
(1992) 06 BOM CK 0046
In the Bombay High Court
Case No : Writ Petition No. 1815 of 1987

Pratap J. Ved

APPELLANT

Vs

Bhor Industries Limited and Others

RESPONDENT

Date of Decision : 29-06-1992

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1994) 3 LLJ 962

Hon'ble Judges : S.H. Kapadia, J

Bench : Single Bench

Advocate : A.V. Vukhari and S. Srivastav, for the Appellant; S.M. Naik, for R-1, for the Respondent

Final Decision : Dismissed

Judgement

S.H. Kapadia, J.—This writ petition under Article 226 of the Constitution of India seeks to challenge the Award passed by the Second Labour Court in Reference (IDA) No. 1014 of 1981 dated 27th February 1987.

2. The facts giving arise to this petition briefly, are as follows:

(a) On 29th September 1963 the petitioner was employed by the first respondent company as despatch clerk.

(b) In the year 1970-71 the petitioner was asked to work as cashier with the sister concern of the first respondent company known by the name "Sky Light Corporation".

(c) On 27th August 1980 a show cause notice came to be issued by the first respondent in which it was alleged that the cheque dated 4th July 1980 was drawn in favour of the Bank of Maharashtra, Khar Branch for Rs. 27,000/-. The said cheque was payee's account cheque duly signed by the authorised person and it was to be dispatched under certificate of posting to the Bank of Maharashtra, Khar Branch. By the said show cause notice it was alleged that the

petitioner who was working as dispatch clerk was required to dispatch the said cheque by post to the party concerned and accordingly an entry was made in the outward register by the petitioner. It is further alleged that after 4th July 1980 the said Bank of Maharashtra (the banker of the first respondent company) enquired about the cheque not being sent to the bank, whereupon on investigation it was found that the said cheque was encashed as a bearer cheque by a firm by the name Bhagwandas M. Shah. On further investigation the management found that the said cheque was drawn in favour of the Bank of Maharashtra and it was actually tampered with by altering the name of the drawee and removing the endorsement of payee's account and it was converted into the bearer cheque, further alteration was also made in the amount of Rs. 27,000/- and the same was increased to Rs. 32,000/-. Accordingly, the cheque was encashed for the said amount of Rs. 32,000/-. In the said show cause "notice it was alleged that the alterations and the rewritings were in the handwriting of the petitioner.

(d) By letter dated 29th August 1980 the petitioner replied to the show cause notice. By the said reply the petitioner admitted that the cheque dated 4th July 1980 was drawn in favour of the Bank of Maharashtra, Khar Branch for Rs. 27,000/-. It was also admitted that the said cheque was Payee's account cheque and it was dispatched under certificate of posting to the Bank of Maharashtra. The petitioner by the said letter dated 29th August 1980 further stated that he was working as dispatch clerk and that the said cheque was dispatched by him to the concerned party under certificate of posting in the usual course of business of the company. He further stated that it was usual practice of the company to send the cheques under certificate of posting. He further stated that the postal acknowledgement in respect of the said delivery has been in the office record and at present i.e. on 29th August 1980 the same was lying at Azad Maidan Police Station. By the said reply the petitioner further stated that the entry in the outward register was also made by him. The rest of the allegations made in the show cause notice were denied by the petitioner. He further denied that the alterations and re-writings found in the said cheque are not in his own handwriting as also alleged by the management.

(e) Being dissatisfied by the reply to the show cause notice, the management issued chargesheet on 12th September 1980 to the petitioner. By the said chargesheet it was alleged that the above cheque dated 4th July 1980 was drawn by the company in favour of Bank Maharashtra, Khar Branch for Rs. 27,000/-: that the said cheque was payee's account; that it was duly signed by the authorised person and it was dispatched under certificate of posting to the Bank of Maharashtra, Khar Branch It was further alleged in the chargesheet that at the relevant time the petitioner was working as dispatch clerk and the said cheque had to pass through the petitioner for dispatch for posting to the party and accordingly outward entry was made in the register. By the said chargesheet it was further alleged that the bankers namely, Bank of Maharashtra approached the company and enquired about the cheque not being sent to the Bank

