
(2005) 02 GAU CK 0034
In the Gauhati High Court
Case No : Writ Petition (C) No. 83 of 2002

Rehan Ahmed Laskar

APPELLANT

Vs

State Bank of India and Others

RESPONDENT

Date of Decision : 16-02-2005

Acts Referred:

Constitution of India, 1950 — Article 21
Evidence Act, 1872 — Section 123, 162
State Bank of India (Officers Service) Rules, 1992 — Rule 50, 50(4), 67, 68(2)
State Bank of India Act, 1955 — Section 43(1)
State Bank of India Employees Pension Fund Rules, 1955 — Rule 14

Citation : (2005) 2 GLT 309 : (2005) 3 LLJ 193

Hon'ble Judges : Amitava Roy, J

Bench : Single Bench

Advocate : K.N. Choudhury and S. Shyam, for the Appellant; A.K. Phukan, S.S. Sharma and R.K. Bhatra, for the Respondent

Final Decision : Allowed

Judgement

Amitava Roy, J.—The petitioner assails the penalty of his dismissal from service and the decision of the appellate authority confirming the same and seeks an appropriate writ and/or direction to the respondent authorities to release all consequential service benefits to him. The petitioner, who was scheduled to retire with effect from March 31, 1998, following the disciplinary proceeding under challenge stands dismissed with effect from that date.

2. I have heard Mr. K. N. Choudhury, senior advocate assisted by Mr. S. Shyam, advocate for the petitioner and Mr. A.K. Phukan, senior advocate assisted by Mr. S.S. Sharma, senior advocate and Mr. R.K. Bhatra, advocate for the respondent Bank.

3. To better comprehend the rival" contentions, the pleaded facts have to be taken note of. The petitioner who had joined the service of the State Bank of India (hereinafter referred to as the "Bank") in the early sixties was posted as

General Manager (Operations), ? North Eastern Circle of the Bank with its local Head Office at Guwahati in December, 1995. Following the third organizational restructuring of the Bank, the post of General Manager (Operations) was abolished and was re-designated as General Manager (Commercial Banking). The petitioner's post was accordingly designated as such with geographical jurisdiction over the States of Assam and Arunachal Pradesh with effect from February 1, 1996. As the General Manager (Commercial Banking), the petitioner also became a member of the Circle Credit Committee (hereinafter referred to as the "Committee") of the Bank which comprised of the following members :

(1) Chief General Manager- Chairman of the committee (2) General Manager (Development and Personal Banking) - Member (3) General Manager (Commercial Banking) - Member (4) Circle Credit Officer (in the rank of Deputy General Manager) - Member

4. As per the prevailing guidelines of the Bank all loans and other financial proposals for the amount of Rs. 2 crores and above upto Rs. 5 crores were to be entertained at the level of General Manager (Commercial Banking), while others above Rs. 5 crores upto 7.5 crores were to be dealt with by the Committee.

5. In terms of the procedure adopted, a loan proposal of above Rs. 2 crores was required to be initiated at the Branch level of the bank on receiving such proposal from a customer and was to be sent to the Assistant General Manager (Commercial Banking) with necessary recommendations. The Assistant General Manager (Commercial Banking) was to process the same by way of additional appraisal and thereafter forward the same along with his additional appraisal to the Committee in case the proposal was beyond Rs. 5 crores. In case the proposal was below Rs. 5 crores, the same was to be placed before the General Manager (Commercial Banking) for disposal. The proposal forwarded to the Committee was to be first submitted before the Circle Credit Officer who in turn was to place it before the Committee and any decision thereof on the proposal was to be on the basis of unanimous approval of all the members of the Committee. After the approval, the matter was to be transmitted to the Assistant General Manager (Commercial Banking) routed through the Circle Credit Officer being accompanied by the minutes of the committee. The Committee was also required to forward a copy of its minutes to the Central Office of the Bank at Mumbai. The Assistant General Manager (Commercial Banking) on receiving the approval/sanction of the Committee was to prepare the sanction letter addressed to the Deputy General Manager (Zonal office) for conveying the sanction to the branch concerned. On the basis of the sanction, the branch from which the proposal originated was to act accordingly. The control reports in respect of each sanction of loan by the Committee was to be prepared in the form of Memorandum for the Committee of the local Board headed by the Bank Chairman to be submitted by the Assistant General Manager (Commercial Banking). The control report was required to be signed by the Chief General Manager, General Manager (Commercial Banking) and the General Manager (D &

PR).

