
(2003) 07 RAJ CK 0058
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2358 of 1996

Ram Pal Chouhan

APPELLANT

Vs

Marwar Gramin Bank and Another

RESPONDENT

Date of Decision : 22-07-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Marwar Gramin Bank (Staff) Service Regulations, 1980 — Regulation 30(1)

Citation : (2003) 4 RLW 2695 : (2004) 1 WLC 302

Hon'ble Judges : Sunil Kumar Garg, J

Bench : Single Bench

Advocate : M. Mridul and R.N. Upadhyaya, for the Appellant; M.D. Purohit and Anand Purohit, for the Respondent

Final Decision : Dismissed

Judgement

GARG, J.—This writ petition under Article 226 of the Constitution of India has been filed by the petitioner on 22.7.1996 against the respondents with the prayer that by an appropriate writ, order or direction, the order dated 8th August, 1995 (Annex. I) passed by the Disciplinary Authority of Marwar Gramin Bank (for short "The Bank") by which after holding the petitioner guilty of all the seven charges framed against him, penalty of dismissal from service under the provisions of Regulation 30(1)(f) of the Marwar Gramin Bank (Staff) Service Regulations, 1980 (hereinafter referred to as "the Regulations of 1980") was imposed upon the petitioner, though Enquiry Officer through Enquiry Report Annex. 20 dated 16.1.1995 found the charges No. 2,3 and 4 proved against the petitioner, but he did not find the charges No. 1,4,5 and 7 proved against the petitioner and the appellate order dated 28.12.1995 (Annex.2) passed by the Chairman, Marwar Gramin Bank (respondent No. 2) by which the appeal of the petitioner was dismissed and the order Annex. 1 dated 8.8.1995 was upheld, be quashed and set aside, with all consequential benefits.

2. The case of the petitioner as putforward by him in this writ petition is as

follows :-

The petitioner after selection was appointed as Clerk-cum- Cashier with the respondent-Bank on 17/2/1984.

The further case of the petitioner is that when he was posted at Sarnaow Branch in Jalore District, a complaint (Annex.3) dated 24.10.1990 was made to the collector, Jafore by some of the loanees against the staff members of the respondent Bank, Sarnaow Branch stating inter-alia that bribe was being demanded for providing them relief under the Agricultural Rural Bank Relief Regulations. According to the petitioner, in the complaint Annex. 3, there was no specific allegations against the petitioner. The said complaint Annex. 3 was forwarded by the Collector, Jalore to the Chairman of the respondent Bank (respondent No. 2).

The Further case of the petitioner is that thereafter, on that complaint Annex. 3, a preliminary enquiry was got conducted through ShantiLal Sharma, who recorded the statements of the Manager, Field Supervisor and other staff members and also recorded the statement of complaints. After conducting a preliminary enquiry, it was proposed to take disciplinary proceedings under Chapter-IV, Regulation 30 of the Regulations of 1980 against the petitioner and charges were framed against the petitioner and the same were supplied to him through Memorandum dated 6.9.1991 (Annex.8) and the sum and substance of the charges levelled against the petitioner through Annex. 8 is as follows :-

Charge No. 1

That the petitioner demanded Rs. 100/- from one Narsi as bribe for closing his account and he told the loanees to give money and take the deposit receipts later on and because of not giving of receipts by him, the loanees did not deposit the money in the Bank and therefore, he did not watch the interest of the Bank and thus, he violated Regulations 17 and 19 of the Regulations of 1980.

Charge No. 2

That the petitioner did not give correct information to Ganesha and Mohanlal in respect of their accounts and he harassed the loaness and by not giving correct information to the loanees and, harassing the loanees, he violated Circular dated 27.7.1981 and further, he collected Rs. 232.65 more from Mohanlal as bribe and thus, he violated Regulations 17 and 19 of the Regulations of 1980.

Charge No. 3

That the petitioner demanded Rs. 200/0 as bribe from one Karmi and further, the petitioner was given Rs. 1400/- towards loan amount by Karmi, but the petitioner did not deposit that money in the bank and kept that amount with him unauthorisedly and thus, he did not deposit the amount received from the loanees in the Bank and thus, violated the Circular dated 18.2.1984 and further, by demanding bribe and keeping the recovered amount towards loan with him,

he violated the provisions of Regulations 17 and 19 of the Regulations of 1980.