whereupon it was found that the said cheque was encashed as bearer cheque by Bhagwanlal M. Shah. On further investigation the chargesheet further stated that it was brought to the notice of the management that the cheque drawn in favour of the Bank of Maharashtra was tempered with by altering the name of drawee and removing the endorsement of payee's account as well as making further alteration to convert into bearer cheque. Further the said amount was changed from Rs. 27,000/- to Rs. 32,000/-. According to the said chargesheet the above acts on the part of the petitioner-workman amounted to misconduct of fraud and/or dishonesty in connection with the company's business and therefore, it warranted summary dismissal.

(f) Pursuant to the said chargesheet dated 12th September 1980, a reply came to be filed on 22nd September 1980. By the said reply, the petitioner contended that the charges were vague and it was not possible to defend as the charges were false and baseless. He also denied all the allegations made in the said chargesheet by company. According to the reply filed by the workman, one Mr. Pereira, General Secretary of the Union, was requested by the petitioner to defend the petitioner in the said enquiry. Thereafter, the domestic enquiry commenced.

(g) On behalf of the company the evidence was led being that of one Mr. B.B. Desai, Financial Controller of the company. According to the evidence of Desai, the relevant documents were forwarded by the company to Shri Haresh T. Gajjar for his expert opinion as to whether the said documents including the cheque are in the handwritings of one and the same person. At this stage, it may be clarified that the documents forwarded to Gajjar were the Xerox copies and not the original cheque. The counterfoil of the cheque dated 4th July 1980 drawn in favour of the Bank of Maharashtra A/c Moore Engineers for Rs. 27,000/- was shown to Mr. Desai. Mr. Desai stated that the cheque bears his initials. According to the evidence of Mr Desai, after the cheques were written all the cheques used to come to him along with respective vouchers. After verifying the particulars of the cheques with the respective vouchers, the counterfoil of the cheque came to be initialled by Mr. Desai. The cheques were then used to send to the Directors or their Attorneys and on the strength of initials of Mr. Desai, the said Directors or Attorneys used to sign the cheques. Mr. Desai has further stated that the letter dated 7th July 1980 addressed to the Bank of Maharashtra, Knar Branch, was sent by Mr. Desai and by the said letter the said cheque for Rs. 27,000/- came to be forwarded to the Bank of Maharashtra, A/c. Moore Engineers. According to Mr. Desai the payment of Rs. 27,000/- originated from the Memo issued by Sales Division of the first respondent company and that the payment was in connection with the Ventilation System installed in Sales Division at Cadell Road by the said M/s. Moore Engineers. According to Mr. Desai, the said payment was sent to the bank under certificate of posting. From the evidence of Mr. Desai, it is also clear that the Bank of Maharashtra subsequently informed the company that the amount of Rs. 32,000/- was encashed against the bearer cheque and it was paid to the said Bhagwanlal M. Shah in the usual course of business. Mr. Desai States

that soon thereafter he contacted the petitioner and enquired of him as to how the letter was sent to the Bank of Maharashtra including the cheque and the petitioner replied that it was sent under certificate or posting. According to the evidence of Mr. Desai on being called upon to produce proof of the certificate of posting in respect of the letters sent under certificate of posting it was found that, there was also some correction in the entry dated 8th July 1980 pertaining to the letters sent to the Calcutta branch office and similar corrections were there in the certificate of posting which gave rise to doubts in the mind of Mr. Desai as stated in his evidence. Mr. Desai has further stated that after the certificate of posting was stamped by the Franking Machine and by the postal authorities by their stamp, the entry of Bank of Maharashtra was added subsequently and to that extent the correction was also made in the dispatch register in respect of the entry of the letter addressed to the Calcutta Branch Office. According to the evidence of Mr. Desai, the petitioner workman was not able to reply to the said correction pointed out by Mr. Desai. In view of the said position the evidence further recites that there are alterations in the said cheque which according to Mr. Desai were required to be verified particularly in view of the fact that the cheque was encashed by one Mr Bhagwanlal Shah and the cash has been taken away by one Barmal whose signature appears on the reverse side of the cheque. In the cross-examination Mr. Desai admitted that the document forwarded to Mr. Gajjar by letter dated 4th August 1980 contained the Xerox copy of the cheque in question and all other documents were in original. He further stated that it was not possible to produce the original cheque.

