of Corruption Act, Barasat, North 24 Parganas.

5. The sheet anchor of the petitioner's submission is that as the departmental proceeding and the criminal proceeding stood initiated on self-same charges and as the petitioner has been acquitted in the criminal case by the competent court of law, accordingly, the order of dismissal passed against him by his employer ought to be revoked and he ought to be reinstated in service along with all service benefits.

6. It has been submitted that both the proceedings were initiated approximately at the same point of time. The departmental proceeding ought to have been kept in abeyance till the disposal of the criminal case. It has been contended that the employer deliberately proceeded with the disciplinary proceeding and passed the order of dismissal on surmises and conjectures. None of the persons whose bank account were alleged to have been tampered by the petitioner ever affirmed such allegation in the criminal proceeding. On the contrary, they deposed that their bank account was never tampered, nor their signature forged.

7. The petitioner alleges bias on the part of the employer. It has been argued that the findings in the departmental enquiry are not based upon any evidence. Absurd evidence or no evidence cannot substitute the truth.

8. It has been contended that the bipartite agreement entered upon by the bank and the workmen on disciplinary action and procedure therefor provides that when trial in a criminal proceeding commences, the departmental proceeding should be stayed. If the delinquent is acquitted of the charges, he should not be dismissed from service but be treated 'as on duty' during the period of suspension and the procedure adopted for discharge should be followed.

9. The petitioner submits that he was dismissed from service after the trial in the criminal proceeding commenced. The appeal against the order of dismissal was kept pending for nearly twenty-two years and was decided by the appellate authority upon direction passed by this Court, mechanically without proper application of mind. By that time the petitioner stood acquitted from the criminal

charges by the competent court. The appellate authority acted contrary to the terms and conditions of the bipartite agreement.

10. The petitioner prays for a direction upon the bank to revoke the order of dismissal and to treat him on duty during the entire period of his suspension and to pay him full pay and allowances in terms of the bipartite agreement.

11. In support of his submission the petitioner relies upon the Terms of Settlement of Memorandum of Settlement dated 10th April, 2002 wherein the disciplinary action and the procedure therefor are mentioned. The said terms and conditions lay down that if an employee is acquitted it shall be open to the management to proceed against him under the provisions relating to discharges. If the management, after enquiry, decides not to continue him in service, he shall be liable only for termination of service with three months' pay and allowances in lieu of notice. The employee is deemed to have been on duty during the period of suspension, if any, and shall be entitled to full pay and allowances.

12. In support of the submission that the petitioner ought to be paid full wages and allowances and all other privileges for the period of suspension, learned advocate for the petitioner relies on the judgment delivered by the Hon'ble Division Bench of this Court in Amiya Kumar Biswas -vs- United Bank of India & Ors. reported in 2006 SCC Online Cal 205 : (2006) 4 CHN 53.

13. Reliance has also been placed on the judgment delivered by the Hon'ble Supreme Court in the matter of Bank of Baroda -vs- S. K. Kool (dead) through legal representatives & Anr. reported in (2014) 2 SCC 715 wherein the Court held that employees who are otherwise entitled to superannuation benefit under the Regulations, if visited with the penalty of removal from service with superannuation benefits, shall be entitled to those benefits. Any employee visited with the same penalty but not eligible for superannuation benefit under the Regulations, shall not be entitled to that.

14. Learned advocate for the petitioner relies on the judgment delivered by the Hon'ble Supreme Court in the matter of Maharana Pratap Singh vs. The State of Bihar & Ors. reported in 2025 SCC Online SC 890, wherein the Court, inter alia, held that while exercising powers under Article 226/ 227 of the Constitution, the High Court does not exercise powers that are available to an appellate court. It is the decision-making process that falls for scrutiny. The High Court can rectify errors of law or procedural irregularities, if any, that lead to a manifest miscarriage of justice or breach of the principle of natural justice. The departmental authorities are obligated to provide a fair opportunity to the parties.

15. Learned advocate representing the bank opposes the submission and prayers made by the petitioner. An issue regarding maintainability of the writ petition has been raised by the bank. It has been submitted that the writ petitioner, being a 'workman' under the Industrial Disputes Act, 1947, cannot seek redressal of his dispute which is in the nature of an 'industrial dispute' under Article 226 of the

Constitution. It has been submitted that the petitioner ought to have approached the Industrial Tribunal in accordance with the Industrial Disputes Act, 1947 for relief.