Charge No. 4

That similarly, the petitioner also demanded bribe from Teja and further, he took Rs. 1300/- from Teja, but did not deposit that money in the bank and kept that amount with him unauthorisedly and therefore, he violated the instructions contained in the circulars dated 27.7.1981 and 12.2.1984 and also violated the provisions of Regulations 17 and 19 of the Regulations of 1980.

Charge No. 5

That the petitioner did not give correct information to the loanees in respect of balance and already deposited loan amount and he harassed the loanees and also gave wrong information to them and thus, he lowered down the image of the Bank.

Charge No. 6

That on 25.10.1990, he was Cashier and cash book was not closed by him on that day and though the amount was actually received on 26.10.1990, but he issued the receipts in the date of 25.10.1990 and thus, violated the instructions contained in Circular dated 18.2.1984.

Charge No. 7

That on the vouchers of dated 25.10.1990, the petitioner did not mention the description of notes.

A reply to the charges levelled against him through Annex. 8 was filed by the petitioner on 1.11.1991 and a copy of which is marked as Annex. 9 and in that reply, he denied all the charges levelled against him.

Thereafter, on 14.1.1992 the petitioner further submitted a reply to the charge levelled against him through Annex. 8 alongwith the affidavit of Shri Met Ram. A copy of the said reply dated 14.1.1992 is marked as Annex. 10 and the copy of affidavit of Met Ram is marked as Annex. 11.

The further case of the petitioner is that thereafter, one G.S. Bhati was appointed as Enquiry officer and Shantilal was appointed as Presenting Officer.

Thereafter, after holding a detailed enquiry against the petitioner, the Enquiry Officer submitted the enquiry report to the Disciplinary Authority of the respondent Bank on 16.1.1995 and a copy of that Enquiry Report is marked as Annex. 20. The Enquiry Officer, after considering the entire evidence and material, came to the conclusion that the charges No. 1, 5, 6 and 7 have not been proved against the petitioner, but he found the charge No. 2,3 and 4 proved against the petitioner.

After receipt of the enquiry report Annex. 20 dated 16.1.1995, a show cause notice was given by the Disciplinary Authority of the respondent Bank of the

petitioner on 24.5.1995, a copy of which is marked as Annex. 21. A reply to the said show cause notice Annex. 21 was filed by the petitioner on 8.8.1995 and a copy of which is marked as Annex. 22.

Thereafter, the Disciplinary Authority of respondent Bank through order Annex. 1 dated 8.8.1995 not only found the charges No. 2,3 and 4 proved against the petitioner, which were also found proved by the Enquiry Officer through enquiry report Annex. 20 dated 16.1.1995, but it also found proved the charges No. 1,5,6 and 7 against the petitioner and after holding the petitioner guilty of all the charges No. 1 to 7 levelled against him, the Disciplinary Authority imposed the penalty of removal from service against the petitioner.

Aggrieved from the said order dated 8.8.1995 (Annex. 1) passed by the Disciplinary Authority, the petitioner preferred an appeal before the Chairman of the respondent Bank (respondent No. 2) and a copy of that appeal is marked as Annex. 23 and the appeal of the petitioner was dismissed by the respondent No. 2 Chairman of the respondent Bank through appellate order dated 28.12.1995 (Annex.2).

In this writ petition, the order Annex. 1 dated 8.8.1995 passed by the Disciplinary Authority as well as appellate order Annex. 2 dated 28.12.1995 passed by the Appellate Authority have been challenged by the petitioner on various grounds and the main grounds are as follows :-

(i) That the order Annex. 1 dated 8.8.1995 passed by the Disciplinary Authority and the appellate order Annex. 2 dated 28.12.1995 passed by the Appellate Authority are wholly illegal as the case has been decided against the petitioner primarily on the basis of the statements of Tejaram, Karniram, Mohan, Ganesha and Narsi and the statements were given by these witnesses during the course of preliminary enquiry and they were relied upon by the Enquiry Officer and Disciplinary Authority and they were not put to examination-in-chief by the Enquiry Officer and not only this, when they were called upon for the purpose of cross- examination, they declined to make any reply and thus, they did not put themselves to face cross-examination and therefore, in view of this fact, the petitioner challenges these proceedings on two grounds :

(a) that the statements of the above witnesses were not recorded by the Enquiry officer while conducting the regular enquiry and since they were recorded during the course of preliminary enquiry, therefore, no reliance can be placed on them;

(b) that the above witnesses were not put to cross- examination and therefore, breach of principle of natural justice has been committed by the Enquiry Officer and Disciplinary Authority and thus, no reliance can be placed on the statements of above witnesses.