(h) Next witness in the enquiry was Mr Gajjar who has stated that he was of the opinion that the alterations in the cheque were made by the petitioner. As regards his qualification, Mr. Gajjar has stated that he is B.Sc. graduate of 1957, that he has been doing the work of identification of handwriting under his father Shri T.J. Gajjar who has 30 years standing as handwriting expert. He further stated that in the year 1960 he had been in the United States and had completed the training in the Laboratory where the documents were examined. He also took practical training in Identification Laboratory and after returning from the States he joined his father's office as Associate as handwriting expert. He further states that since December 1960 he has independently examined the documents of more than 690 matters of various Courts of law in the country and he has given evidence in approximately 420 matters before the Courts. He has further deposed that he has examined Xerox copy of the cheque and he has come to the conclusion that the alterations were in the handwriting of the petitioner,

(i) As regards the evidence of the workman-petitioner before the enquiry officer, the petitioner has stated that at the relevant time he was working as dispatch clerk. He was maintaining the relevant record of relevant dispatch. He has further stated that he was not aware about the alterations made in the cheque. With regard to Xerox copy of certificate of posting effected by the company he has stated that certain cancellations and additions were made with regard to the said certificate of posting because the entry was made in respect of some letter

addressed to the Calcutta Office which was received earlier and later on a bearer cheque was required to be sent to the Calcutta Office by registered A/D. He has further stated that the said letter was sent along with the bearer cheque to Calcutta by registered A/D and the entry was accordingly cancelled. Regarding additions he has stated that maximum three letters could be sent under one certificate of posting and therefore he has made additional entry and he completed three entries and he has saved thereby additional postal expenses of certificate of posting. He has further stated with regard to the letters sent by him and the bearer cheque posted to the Calcutta Office he made cancellation. He stated that there was a bearer cheque and some letters the contents of which he did not remember. The cancellation effected in respect of the letter which was ordinary letter and which was received earlier and later on the bearer cheque and the letter were received which were sent by the registered post. He, however, denied that the alterations with regard to the said cheque was made by him as alleged in the chargesheet.

(j) With this evidence before the enquiry officer, the findings ultimately came to be given by the enquiry officer on 12th December 1980. By the said findings the enquiry officer came to the conclusion that the petitioner was guilty of misconduct as alleged in the chargesheet. The enquiry officer further stated that although the opportunity was given to the petitioner to make his statement and to lead evidence, no witness was examined on his behalf by the workman. After considering the evidence on record led by the company the Enquiry officer concluded that the petitioner-E workman was guilty. On the basis of the evidence of Mr. Gajjar the enquiry officer found that Mr. Gajjar is adequately qualified and he could be considered as an expert in the field. The enquiry officer discussed the experience of Mr. Gajjar as an expert and came to the conclusion that he was handwriting expert. The enquiry officer also found that the evidence of Mr. Gajjar was reliable in view of the fact that the detailed examination had been carried out by Mr. Gajjar and the alterations have been found and compared to similar documents and therefore there was no reason to discard the evidence of Mr. Gajjar. After considering various alterations and interpolations made with regard to the said instrument, the enquiry officer came to the conclusion that the charges levelled against the petitioner workman have been established.

(k) In view of the said findings of the enquiry officer an order of dismissal came to be passed on 23rd December 1980. The order of dismissal was signed by Mr. B.B. Desai, Financial Controller who came to the conclusion that since the charges levelled against the workman-petitioner have been proved and since the charges were of grave nature, the petitioner was liable to be dismissed with immediate effect.