6. In case of a proposal above Rs. 2 crores but upto Rs. 5 crores, the Assistant General Manager (Commercial Banking) was to process it on receiving it from the branch and forward it to the General Manager (Commercial Banking) along with his own appraisal report. On the proposal being sanctioned by the General Manager (Commercial Banking) he was required to submit a detailed report to that effect to the Chief General Manager and simultaneously forward the same to the Assistant General Manager (Commercial Banking) to prepare the sanction letter addressed to the General Manager (Zonal Office) with an intimation to the branch concerned.

7. The petitioner was to retire on March 31, 1998 on attaining the age of superannuation. On the eve of his retirement on March 23, 1998 he was served with a show cause notice dated March 21, 1998 asking him to submit his reply in terms of Rule 68(2)(iii) of the State Bank of India Officers' Service Rules (hereinafter referred to as the "Rules") against the charge as set out in the Articles of Charges based on the statement of imputations of misconduct accompanying the notice. The petitioner was apprised thereby that a proceeding under the Rules was proposed to be held in respect of the irregularities committed by him as reflected in the charges and the statement of imputations of misconduct during his posting as General Manager (Commercial Banking) at Guwahati Local Head office.

8. On receipt of the show cause notice, the petitioner on March 25, 1998 made a written request to the disciplinary authority for furnishing him the following three documents for submitting his written statement in defence.

(1) A copy of the investigation report submitted by Shri P.N. Bhat, General Manager in respect of complaint against him (petitioner) in the early 1997;

(2) A copy of the investigation report submitted by Shri A.W. Siddiqui, General Manager in early 1998 in respect of complaint/allegations against the petitioner; and

(3) A copy of the handwritten letter with enclosures of Shri D.P. Srivastava, erstwhile Chief General Manager of the Bank which was sent to the Central Office at the time of his retirement allegedly involving the petitioner.

9. The disciplinary authority declined the request by its communication dated April 3, 1998 holding the same to be "not justified". At or about the same time, the petitioner received an order dated March 23, 1998 passed by the disciplinary authority whereby in view of the proceeding, he was ordered to be treated to be continuing in service even after March 31, 1998 in terms of Rule 19(3) of the Rules. According to the petitioner, the power under the above provision of the Rules was exercised mala fide only to harass him for no fault of his. It has been further contended that the three documents sought for by him were vital for preparing his defence inasmuch as those were reports submitted by the different

inquiring authorities on the transactions on which the charges and the statement of imputation were framed against him. According to him, in atleast two of such reports the petitioner was absolved of the indictment of personal complicity, negligence of duties or misconduct of any kind.

10. It has been pleaded that prior to the notice containing the charges, the Chief General Manager (North Eastern Region) had by letter dated February 27, 1998 called for an explanation from the petitioner in respect of the same allegations as embodied in the statement of imputations of misconduct. The petitioner having already replied to the said allegations, he submitted his written statement of defence on March 31, 1998 denying the charges and/or allegations and also enclosed the copy of his earlier reply in support of his stand. While denying the allegations, the petitioner maintained that his action had been in tune with the bank's policies and practices with a view to maximize its business and profits.

11. After the appointment of the Inquiring Authority and the Presenting officer, for the Bank, the petitioner submitted a list of documents for inspection for preparing his defence and presenting his case in the inquiry. The list included the aforementioned three documents earlier refused. Though he was allowed to inspect and was supplied with copies of some other documents, by letter dated August 10, 1998, the inspection of the above three documents was denied claiming those to be privileged. The inquiry proceeded thereafter in which the petitioner was assisted by his defence representative. Both sides adduced evidence, oral and documentary. Though the petitioner did not examine himself in support of his stand, he was generally questioned by the Inquiring Authority.