16. It has been submitted that the bipartite agreement entered into by and between the bank and the workmen will be applicable in respect of the petitioner. The said agreement has been entered under the provisions of the Industrial Disputes Act, 1947. For enforcement of any terms and conditions in the bipartite agreement, the petitioner ought to approach the Industrial Tribunal for resolution of his dispute.

17. It has been contended that the writ petition ought not to be entertained on the ground of availability of efficacious alternate remedy which is statutory in nature.

18. In support of such submission learned advocate appearing for the bank relies upon the order passed by this Court on 14th October, 2015 in WP 24866 (W) of 2015 in the matter of Indranil Bose vs. United Bank of India & Ors. wherein the Court was pleased not to entertain the writ petition preferred by a workman of the bank.

19. Reliance has also been placed on the judgment delivered by the Hon'ble Supreme Court in the matter of A.P. Foods vs. S.Samuel & Ors. reported in (2006) 5 SCC 469 wherein the Court held that when alternate remedy is available under the Industrial Disputes Act, the High Court should not have entertained the writ petition and should have directed the petitioner to avail the statutory remedy. The Court also observed that a writ petition under Article 226 should not be entertained when statutory remedy is available under the Act, unless exceptional circumstances are made out.

20. Defending the acts and action of the bank on merit, learned advocate relies on the affidavit in opposition affirmed by the Chief Manager of the Punjab National Bank. The charges against the petitioner have been highlighted. It has been pointed out that an Enquiry Officer was engaged to enquire into the charges levelled against the petitioner. The petitioner along with his co-employee appeared before the Enquiry Officer and put forward his defence which was duly considered.

21. The report of the Enquiry Officer clearly disclose that the charges levelled against the petitioner stood proved. By an order dated 25th March, 1999, the disciplinary authority dismissed the petitioner from service without notice. The appeal preferred by the petitioner was duly considered by the appellate authority and the same also stood dismissed.

22. It has been argued that the criminal case and the disciplinary proceeding are two different and separate proceedings. In the departmental proceeding, the sophisticated rule of evidence does not always apply. The departmental proceeding was conducted by a quasi-judicial authority. Fullest opportunity was

given to the petitioner to defend himself. The petitioner submitted defence exhibits and he contested his case along with his co-employee. There has not been any violation of the principle of natural justice.

23. It has been argued that the order passed by the learned trial Court clearly records that the charges levelled against him could not be proved because of lack of documentary evidence. The petitioner was only given the benefit of doubt in the criminal proceeding.

24. In support of the submission that strict maintenance of procedural law is not required to be followed in a disciplinary proceeding, learned advocate for the petitioner relies on the following decisions in support of his case.

i. State Bank of India & Anr. vs. K.S Vishwanath reported in (2022) 15 SCC 190.

ii. Lalit Popli vs. Canara Bank reported in (2003) 3 SCC 583.

iii. Sub-Divisional Officer, Konch vs. Maharaj Singh reported in (2003) 9 SCC 191.

iv. Tara Chand Vyas vs. Chairman and Disciplinary Authority & Ors. reported in (1997) II LLJ 26, 1997 SCC (L & S) 1241 (para 2).

v. State Bank of India & Ors. vs. T.J. Paul reported in (1999) 4 SCC 759.

vi. Disciplinary Authority-cum-Regional Manager & Ors. vs. Nikunja Bihari Patnaik reported in (1996) SCC (L & S) 1194.

vii. Union Bank of India vs. Vishwa Mohan reported in (1998) 4 SCC 310.

viii. Government of Andhra Pradesh & Ors. vs. P. Chandra Mouli & Anr. Reported in (2009) 13 SCC 272.

ix. Divisional Controller KSRTC (NWKRTC) vs. A.T. Mane reported in (2005) 3 SCC 254.

x. Chairman & Managing Director, United Commercial Bank & Ors. vs. P.C. Kakkar reported in (2003) 4 SCC 364.

xi. P. Rajan Sandhi vs. Union of India & Anr. reported in (2010) 10 SCC 338.

xii. Ramesh Chandra Sharma vs. Punjab National Bank & Anr. reported in (2007) 9 SCC 15.

xiii. J.D. Jain vs. Management, State Bank of India reported in AIR 1982 SCC 673.

xiv. Judgment dated 19.07.2024 passed in APO 65 of 2022 in the matter of Rana Mazumder vs. Punjab National Bank (Formerly known as United Bank of India) & Ors..

xv. Judgment dated 04.12.2023 passed in WPA 3689 of 2017 in the matter of Sri Sanjib Roy vs. Punjab National Bank & Ors..