(l) By an order dated 28th February 1981 the appeal filed by the petitioner workman to the Managing Director of the company also came to be dismissed. Finally the matter came to be referred to the Labour Court by way of Reference (IDA) No. 1014 of 1981.

29th June 1992

(m) By Part I Award dated 25th March 1986 delivered by 8th Labour Court, Bombay, the Labour Court came to the conclusion that the domestic enquiry held in the present case was fair and proper. Briefly, the Labour Court came to the conclusion that the rules of natural justice have been complied with; that full opportunity was given to the workman concerned to cross-examine the witnesses examined before the enquiry officer; that the charges were not vague and that the workman had understood the chargesheet served on the workman; that the relevant documents pertaining to the charges were supplied to the workman and in the circumstances Part I Award was delivered by the 8th Labour Court against the petitioner. At this stage, it may be mentioned that in the present petition the said Part I, Award dated 25th March 1986 has not been challenged by the petitioner workman and therefore it is not required to deal with the said Part I Award.

(n) With regard to the impugned Part II Award dated 27th February 1987, the Labour Court came to the conclusion that the findings of the enquiry officer are not perverse. The Labour Court came to the conclusion that looking to the charges and seriousness of the charges involved in the matter, the punishment imposed by way of dismissal was fair and just and it would not be disproportionate as alleged by the workman. The Labour Court found even in the Part II Award that the dismissal order was correctly passed by the Financial Controller Mr. B.B. Desai and although the Chief Accountant who was senior in rank than the Financial Controller, the dismissal order was correctly passed inasmuch as the Financial Controller was the principal officer of the company and further the order of dismissal was rectified by the Managing Director of the company who dismissed the appeal preferred by the workman. The Labour Court also found that the charges in the present case were not at all vague and the workman had understood the charges levelled against him. As regards the merits of the case, the Labour Court found that the cheque in question was sent under certificate of posting which certificate was altered by the workman. The Labour Court also came to the conclusion that in the original certificate of posting other letters were also dispatched. The Labour Court found that the very letter which was addressed to the Calcutta Branch office came to be altered and the Labour Court rejected the contention of the workman that the alteration in the certificate of posting was on account of postal pilferage. The Labour Court also placed reliance on the opinion of private handwriting expert Mr. Gajjar. The Labour Court found that the expert's opinion was not based on Xerox copy but it was based on the examination of the original. Mr. Gajjar had visited the concerned Bank and had examined the original cheque and in the circumstances the Labour Court came to the conclusion that there was no reason to disbelieve the evidence of Mr. Gajjar. The Labour Court also found that the postal stamp and the Franking Machine stamp had space between the two in which the entry of the letter has been made. Even some words of the letter have been mixed up with the Franking Machine words. The other entries in the original register of dispatch were also

found to be scored out. The Labour Court after considering the evidence on record before the enquiry officer came to the conclusion that the cheque was never dispatched under certificate of posting. The Labour Court further found that the workman made an attempt to show that it was dispatched under certificate of posting. The Labour Court also found interpolations in the certificate of posting. The Labour Court believed the evidence of the handwriting expert Mr Gajjar who had visited the bank and verified the original cheque and also had taken photographs of the said cheque. The Labour Court found that the entry of fourth letter containing the cheque was made subsequently after the postal stamp was embossed and the writing of the letter had gone under the franking machine. The Labour Court also compared handwriting and standard handwriting over the vouchers of the person concerned and came to the conclusion that the alterations in the cheque were made at the instance of the workman.

(o) Against the impugned Award being Part II dated 27th February 1987, the present petition has been filed seeking to challenge the said Part II Award dated 27th February 1987. It is made clear that although Part I Award has been annexed to the petitioner the same has not been challenged by the workman and therefore the only question which this Court is required to consider is whether the findings are perverse and whether the punishment of dismissal was disproportionate as alleged by the workman.