12. On completion of the inquiry, the Inquiry Authority submitted his report on January 21, 1999 holding that the Imputation Nos. I and VIII were not proved, Imputation No. V was partly proved and Imputation Nos. II, III, IV, VI and VII were proved. The Inquiring Authority on an over all consideration returned a finding that the charge was partly proved. The disciplinary authority by a communication dated April 9, 1999 informed the petitioner that while concurring with the finding of the Inquiring Authority qua, the Imputation Nos. II, III, IV, VI and VII was further of the opinion that the Imputation Nos. I and VIII have also been proved and that the charge as a whole stands proved. The petitioner was granted the liberty to submit a reply in the matter if desired. A copy of the inquiry report was also forwarded to him.

13. The petitioner accordingly submitted his reply on May 29, 1999 whereafter by the impugned communication dated February 23, 2000 the penalty of dismissal from service with effect from March 31, 1998 was inflicted on the petitioner in terms of (sic) Rule 67(j) of the Rules. The petitioner being aggrieved preferred an appeal before the Central Board of Directors, the organizational Appellate Authority which also was rejected, the decision being communicated by letter dated November 6, 2001. Following such dismissal, the petitioner's pensionary benefits have also been withheld. The part of the Provident Fund dues from of his contribution in his Provident Fund Account along with interest thereon

has also not been released. This is the petitioner's version.

14. The Bank's response is that the disciplinary proceeding was called for considering the nature of lapses on the part of the petitioner and that the penalty of dismissal was rightly imposed having regard to the proved charges. It has maintained that the petitioner was afforded all opportunities in course of the proceeding and following his dismissal, was disentitled to receive any pensionary benefit as well as Bank's contribution of Provident Fund. While supporting the action taken under Rule 19(3) of the Rules in treating the petitioner to be continuing in service for the purpose of the proceeding, it has been contended that access to the three documents was denied as those were treated as privileged documents of the Bank. According to it, those documents were not referred to in either of the show cause notices dated February 27, 1998 and March 21, 1998. The contention that the petitioner had earlier been absolved of personal complicity, negligence of duty or misconduct qua the same allegations has been denied. The plea of prejudice for not being supplied with the above mentioned three documents has also been refuted.

15. The Bank maintained that the disciplinary authority rightly concurred with the findings of the Inquiring authority on Imputation Nos. II, III, IV, VI and VII as proved and Imputation No. V as partly proved and further correctly concluded that the Imputation Nos. I and VIII were also established. As the conduct of the petitioner, considering the charges proved against him was in violation of the Rule 50(4) of the Rules, the Bank asserted that the decision of the disciplinary authority to impose the penalty of dismissal consequent upon an analytical analysis of the evidence on record was unassailable. It justified, the penalty contending that considering the gravity of the lapses on the part of the petitioner for which the Bank was exposed to huge financial loss, the same was justifiably called for. While denying that the petitioner's contribution to the Provident Fund has been withheld, the Bank pleaded that as a result of the penalty of dismissal, the petitioner became disentitled to pension, gratuity, leave encashment, travel expenses. Bank's share of Provident Fund contribution, etc.

16. Mr. Choudhury has argued that the charge levelled against the petitioner being vague and indeterminate, it contravened the mandate of Rule 68(2)(iii) of the Rules and therefore, the initiation of the impugned proceeding being per se illegal, the impugned order of penalty and the confirmation thereof are liable to be declared non est in law. He urged that as the acts enumerated in the statement of imputations do not constitute a misconduct in terms of Rule 50(4), the impugned proceeding was wholly misconceived. According to him, as the decision to sanction financial accommodation to the Group of Companies involved was unanimously taken by the committee of which he was only a member with no exclusive role, the charge of misconduct was untenable. As interplay of funds was not prohibited as held by the Inquiring authority and accepted by the disciplinary authority, the learned senior counsel argued, that the very basis of the imputations levelled against the petitioner ceased to exist. He maintained in