(ii) That when the Disciplinary Authority disagreed with the findings recorded by the Enquiry Officer in respect of charges No. 1,5,6 and 7 and recorded of contrary findings on these charges, it was incumbent duty o the part of the

Disciplinary Authority to give notice to the petitioner and since no notice was given to the petitioner in respect of these charges, therefore, from this point of view also, the whole enquiry stands vitiated.

(iii) That the impugned order Annex. 1 dated 8.8.1995 has been passed by the Disciplinary Authority in a most mechanical manner, inasmuch as, not a word has been said by the Disciplinary Authority in regard to the defence of the petitioner as set out by him and proved by the evidence led by him and not only this, full opportunity to lead evidence was also not given to the petitioner as witness Mangla Ram Choudhary was not allowed to be produced in defence and therefore, in the present case, the enquiry has not been held against the petitioner properly and fairly. Apart from this, the evidence available on record is not sufficient to hold the petitioner guilty of the charges levelled against him and thus, in these against him and thus, in these circumstances, the impugned order Annex. 1 and the appellate order Annex. 2 cannot be sustained and liable to be quashed and set aside.

(iv) That the punishment of removal from service imposed against the petitioner is irrational and excess, looking to the charges found proved against the petitioner.

Hence this writ petition with the prayers as stated above.

A reply to the writ petition was filed by the respondents and it has been submitted by them that an employee of the Bank cannot be equated with an employee of the Executive Department of the Government since the Bank holds the public property in trust on behalf of the public and furthermore, since this Court under Article 226 of the Constitution of India is not an appellate court, therefore, scope of judicial review in respect of scrutinizing the findings of the Disciplinary Authority is very limited. The findings of fact recorded by the Disciplinary Authority are based on correct appreciation of evidence available on record and there is ample evidence on record to prove that the petitioner committed serious irregularities in closing the accounts of loanees; he violated the bank instructions and he harassed the loanees; he took the money from the loanees, but did not deposit that money in the bank and kept with him unauthorisedly; and he also accepted bribe money from the loanees for closing their accounts and in these circumstances if order of removal from service was passed against the petitioner, no illegality or irregularity has been committed by the Disciplinary Authority in doing so.

It has been further submitted by the respondents that so far as the question that witnesses were not put to cross examination is concerned, for that the petitioner himself was responsible as he threatened these witnesses and in-fact the witnesses concerned themselves submitted an application that they did not want to produce themselves for cross-examination and whatever they had already stated, that should be taken as correct and thus, it cannot be said that no opportunity of cross-examination was given by the Enquiry Officer to the

petitioner.

So far as considering and relying upon the statements of witnesses recorded during preliminary enquiry, in a regular enquiry is concerned, it has been submitted by the respondents that in doing so, no breach of law had taken place.

So far as the submission that witness Mangla Ram Choudhary was not allowed to be produced in defence is concerned, it has been submitted by the respondents that he was not a material witness and further, petitioner wanted to delay the enquiry as is evident from the record of the enquiry and he was in habit of filing application after applications and in these circumstances, it can be said that full opportunity to face the enquiry was given to the petitioner. Hence, the writ petition filed by the petitioner be dismissed.

3. I have heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and gone through the materials available on record.

4. Before proceeding further, legal aspect with respect to scope of judicial review and scope of interference by the High Court under Article 226 of the Constitution of India with the findings of the Disciplinary Authority as well as Appellate Authority may be seen.

5. In *Bhagat Ram v. State of Himachal Pradesh and Ors.* (1), the Hon"ble Supreme Court held that in a petition under Article 226 of the Constitution of India, the High Court does not function as a Court of appeal over the findings of disciplinary authority. But, where the finding is utterly perverse the High Court can interfere with the same.

6. In *Rai Bareilly Kshetriya Gramin Bank v. Bhola Nath Singh and Ors.* (2), the Hon"ble Supreme Court has further held that the High Court, in the proceedings under Article 226 of the Constitution of India does not act as an appellate authority but exercises within the limits of judicial review to correct errors of law or procedural errors leading to manifest injustice or violation of principles of natural justice.