3. Mr. Bukhari, the learned counsel appearing on behalf of the petitioner, submitted that the findings of the enquiry officer are perverse in view of the fact that the enquiry officer has relied upon the evidence of the handwriting expert vis-a-vis the Government handwriting expert in the criminal matters who has opined that the alterations are not in the handwriting of the workman. He further submitted that Mr Gajjar had not examined the copy of the original cheque with the bank and what was examined was Xerox copy of the said cheque and not the original. Mr. Bukhari submitted that the original cheque was not placed before the enquiry officer and in the circumstances the evidence of Mr. Gajjar was based on the Xerox copy of the said cheque; whereas the reliance placed by the Government handwriting expert in the criminal matter was based on the examination of the original cheque. He further submitted that in any event no connection would be there between the petitioner-workman and Mr. Bhagwanlal Shah. He further submitted that the judicial notice ought to be taken by this Court of pilferage carried out to the cheque in postal transit and to that extent the enquiry officer's finding is perverse as it is not based on sufficient evidence but it is based on the opinion of the handwriting expert Mr, Gajjar. He submitted that in any event in view of the conflict of opinions between the two handwriting experts, the workman should be given the benefit of doubt particularly in view of the fact that he has served the company for about 17 years and during the said period there was no memo served upon him and further he had no blemished record. Mr. Bukhari then submitted that the chargesheet has not been signed by the competent authority inasmuch as the workman was appointed by the Chief Accountant; whereas the impugned orders of dismissal have been passed by Mr.

B.B. Desai, Financial Controller of the company. He further submitted that Mr. Desai's evidence should not be accepted inasmuch as Mr. Desai was an interested party who had animosity against the workman. He further submitted that the chargesheet was vague as it did not specify clearly the charges levelled against the workman and it did not specify the standing order under which the workman was charged.

4. Mr. Naik, the learned counsel appearing on behalf of the first respondent, submitted that as regards the alterations made in the certificate of posting and in the outward register, it has been conclusively established that the alterations were there and secondly as far as alterations to the cheque are concerned, at the relevant time the opinion of the handwriting expert conclusively established that the alterations were made by the workman concerned. Mr. Naik further submitted that there is no merit in the submission of the petitioner that the Additional Chief Metropolitan Magistrate has acquitted the petitioner in criminal case No. 610-F of 1981. Mr. Naik submitted that the penultimate paragraph of the Judgment of the Additional Chief Metropolitan Magistrate dated 8th June 1987 clearly lays down that there was difference of opinions between the two handwriting experts and two experts had different approach. He further submitted that the said paragraph of the Judgment of Additional Chief Metropolitan Magistrate dated 8th June 1987 gave the workman a benefit of doubt particularly in view of the fact that the two opinions of the experts differed. According to Mr. Naik, therefore, the acquittal of the workman in the said case was not a clean acquittal as sought to be made out by the learned counsel for the petitioner.

5. At the outset it may be stated that this Court under Article 226 of the Constitution of India is not the Court of Appeal and unless it is established by the petitioner-workman that the findings of the enquiry officer as well as the findings recorded by the Labour Court are perverse, this Court under Article 226 of the Constitution of India will be slow to interfere with the said findings. It may also be made clear that if two views are possible then no interference under Article 226 of the Constitution is called for. In the present case, it is clearly established that certificate of posting effected by the workman and the entry of the letter containing the cheque was interpolated. To this extent the findings have been recorded against the workman by the Labour Court. There is no merit in the contention of the petitioner workman that the private handwriting expert had not verified the original cheque before he gave his opinion, and that his opinion was merely based on the Xerox copy of the cheque. Before the enquiry officer, the specific question was posed to Mr. Gajjar as to whether he had seen the original cheque in the bank. The answer was in the affirmative saying that he had examined the original cheque at the Bank and he was of the opinion that the handwritings on the cheque were in the handwritings of a person who had written the standard handwritings on the vouchers. Mr. Gajjar in his evidence has also deposed about the vast experience which he had as an handwriting expert. Even before the Additional Chief Metropolitan Magistrate the credentials of Mr.