the alternative that having regard to the procedure prescribed and adopted for sanctioning the financial limits and bearing in mind the varying aspects of the financial transactions involved, there might at best have been an error of judgment on the part of the petitioner or a bona fide mistake or negligence in taking decisions which in any view of the matter did not amount to misconduct. Mr. Choudhury was particularly critical about the Bank's refusal to supply three documents sought for by the petitioner as well as to permit inspection thereof on the purported ground that the same were privileged. Contending that those documents were relevant to establish that the petitioner was innocent of the charge levelled against him, it was contended that such an arbitrary refusal amounted to denial of procedural safeguards in the proceeding rendering it unsustainable in law and on facts. Mr. Choudhury asserted that the aforementioned documents being reports on the same allegations submitted in a preliminary enquiry, those were of vital importance for the petitioner's defence and it was immaterial as to whether the same were relied upon or not by the disciplinary authority in support of the charge in view of Rule 68(2)(ix)(b) of the Rules. Moreover, as the documents prayed for did not satisfy the description of a privileged document, in absence of an affidavit by the Head of the Organizational set up of the Bank, the plea of privilege was not entertainable. The learned senior counsel dismissed the findings of the Enquiry Officer with regard to the Imputation Nos. II, III, IV, VI and VII and also to the extent that the Imputation No. V had been partly proved to be perverse in absence of supporting materials on record. Referring to the related discussion in the inquiry report, Mr. Choudhury argued that the conclusion in support thereof conjectural and speculative and therefore no determinations in the eye of law. He maintained that the decision of the disciplinary authority that Imputation Nos. I and VIII were also proved, disagreeing that the Inquiry Authority was also patently illegal inasmuch as no prior opportunity of hearing was afforded to the petitioner in the matter. There was no objective consideration of the materials on record by the disciplinary authority, he argued.

17. According to him, the penalty of dismissal besides being grossly disproportionate was otherwise unsustainable as well, inasmuch as there is no indication in the impugned order of penalty as to what had weighed with the disciplinary authority in selecting the same. The learned senior counsel also alleged discrimination contending that though the petitioner was only a member of the Committee and the decisions were taken for granting the financial limits following unanimous approval of all the members thereof, the petitioner had been picked up for dismissal, while others were let off either with impunity or with flea bite punishments. There being no charge of wilful negligence or fraud, it was submitted referring to Rule 14 of the State Bank of India Employees Pension Rules (hereinafter referred to as the "Pension Rules") that the action of the respondent Bank in freezing the petitioner's pensionary and other benefits following the penalty of dismissal was wholly arbitrary and without any authority of law. The impugned action as a whole was impeached as being vitiated by

malice in law and as well as in facts. Following decisions were relied upon:

- 1) The State of Punjab Vs. Sodhi Sukhdev Singh,
- 2) The State of U.P. Vs. Raj Narain and Others,
- 3) Smt. S.R. Venkataraman Vs. Union of India (UOI) and Another,
- 4) Union of India (UOI) and Others Vs. J. Ahmed,
- 5) Union of India (UOI) and Others Vs. J. Ahmed,
- 6) Ram Kishan Vs. Union of India and others,
- 7) Punjab National Bank and Others Vs. Sh. Kunj Behari Misra, ;

18. As against this, Mr. Phukan has assertively argued that the impugned action was justifiably called for considering the nature of the charge levelled and proved against the petitioner. He refuted the allegation of transgression of procedural safeguards and while contending that the claim of privilege vis-a-vis the three documents was justified, asserted that refusal of access thereto did not in any manner prejudicially affect him, the same being not referred to or relied upon by the disciplinary authority in proving the charge. He maintained that the findings of the Inquiry authority vis-a-vis the Imputation Nos. II, III, IV, VI and VII were on a correct appreciation of the materials on record. According to him, the findings of the disciplinary authority that the Imputation Nos. I and VIII were also proved cannot be faulted with being supported by the evidence in the proceeding and the conclusion of the disciplinary authority being backed by reasons, this Court would not interfere therewith in exercise of its power of judicial review, more particularly the present being not a case of "no evidence" in support of the charge.