7. In *Transport Commissioner, Madras-5 v. Thiru.A. Radha Krishna Moorthy* (3), the Hon"ble Supreme Court held that under Article 226 of the Constitution of India, the High Court has no jurisdiction to go into truth of the allegations/charges unless they are perverse.

8. In *Government of Tamil Nadu and Anr. v. A. Rajapandian* (4), where the order of dismissal was set aside by the Administrative Tribunal on re-appreciation of the evidence recorded by inquiring authority and it was held by the Hon"ble Supreme Court that the Tribunal fell into patent error in sitting as a Court of Appeal over a decision based on the findings of inquiry authority in disciplinary proceedings and it is not their function to review such findings and reach different finding than that of the disciplinary authority. The Hon"ble Supreme Court in that case further observed that the Administrative Tribunal had no jurisdiction to

sit as an appellate authority over the findings of the disciplinary authority.

9. In *Union of India and Ors. v. Narain Singh* (5), the Hon''ble Supreme Court has held that it is not the function of the High Court to arrive at an independent finding. It was further held that if an enquiry has been properly held the question of adequacy or reliability of evidence cannot be canvassed before the High Court.

10. Thus, the High Court under Article 226 of the Constitution of India can interfere with the findings of the Disciplinary Authority and Appellate Authority only when-

(i) there is violation of natural justice or statutory regulations;

(ii) if the order is passed on extraneous considerations to the evidence;

(iii) if the conclusion reached by the Disciplinary Authority is wholly arbitrary, perverse or capricious.

(iv) there is errors of law or procedural errors leading to manifest injustice or violation of principles of natural justice.

11. Apart from this, it may be stated here that the Disciplinary Authority is the sole judge of facts, if the enquiry has been properly conducted. If there is some legal evidence on which findings can be based then adequacy or even reliability of that evidence is not a matter to be canvassed before the High Court under Article 226 of the Constitution of India and for that, the decision of the Hon''ble Supreme Court in *High Court of Judicature At Bombay through its Registrar v. Shashikant S. Patil and Anr.* (6) may be referred to.

12. Keeping in mind the law laid down by the Hon''ble Supreme Court from time to time, the findings of the Disciplinary Authority and Appellate Authority in the present case are being critically examined.

Point No. 1

13. There is no dispute in this case that the statements of Tejaram, Karmi, Narsi and Ganeshram were recorded during the course of preliminary enquiry and the same were taken on record and relied upon by the Enquiry Officer while conducting regular enquiry against the petitioner.

14. In *State of Mysore v. Shivbasappa Shivappa Makapur* (7), the Hon''ble Supreme Court has observed that the rules of natural justice are matters not of form but of substance and when the previous statements given by the witnesses are read over during the regular enquiry and opportunity to cross-examine them is given to the delinquent official, in such a case, previous statements could be looked into.

15. It may further be stated here that as a matter of fact, the strict principles of Indian Evidence Act do not apply to the departmental trials but in the interest of justice, it is very much expedient that the examination-in-chief of the witnesses should not normally be recorded behind the back of the official charged, but if it

is recorded and the official charged is afforded an opportunity to cross examine them, then it cannot be regarded as fatal and reliance can be placed on such evidence in regular enquiry.

16. Thus, the argument that previous statements of the above witnesses recorded during preliminary enquiry cannot be read and relied upon in regular enquiry stands rejected.

On Cross-examination

17. The case of the petitioner is that on 16.6.1993, the Enquiry Officer during the course of regular enquiry relied on the statements of witnesses, namely, Tejaram, Karmi, Narsi and Ganesharam, which were recorded during the course of preliminary enquiry and marked as Annex. 13, Annex. 14, Annex, 15 and Annex. 16 respectively and these witnesses were present before the Enquiry Officer on that day and they were asked whether these statements were given by them or not, but on that day, defence assistant of the petitioner was not present and therefore, the petitioner Objected to the recording of the statement in absence of defence assistant and the petitioner further stated that he could not cross examine the witnesses in absence of defence Assistant.