Gajjar as an handwriting expert were never under challenge. Even before the Additional Chief Metropolitan Magistrate the alterations with regard to the certificate of posting and outward register have been clearly established. However, the learned Magistrate proceeded on the basis that since the handwriting experts differed in their opinions the criminal charge was not established and to that extent the benefit of doubt was given to the workman. In this connection, the penultimate paragraph of the said Judgment of the Additional Chief Metropolitan Magistrate dated 8th June 1987 may be usefully quoted.

"Considering the facts and circumstances of this case, though accused as a despatch clerk, was having dominion over the disputed document, there is no cogent and convincing evidence of the fact that he has forged that cheque, and considering his explanation that he bona fide made alterations in the under certificate of posting slip in the interest of the administrative convenience, the evidence of a circumstantial nature cannot carry much weight. The evidence could have adduced by cogent and clinching evidence. However, in the present context, considering the two contradictory opinions of the two handwriting experts, it will be difficult to hold that those alterations made in the cheque vide Ex. P-3, were made by the accused. It is quite possible that these two conclusions which are conflicting with each other might have arisen on account of different approach on the part of the two handwriting experts. However, it is quite possible that either of them must have committed an error in coming to the bona fide different conclusion. However, in view of these two probabilities, the opinion of the Government handwriting expert supports the defence of the accused will have to be accepted."

The above paragraph clearly indicates that the acquittal granted by the Additional Chief Metropolitan Magistrate was not clean acquittal and that on that basis the benefit of doubt was given to the workman in respect of the charges levelled against him under various provisions of the Indian Penal Code.

6. It is well settled principle of law that the acquittal in the criminal trial will not preclude the employer from proceeding with domestic enquiry and the employer can take stand in the domestic enquiry that the workman was guilty of the charges levelled against him and then the employer is entitled to impose appropriate punishment. It may also be made clear that the rules of evidence applicable to the criminal trial are not applicable to the domestic enquiry. In the present case, the alterations in the cheque particularly converting an Account Payee's cheque into bearer cheque and altering the amount from Rs. 27,000/- to Rs. 32,000/- and alterations made in the dispatch register as also the alterations effected in the certificate of posting, clearly indicate that the Labour Court was absolutely right in coming to the conclusion that the findings of the enquiry officer were not perverse. It may also be mentioned that the Judgment of the Additional Chief Metropolitan Magistrate dated 8th June 1967 also proceeds on the basis that the alterations had taken place with regard to the certificate of

posting and dispatch register but according to the learned counsel for the petitioner the said alterations were made with good intention. It is true that in the present case the Labour Court as well as the enquiry officer have placed reliance on the opinion of Mr. Gajjar a private handwriting expert qua the Government handwriting expert, but it is not the case of the petitioner that the credentials of Mr. Gajjar were challenged by him at any time either in the domestic enquiry or before the criminal Court or the Labour Court. In fact, no evidence was led on behalf of the petitioner in the enquiry and no witnesses were examined on behalf of the workman. The evidence on record clearly indicates that Mr. Gajjar had examined various documents including cheque in question before coming to the conclusion that the alterations were made by the workman with regard to the cheque as well as the documents pertaining to the dispatch of the letter. In view of the evidence placed before the enquiry officer as also in view of the findings of the Labour Court which have been meticulously recorded by the Labour Court, it is not open to the petitioner to submit that the findings of the enquiry officer are perverse. As indicated above even if two views are possible in the present case no interference under Article 226 of the Constitution of India is warranted. A charge of interpolation and fraud of this nature as supported by the evidence before the enquiry officer would fully justify the action taken by the employer as is sought to be done in the present case. There is no substance in the contention of the petitioner that the original cheque was not examined by Mr. Gajjar as indicated hereinabove. Mr. Gajjar in his evidence categorically stated that he has examined the original cheque. He has also examined the relevant documents and compared in concurrence with that of the cheque before coming to the conclusion that the alterations have been made by the workman. In the circumstances, the findings recorded by the Labour Court by Part II Award are absolutely correct and no interference under Article 226 of the Constitution is warranted.