19. While admitting that in the matter of sanctioning the financial limits some relaxation within the prescribed guidelines is allowable, Mr. Phukan pleaded that the conduct of the petitioner in the facts and circumstances of the case being in breach of the permissible parameters pertaining to conduct of a Bank official, the impugned disciplinary action was unavoidably called for. He asserted that as at the relevant time, the petitioner was the General Manager (Commercial Banking), his role as a member of the Committee was undoubtedly more significant, responsible and decisive vis-a-vis the others and therefore, the disciplinary authority was perfectly justified in imposing the penalty of dismissal following its satisfaction that the charge against him had been proved. Mr. Phukan contended that the petitioner under the Rules was not entitled to pensionary and other service benefits consequent upon his dismissal from service and that therefore he had no valid ground to complain against the same. On the aspect of proportionality, the learned senior counsel though supported the impugned action, pleaded that in case the same was found to be shockingly disproportionate by this Court, the issue was still to be left to the disciplinary authority for a final decision.

20. I have extended my anxious consideration to the rival submissions. It would be appropriate, in view of the multiple limbs of the competing arguments, to deal with the same in seriatim.

21. The charge levelled against the petitioner is as follows:

"Shri M.R.A. Laskar, TEGS-VII, General Manager while posted as General Manager (Commercial Banking), Guwahati LHO, failed to discharge his duties with utmost devotion and diligence and acted in a manner unbecoming of a Bank official and highly prejudicial to the Bank's interests in violation of Rule 50(4) of State Bank of India Officers Service Rules as per his acts detailed in the enclosed Statement of Imputations of Misconduct."

22. A bare perusal thereof, would indicate that the accompanying imputations of misconduct enumerating his alleged culpable acts form an integral part of the charge. Reference of the Statement of Imputations of Misconduct in view of the manner in which the charge has been structured being unavoidable, the same is set out hereinbelow:

"During his tenure as General Manager (commercial Banking) at Guwahati Local Head Office, Shri M.R.A. Laskar, TEGS-VII is alleged to have committed the following lapses in the sanction and conduct of advances of Kothari Group of Units.

Charge-I:

He sanctioned a proposal for purchase of a documentary export bill for U.S. dollars 12,21,925 (equivalent of Indian Rs. 4.36 crores approximately) for export on behalf of D.S. Kothari Pvt. Ltd. against sale of 6605 MT of wheat to Gloland (Far East) Pvt. Ltd. Singapore, despite several adverse features, viz. strained liquidity, inter play of funds between the sister concerns and several infirmities in the export bill pointed out by the Dy. General Manager of Guwahati Module and his negative recommendations. The export bill in question suffered from the following infirmities.

- a) The bill was not drawn under any letter of credit opened by a bank of repute.
- b) There was no written agreement for purchase of shipment between Kothari Polymers Ltd. and D.S. Kothari Pvt. Ltd.
- c) There was no documentary evidence to show that the bill of Lading covering the shipment had been endorsed in favour of DSKPL duly supported by a letter in this regard.
- d) The opinion report on the overseas importers obtained from Bank of India, Singapore, revealed that one Shri Bimal Singh Kothari was a Director of Gloland (Far East) Pvt. Ltd., Singapore. It was not ascertained whether the overseas importers were sister concern of Kothari Group of Companies. The adverse feedback provided by the Dy. General Manager of the Module concerned should have been taken serious note of and he should have been more circumspect in