25. The respondent bank prays for dismissal of the writ petition.

26. To controvert the contention raised by the bank regarding maintainability of the writ petition despite existence of an alternative remedy, learned advocate for the petitioner relies on the decision delivered by the Hon'ble Supreme Court in the matter of Rajasthan State Road Transport Corporation & Anr. Vs. Krishna Kant & Ors. reported in (1995) 5 SCC 75 wherein a three-judge bench of the Court, inter alia, held that where disputes arise from general law of contract, a Suit filed in the Civil Court cannot be said to be not maintainable, even though such a dispute may also constitute an 'industrial dispute' within the meaning of the Industrial Disputes Act, 1947.

27. The Court further held that the policy of law emerging from Industrial Disputes Act, 1947 and its sister enactments is to provide an alternative dispute mechanism to the workmen. The powers of the Courts and Tribunals under the Industrial Disputes Act, 1947 are far more extensive and they can grant relief as they think appropriate in the circumstances for putting an end to an industrial dispute.

28. The petitioner also relies on the judgment delivered by a three-judge bench of the Hon'ble Supreme Court in the matter of Rajasthan State Road Transport Corporation & Anr. Vs. Bal Mukund Bairwa (2) reported in (2009) 4 SCC 299 wherein the Court inter alia held that, it would not be correct to contend that only because the employee is also a workman within the meaning of the Industrial Disputes Act, 1947, ipso facto the Civil Court will have no jurisdiction.

29. The Court clarified that if infringement of any provision of the Act is alleged, the Civil Court's jurisdiction may be held to be barred, but if the Suit is based on the violation of the principles of common law or constitutional provisions or on other grounds, the Civil Court's jurisdiction may not be held to be barred.

30. The judgment delivered by a three-Judge Bench of the Hon'ble Supreme Court in the matter of The Premiere Automobiles Ltd. -vs- Kamlekar Shantaram Wadke of Bombay & Ors. reported in (1976) 1 SCC 496 has been relied upon by the petitioner in support of the submission that the writ petition will be maintainable as the dispute in question cannot be said to be an industrial dispute under the Industrial Disputes Act. The petitioner would seek remedy under the common law thus leaving it to the election of the petitioner to choose his remedy either before the Tribunal or the Civil Court. The petitioner, in the instant case, chose to enforce his right under Article 226 of the Constitution.

31. The petitioner also relies upon the judgment delivered by this Court in U. N. Pandey -vs- Eastern Coalfields Ltd. & Ors. reported in 1999 SCC Online Cal 486 : (2000) 1 CHN 155 wherein the Court held that a 'workman' within the meaning of Section 2(s) of the Industrial Disputes Act, 1947 of an employer who is 'State' within the meaning of Article 12 of the Constitution, can initiate writ proceeding when his fundamental rights are violated by his employer. The workman can initiate writ proceeding when the disciplinary proceeding initiated by the employer is arbitrary and when he is deprived of his livelihood not in accordance

with the procedure established by law thereby violating Article 21 of the Constitution.

32. The principle that statutory remedy for infringing common law right does not oust equitable remedy has been relied upon.

33. I have heard and considered the rival submissions made on behalf of both the parties.

34. On perusal of the materials on record it appears that, the fact that the petitioner was serving as a general clerk, who will fall under the expression of 'workman' under the Industrial Disputes Act, 1947 as claimed by the bank, is not disputed by the petitioner. The bank contends that the writ petition at the instance of the workman will not be maintainable; whereas, the petitioner contends that the writ petition by the workman will not be ipso facto barred.

35. According to the petitioner, the writ petition will be maintainable as the appellate authority acted without jurisdiction in not reversing the order of dismissal after the order of acquittal was passed in favour of the petitioner by the competent criminal Court. By such illegal exercise of jurisdiction, the fundamental right of the petitioner enshrined under Article 21 of the Constitution has been infringed.

36. According to the petitioner, he has a right to choose between the Tribunal and the writ Court. The petitioner opted to approach the writ Court.

37. It is settled law that remedy under Article 226 of the Constitution of India cannot be completely ousted only on the ground of availability of alternative remedy. It is a self-imposed restriction practiced by the Court. The remedy that is available has to be an efficacious one. It is the discretion of the writ Court whether or not to exercise jurisdiction in a particular set of facts and circumstances. The bank qualifies as 'State' under Article 12 of the Constitution and a writ petition against the bank is not an absolute bar.