18. The further case of the petitioner is that no doubt on the request of the petitioner, the witnesses, who were present on 16.6.1993 were recalled for the purpose of cross-examination by the" Enquiry Officer on 10.9.1993, but on that day, i.e. on 10.9.1993 when they were sought to be cross-examined, all these witnesses made a joint application stating that they were not prepared to face cross examination and whatever they had said in their application was correct. Since the witnesses themselves refused to put for cross-examination, their cross-examination was not got done on that day and further request of the petitioner for re-calling these witnesses for cross examination on next date was rejected on the ground that these witnesses had already declined to come forward for cross-examination.

19. The question for consideration in the above facts and circumstance is whether opportunity of cross examination can be said to have been given to the petitioner or not.

20. Before proceeding further, it may be stated here that on general principles, it is well settled that "natural justice" requires that a party be given an opportunity of challenging by cross-examination witnesses called by other parties on relevant issues. The real test is whether the absence of cross-examination renders the decision unfair in all the circumstances. These general principles are of relevance particularly in cases where there are no rules or the rules are silent on this aspect. It may further be stated here that the Hon"ble Supreme Court has itself recognized that opportunity of cross examination was a requirement of natural justice.

21. In State Bank of Patiala v. S.K. Sharma (8), the Hon"ble Supreme Court has

held that violation of this particular facet of natural justice i.e. denial of opportunity of cross-examination does not render the decision void ipso jure but the complainant must be examined on the touchstone of prejudice.

22. In my considered opinion, when the strict principles of Indian Evidence Act are not applicable to the departmental trial and the rule of natural justice requires only that an opportunity of cross-examination should be given and if that is given, it can easily be said that in a particular case, rules of natural justice are not violated.

23. In the present case, it appears that it is not the Enquiry Officer, who refused that witnesses should not be put for cross-examination as the case of the petitioner himself is that the witnesses themselves did not put for cross-examination and they made joint application declining to come forward for cross examination and they further stated that whatever had been stated by them earlier, that should be treated as correct proposition of their statements.

24. When this being the position, it can easily be concluded that opportunity of cross examination of witnesses was given to the petitioner by the Enquiry Officer and if the Enquiry Officer refused to call the witnesses on the next date on the ground that the witnesses themselves were not coming forward, no illegality or irregularity has been committed by the Enquiry Officer in doing so. Furthermore, since the Enquiry Officer is not bound by the strict rules of law of evidence and when witnesses themselves declined to come forward for cross examination, therefore, it was open to the Enquiry Officer to proceed further and if he had proceeded further, he has committed no illegality or irregularity in doing so.

25. Thus, the argument that no opportunity of cross examination was given to the petitioner also stands rejected.

26. In view of the above, the rulings relied upon by the learned counsel for the petitioner in *Kuldeep Singh v. The Commissioner of Police and Ors.* (9), *Kesoram Cotton Mills Ltd. v. V. Gangadhar and Ors.* (10) *Bareilly Electricity Supply Co. Ltd., v. The Workmen and Ors.* (11) and *Town Area Committee v. Jagdish Prasad and Ors.* (12) would not be helpful to the present petitioner.

Point No. 2

27. On point No. 2, the case of the learned counsel for the petitioner is that since the Enquiry Officer did not find the charges No. 1, 5, 6 and 7 proved against the petitioner and on the contrary, the Disciplinary Authority found these charges proved and therefore, it was incumbent upon the Disciplinary Authority to give notice to the petitioner before recording contrary findings on these charges and since no notice to that effect was given to the petitioner, therefore, whole enquiry proceedings stand vitiated. In this respect, the learned counsel for the petitioner has placed reliance on the decision of the Hon'ble Supreme Court in *Punjab National Bank and Ors. v. Kunj Behari Misra* (13).

28. In my considered opinion, the above argument does not carry any weight

and is to be rejected because of the following reasons:-

(i) That as per the case of the petitioner himself, a show cause notice dated 24.5.1995 (Annex. 21) alongwith the copy of the enquiry report Annex. 20 was given to him and a reply to that show cause notice Annex. 21 was filed by the petitioner through Annex. 22 dated 17.6.1995 and from perusing the order Annex. 1 dated 8.8. 1995 passed by the Disciplinary Authority, it further appears that the petitioner was given also personal hearing before passing the order Annex. 1.