7. As regards the competency of Mr. Desai to pass the order of dismissal as Financial Controller, it may be stated that firstly the workman is not occupying statutory post or a civil post as is sought to be argued by Mr. Bukhari, the learned counsel for the petitioner. The Judgments relied upon by Mr. Bukhari in that connection are of no avail to the petitioner. Secondly, Mr. Desai was Financial Controller of the company and as the principal officer he was entitled to take appropriate action and there is no reason to come to the conclusion that Mr. Desai had acted out of animosity against the workman. It may also be mentioned at this stage that in any event an appeal was preferred by the workman to the Managing Director who had ratified the decision of dismissal taken by the Financial Controller and in the circumstances rules of natural justice have been fully complied with.

8. Even with regard to the next contention of the petitioner that the charges were vague and baseless, I do not find any merit in the said contention. Firstly, Part I Award given by the Labour Court has not been challenged by the workman. Secondly, the chargesheet was preceded by the show cause notice and

preliminary investigation. Even before the enquiry officer no such contention was taken by the petitioner as to whether he had not understood the charges as the same were vague. In the circumstances, I do not find any merit in the submission of the petitioner that the charges levelled against him were vague and that he had not understood the said charges. In fact, the dispute in the present case is not as to whether the alterations were not there but the dispute was very narrow dispute namely, the alterations on the cheque were done by the workman or it was done at the instance of some other person. In view of the evidence on record, I do not see any reason to find fault with the Judgment of the Labour Court under Article 226 of the Constitution of India. Mr. Bukhari has placed reliance on the Judgment of the Court in the case of Parwat Vedu Patil and Another Vs. Sukdev Shivram Patil, which case deals with fabrication of false evidence u/s 476 of the Code of Criminal Procedure and Section 45 of the Evidence Act. In the said case it has been laid down that the opinion given by the expert in writing cannot prove itself and unless the expert steps into witness box to enable the opponent to cross-examine him in reference to that opinion, the opinion expressed by him in a communication cannot be treated as evidence. As indicated here-inabove, in the present case the rules of evidence as applicable to the criminal trial cannot be made applicable to the domestic enquiry. Secondly, in the present case even the Criminal Court has come to the conclusion that two views with regard to Government handwriting expert and a private handwriting expert are possible and in the circumstances the benefit of doubt was given to the petitioner with regard to the charges levelled under the Criminal Procedure Code and the various charges under the Indian Penal Code. Even Part I Award is not challenged. I do not see any reason to apply the ratio of the said Judgment in Parwat Patil's case (supra) to the facts of the present case.

9. With regard to charges being vague Mr. Bukhari has relied upon the Judgment of the Supreme Court in the case of Glaxo Laboratories (I) Ltd. v. Presiding Officer, Labour Court Meerut reported in 1983 1 LIC 1909. The facts of the said case are not applicable to the facts of the present case. In Glaxo Laboratories's case the misconduct took place outside the premises in question and where such a misconduct takes place outside the precincts of the factory, the alleged misconduct ought to be in clear terms and must have direct nexus to the duty which an employee is required to carry out and if the act of misconduct has such a nexus, then it must be so stated in the chargesheet in clear terms. In the present case, I do not see any relevancy in the reliance placed by Mr. Bukhari, the learned counsel for the petitioner, on the said judgment as the charges in the present case have clearly spelt out the alterations made by the workman with regard to the cheque and also it was preceded by a preliminary enquiry and show cause notice and there was no argument advanced before the enquiry officer that the workman had not understood the charges and no objection was taken at the earliest point of time. In the circumstances, the reliance placed on the Judgment of Glaxo Laboratories's case (supra) is totally misplaced and has no bearing to the facts of the present case.

10. In view of what is stated hereinabove there is no reason whatsoever to interfere with the findings recorded by the Labour Court by way of Part II Award dated 27th February 1987. In the circumstances, writ petition stands dismissed. Rule is discharged with no order as to costs.

Certified copy, if applied for, to be furnished out of turn expeditiously.