38. In view of the fact that the petitioner is a septuagenarian claiming his terminal dues, rejecting his writ petition filed in July 2024 by remanding him to the Tribunal for adjudication of his disputes, may not be an efficacious remedy available to him. The proceeding before the Tribunal may consume some time for adjudication. At such advanced age it may not be easy for the petitioner to proceed with his case from scratch. The petitioner ought not to feel that he was deprived justice. Further delay in disposal of his case which was initiated by issuance of a charge sheet way back in 1996, will not be proper. Accordingly, to put a quietus to the dispute, the Court is minded to dispose of the writ petition on merits.

39. It is made abundantly clear that the issue of maintainability of the writ petition at the instance of the petitioner workman is not being decided in the instant writ petition and the writ petition is being entertained and adjudicated on merits keeping in mind the advanced age of the petitioner, the efficacious

remedy available to the litigant in the writ proceeding for early disposal of his grievance.

40. Krishnakant (supra), Bal Mukund Bairwa (supra), The Premier Automobile Limited (supra) and U. N. Pandey (supra) relied upon by the petitioner deals with the issue of maintainability of the writ petition even though alternative remedy is available. Indranil Bose (supra) and A. P. Foods (supra) relied by the bank lays down that writ petition at the instance of the workman should not be entertained. The reason for entertaining the writ petition filed by the petitioner workman, despite objection raised by the bank, has been discussed in the preceding paragraphs of this judgment. The Court would not like to deal with the judgments referred to by the parties separately.

41. Primary submission of the petitioner is that as he has been acquitted in the criminal proceeding which was initiated against him and as the charges in the disciplinary proceeding and the criminal proceeding are nearly the same, the impugned order of his dismissal from service passed in the disciplinary proceeding is liable to be set aside and all consequential benefits ought to be released in his favour.

42. The petitioner heavily relies on the fact that none of the consumers of the bank deposed against him in the departmental proceeding and no financial loss was caused to the bank. The disciplinary authority was of the clear view that funds were withdrawn by the petitioner from the customers' account against fictitious credit given by him. The funds were the bank's fund and not the customers' fund which was involved. Material management exhibits revealed that the petitioner admitted in an unequivocal and unconditional manner the act which was committed by him.

43. The bank clearly held that mere replenishment of fund which was fraudulently withdrawn by him does not absolve him of the charges levelled against him. Bank's contention is that the petitioner committed fraud on the bank by forging signature of account holders. He also released withdrawal form and received payment thereof. He even went to the extent of removing the original ledger sheets of the concerned ledger after making fake credit entries and replacing them with new sheets.

44. It is seen from records that the petitioner was given reasonable opportunity of hearing to defend himself. As many as thirty-six hearings were conducted, ninety-two management exhibits were produced and six management witnesses were examined. The petitioner and his defence representative produced four defence exhibits. Written argument filed by the petitioner was also considered by the enquiry officer. The witnesses were duly cross examined by the defence representative of the petitioner. Despite granting several opportunities to the petitioner to disprove the charges levelled against him, he failed to come out clean.

45. Another ground taken by the petitioner assailing the order passed in the

disciplinary proceeding is that suspicion can never take the place of proof. The petitioner harps upon the point that as he has been acquitted in the criminal proceeding on conclusion of the trial, the order of the disciplinary authority ought to be revoked.

46. On a perusal of the judgment passed by the competent Court relied upon by the petitioner it appears that the Court held that the prosecution failed to prove the charges beyond any shadow of reasonable doubt and the petitioner was given the benefit of doubt. The Court held that the prosecution case advanced upon surmise and guess.

47. The points for determination before the learned trial Court was whether the accused, i.e., the petitioner herein, being a public servant, entrusted with the property which was forged by him and used as genuine with the intention to cheat some persons in the capacity of being a public servant thereby committed criminal breach of trust punishable under Section 409 of IPC and whether the accused committed any offence liable for punishment under Sections 420/467/468 & 471 of IPC.

48. On a perusal of the enquiry report it is crystal clear that several charges were levelled against the petitioner. The act of the petitioner was held to be prejudicial to the interest of the bank. The enquiry officer has given detailed analysis of the exhibits and the depositions given by the witnesses in the examination and cross examination stage. The analysis and the conclusion drawn by the enquiry officer by holding that the charges levelled against the petitioner stood proved does not appear to be such that it requires interference by the writ Court. The authority was of the confirmed opinion that the act of the petitioner was not in the interest of the bank.

49. This is not a case where punishment has been imposed in the absence of any evidence. Overwhelming evidence was produced and relied upon by the bank to arrive at the conclusion that the act of the petitioner was prejudicial to the interest of the bank leading to his dismissal from service.