Thus, to say that in respect of charges No. 1, 5, 6 and 7, on which the findings of the Enquiry Officer were reversed by the Disciplinary Authority, the petitioner was not given notice and heard by the Disciplinary Authority cannot be accepted and rather it appears that before passing the impugned order Annex. 1, the petitioner was given show cause notice Annex. 21 along with the copy of the enquiry report and he was also given personal hearing by the Disciplinary Authority.

(ii) That apart from this, the Hon'ble Supreme Court in *Union Bank of India v. Vishwa Mohan* (14), has held that even non-supply of the copy of the enquiry report before imposition of penalty by the Disciplinary Authority does not cause any prejudice and it also does not vitiate the enquiry. However, in the present case, the copy of enquiry report of the Enquiry Officer was already supplied to the petitioner before passing the impugned order Annex. 1 dated 8.8.1995.

Thus, since before passing the impugned order Annex. 1 dated 8.8.1995, the petitioner was given a show cause notice Annex. 21 and he was also given a copy of the enquiry report Annex. 20 and he was also heard by the Disciplinary Authority, therefore whatsoever has been caused to the petitioner and he was given notice as well as personal hearing by the Disciplinary Authority before recording contrary findings in respect of charges No. 1,5,6, and 7.

29. Thus, the argument No. 2 also fails and stands rejected and the law laid down in the case of *Junj Behari Misra* (supra) would not be helpful to the present petitioner.

30. Apart from this, even the point No. 2 is not found mention in the memo of appeal Annex. 23 and this point was not raised before the Appellate Authority when the impugned order Annex. 2 was delivered by the Appellate Authority and it appears that this argument has been taken for the first time before this court and from this point of view also, the argument No. 2 carries no weight and stands rejected.

Point No. 3

31. So far as the case of the learned counsel for the petitioner that defence evidence of the petitioner was not discussed by the Disciplinary Authority in its order dated 8.8.1995 (Annex. 1) and furthermore, the petitioner was not stated here that in departmental enquiry, it is the duty of the parties to produce

witnesses and one defence witness was examined and, therefore, to say that no opportunity was given to the petitioner to produce defence evidence, cannot be accepted.

32. Apart from this, a perusal of the order dated 8.8.1995 (Annex.1) passed by the Disciplinary Authority clearly goes to show that the Disciplinary Authority has considered and discussed each and every charge in detail and after careful consideration of entire evidence and material available on record, the Disciplinary Authority recorded the findings to the effect that the petitioner committed serious irregularities in closing the accounts of loanees; he violated the bank instructions and he harassed the loaness; he did not give correct informations to the loanees and gave wrong information in respect of amount already deposited and balance; he took the money from the loanees, but did not deposit that money in the bank and kept with him unauthorisedly, he also accepted bribe money from the loaness for closing their accounts; he did not watch the interest of the Bank and thus; he violated the instructions issued by the Bank and thus, he violated the instructions issued by the Bank through various circulars and also violated the Regulations 17 and 19 of the Regulations of 1980. These findings of the Disciplinary Authority are based on correct appreciation of evidence and material available on record and they cannot be said to be perverse, erroneous or based on no material. The Disciplinary Authority has assigned cogent reasons in coming to the conclusion that all the charges levelled against the petitioner have been proved. The conclusion arrived at by the Disciplinary Authority cannot be said to be erroneous, perverse, arbitrary or capricious. It also cannot be said that the decision of the Disciplinary Authority is vitiated by the considerations extraneous to the evidence and merits of the case.

33. Furthermore, a perusal of the appellate order Annex. 2 dated 28.12.1995 also reveals that the Appellate Authority has also examined each and every aspect of the matter and after considering the entire evidence and material available on record in detail, the Appellate Authority affirmed the findings of guilt recorded by the Disciplinary Authority. Thus, the appellate order Annex. 2 also cannot be said to be erroneous, perverse and arbitrary. Apart from this valid reasons have been assigned by the Appellate Authority while rejecting the appeal of the petitioner through appellate order Annex. 2 dated 28.12.1995.