50.The scope of interference in a disciplinary proceeding by the writ Court is extremely limited. Judicial review by the Court is restricted to ensure that the decision-making process does not suffer from any irregularity or procedural infirmity. On a perusal of the documents placed before the Court it does not appear that there has been any procedural lapse or any infirmity in the decision-making process requiring interference by the Court.

51. In Union of India & Anr. Vs Bihari Lal Sidhana reported in (1997) 4 SCC 385: AIR 1997 SC 3659 the Hon'ble Supreme Court laid down that acquittal in a criminal case does not entitle a person to automatic reinstatement. Only because the petitioner has been acquitted in the criminal case does not give any right to the petitioner to be reinstated in service.

52. In Maharana Pratap Singh (supra) relied by the petitioner the Hon'ble

Supreme Court held that under Article 226 the High Court does not exercise appellate powers. The decision-making process falls for scrutiny. Here, the Court is satisfied that the decision-making process does not suffer from any procedural lapse or irregularity calling for interference.

53. In S. K. Kool (supra) the Hon'ble Supreme Court held that an employee removed from service would be entitled to the superannuation benefit in accordance with the prescribed Regulations. In the case at hand, the petitioner has been dismissed from service without notice. The disciplinary authority specified that he would not be entitled to any pay and allowances save and except what has been paid as subsistence allowance and the period of suspension will not be considered as qualifying service for any purpose. The petitioner was paid the suspension allowance in accordance with his service regulations and the same has been stopped in line with the punishment imposed upon him.

54. K.S. Vishwanath (supra) inter alia held that the same charges and evidence may lead to different results in two proceedings; finding of guilt in departmental proceeding and an acquittal in the criminal proceeding by giving benefit of doubt. Here, two different conclusions have been reached in two different proceeding. The same will not render a completed disciplinary proceeding invalid nor will it affect the finding of guilt or consequential punishment imposed upon the delinquent employee.

55. In Tara Chand Vyas (supra) it was inter alia held that the employees and officers working in the banks are not merely the trustees of the society, but also bear responsibility and owe duty to the society for effectuation of socio-economic empowerment. The banking business and services are vitally affected by catastrophic corruption. Any officer who fails to act in the interest of the bank is liable to be dealt with appropriately in the disciplinary proceeding.

56. In T.J.Paul (supra) the Court opined that proof of loss is not necessary and the likelihood of loss is sufficient to take steps against the errant employee.

57. The Court refrains from referring to all the precedents relied upon by the bank individually as the common string that runs through all the said decisions is that the standard of proof in a criminal trial and a disciplinary proceeding is different. In a criminal trial, the criminal intent of the accused has to be proved beyond reasonable doubt. The principle of preponderance of probabilities comes into play while deciding departmental proceeding. The High Court merely acts as a supervisory authority and not as an appellate one. It cannot reappreciate facts and evidences. As long as there is some evidence relying on which conclusion has been arrived at by the authority, the said finding ought not to be interfered with unless the punishment imposed is strikingly disproportionate.

58. In the instant case, the entire evidence led by the parties is based on facts and information collected to prove the said facts. Writ court is not empowered to act as the appellate authority. The Court is also not to re-appreciate facts. The

evidences that are already on record are enough and sufficient to bring home the charges levelled against the petitioner.

59. Bank employees deal with public money and their integrity has to be unquestionable. The faith of the general public on a bank where they deposit their finances and other valuable articles is required to be kept intact. An errant employee of the bank cannot and ought not to be permitted to make a dent on the relationship between a customer and the banker or else the entire banking system will collapse.

60. In B.C. Chaturvedi vs. Union of India & Ors. ; (1995) 6 SCC 749 a three judge Bench of the Hon'ble Supreme Court held that judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reached is necessarily correct in the eye of the Court. In the case at hand, it appears that the authority reached a finding which does not call for interference.

61. In Union of India & Ors. vs. Subrata Nath; reported in 2022 SCC Online SC 1617; 2023(1) CHN (SC) 70 the Hon'ble Supreme Court laid down that High Court cannot interfere with the punishment imposed till the punishment shocks the conscience of the Court. Here, it doesn't appear that the punishment imposed upon the petitioner is either disproportionate or shocking in any manner.

62. In view of the discussions made herein above, the Court is of the considered opinion that the petitioner has failed to make out a case calling for interference by the Court. It appears that the bank did not take any step contrary to the service rules and regulations. Hence, the prayer of the petitioner cannot be allowed. No relief can be granted to the petitioner.

63. The writ petition fails and is hereby dismissed.

64. No costs.

65. Urgent certified photocopy of this judgment, if applied for, be supplied to the parties or their advocate on record expeditiously on compliance of usual legal formalities.