34. Apart from this, since in the present case, a preliminary enquiry was got conducted on the alleged complaint (Annex.3) and thereafter, a regular enquiry was got conducted against the petitioner and thereafter, the report of the Enquiry Officer was considered by the Disciplinary Authority and after considering the report of the Enquiry Officer and after hearing the petitioner and after careful scrutiny of the evidence and material available on record, the Disciplinary Authority recorded the findings of guilt against the petitioner and imposed the penult of removal from service and the findings of the Disciplinary Authority were further scrutinized and examined by the Appellate Authority were further scrutinized and examined by the Appellate Authority and in this view of the

matter, it can easily be concluded that in the present case, the enquiry against the petitioner was conducted properly and fairly and the findings of the Disciplinary Authority holding the petitioner guilty of the charges levelled against him are based on correct appreciation of evidence available on record and thus, in these circumstances, the question of adequacy and reliability of evidence cannot be canvassed before this Court under Article 226 of the Constitution of India.

35. Thus, the arguments No. 3 also fail and stands rejected.

36. Hence, no interference is called for with the findings of guilt recorded by the Disciplinary Authority through impugned order Annex. 1 dated 8.8. 1995 and affirmed by the Appellate Authority through appellate order Annex. 2 dated 28.12.1995, in exercise of power under Article 226 of the constitution of India, as they are based on correct appreciation of evidence and material available on record and there is no error of law or procedural error leading to manifest injustice or violation of principles of natural justice.

Point No. 4

37. On point No. 4, the case of the learned counsel for the petitioner is that the punishment of removal from service awarded to the petitioner is irrational and excess, looking to the charges found proved against the petitioner.

38. to appreciate the above contention, first the law laid down by the Hon''ble Supreme Court from time to time in this respect may be seen.

39. The Hon''ble Supreme Court in *Indian Oil Corporation Ltd. v. Ashok Kumar Arora* (15), while considering the question as to whether the High Courts could in exercise of their powers of judicial review interfere with the punishment imposed by a disciplinary authority pointed out :-

"At the outset, it needs to be mentioned that the High Court in such cases of departmental enquiries and the findings recorded therein does not exercise the powers of appellate court/Authority. The jurisdiction of the High Court in such cases is very limited for instance where it is found that the domestic enquiry is vitiated because of non-observance of principles of natural justice, denial of reasonable opportunity, findings are based on no evidence and or the punishment is totally disproportionate to the proved misconduct of an employee."

40. In *State of Punjab v. Surjit Singh Conductor* (16), the Hon''ble Supreme Court held that imposition of punishment is within the power and discretion of the authority and Civil Courts have no jurisdiction to substitute the punishment imposed by such authority.

41. In the case of *Narain Singh* (supra), the Hon''ble Supreme Court observed that it is within the jurisdiction of the competent authority to decide what punishment is to be imposed and the question of punishment is outside the purview of the High Court's interference unless it is disproportionate to the

proved misconduct as to shock the conscience of the Court.

42. Thus, it can be concluded that the jurisdiction of the High Court under Article 226 of the Constitution of India for interference with the quantum of punishment awarded to employees in the departmental enquiry is very limited and interference can be made with the punishment if it is disproportionate to the proved misconduct as to shock the conscience of the Court or where the enquiry is vitiated because of non-observance of principles of natural justice or if the findings are based on no evidence.

43. In the present case, the petitioner was Bank employee and he was awarded punishment of removal from service on the basis of charged found proved against him including the charge of bribe.

44. It may be stated here that in the banking business absolute devotion, diligence, integrity and honesty needs to be preserved by every bank employee. The charges found proved against the petitioner are of serious nature as he demanded bribe from the loanees for closing their accounts and he took the money from the loanees, but did not deposit the same with the Bank and kept with him unauthorisedly and he did not watch the interest of the bank and he did not give correct information to the loanees and harasses the loanees by giving wrong information.

45. Thus, looking to the above legal principle in mind and looking to the entire facts and circumstances of the case and looking to the nature of charges found proved against the petitioner and looking to the facts that the petitioner committed misconduct in the discharge of official duty as Bank employee and that he demanded bribe from the loanees and he failed to maintain integrity and did not watch the interest of the Bank and looking to the fact that enquiry against the petitioner was conducted properly and fairly, therefore, in these circumstances, the punishment of removal from service awarded to the petitioner cannot be regarded as disproportionate to the proved charges as to shock the conscience of the Court.

46. For the reasons stated above, there is no merit in this writ petition and the same is liable to be dismissed.

Accordingly, the writ petition filed by the petitioner is dismissed. No order as to costs.