dealing with the Group's accounts. As suggested by the Dy. General Manager and in terms of the extant instructions, a detailed review of the group accounts based on the audited balance sheets as on March 31, 1996 and of the previous 2/3 years should have been undertaken to take a holistic view of the group financial position. Instead, the matter of sanction for purchase (as a one time facility) of a documentary export bill for US \$12,21,925/- which fell within his discretionary power, was included as an item in the agenda in order to seek the Circle Credit Committee's views regarding the acceptability of the proposal and placed in the Circle Credit Committee meeting. This was irregular in terms of envisaged role design of the Circle Credit Committee; this was done presumably with a view to solving the company's liquidity problem and to accommodate the Kothari Group on the one hand and at the same time circumventing the exercise of discretionary power in view of the risks involved. Two import bills for U.S.S 10,94,115/-, and U.S.\$ 4,98,830.00 drawn under import letters of credit opened in favour of Kothari Group of companies were falling due on August 27, 1996 and September 2, 1996 respectively under extended maturity period. The most pressing reason that weighted with him for purchasing the export bill in question, was to help the Kothari Group to meet its impending import liability. Thus, instead of evaluating the credit risk based on the merits of transactions in a realistic way, Shri Laskar through the medium of Circle Credit Committee had relegated to himself the role of a facilitator for interplay of funds among Kothari Group of Companies, as brought out by the Inspection Report of the Reserve Bank of India also.

Charge-II:

The Group companies/firms were sanctioned identical limits disproportionate to their needs i.e. Rs. 15 crores each (fund-based-Rs. 7.50 crores + non-fund based-Rs. 7.50 crores) for the four companies (viz. Kothari Vegetable Products Ltd., Sampat Industrial & Construction Co. Ltd., D. S. Kothari and Mohalchand Motilal Kothari (P) Ltd.) and Rs. 2 crores (non fund based) to the four firms (viz. Gauhati Trading Co., Nauratanmal Nirmal Kumar, Mahal Chand Motilal Kothari and Kothan Trading Co.) irrespective of their operational levels. It is observed that in 1996-97 when the limits of all the companies were enhanced to the present level i.e. Rs. 15 crores each, the sale performance in 1995-96 of the four companies were as under:

Kothari Vegetable Product Ltd. Rs. 23.34 crores Sampat Industrial & Construction Co. Ltd. Rs. 13.21 crores D.S. Kothari (P) Ltd. Rs. 4.44 crores Mohalchand Motilal Established in Kothari (P) Ltd. February 1997, has sales turnover of 6.71 crores in 1996-97 as against a projection of Rs. 54.55 crores.

Being fully conversant with the operation of Kothari Group and accepting the credit risk in the capacity of G.M. (C.B.) representing the commercial network in the Circle Credit Committee sanctioning of identical limits of Rs. 7.50 crores which is the maximum discretionary power of the Circle Credit Committee/Local Board to all the units of the group is a definite indication of an effort on his part

to circumvent a reference to Central Office and in the process to submit the delegated financial structure.

Charge-III:

Even while L/Cs were devolving, bills were being crystallized and cheques had bounced in a big way in 1995-96, enhancements/new limits were freely sanctioned with undue haste. The reasons/causes of such a situation were not probed deeper before accepting credit risks. Also, further obligations on account of import L/Cs issued were not critically examined to ascertain the sources from which these obligations will be met. It may be stated that 87 bills (or 58% of the total bills drawn under a total number of 148 L/Cs) are definite signs/warning signals of sickness. Under such circumstances, he should have adopted a more cautious approach and avoided taking obligations of usance L/C, as excess liquidity during usance period leads to diversion of funds through intra-group transactions, which is what actually happened in the Kothari Group concerns.

Despite Central Office warnings contained vide their letters No. IFD/IV/RS/14268 dated September 25, 1996 and IFD/IV/RS/1 3798 dated September 24, 1996 that since Kothari Group accounts were perpetually/recurrently irregular and company's working results were under decline with D/E ratio totally out of gear, utmost care needed to be exercised and there was a need to review the relationship with them and to evaluate the risk more realistically. Central Office had also circulated the instructions vide their letter No. IFD/INA/160 dated September 21, 1996 and cautioned that development of L/Cs was one of the earliest warning signals for sickness of a unit and due safeguards needed to be taken, like building of corpus of funds, obtaining higher margin. This was not ensured.

In the case of Kothari Vegetable Products Ltd. (Guwahati Branch) export credit limits appraised by the Credit Appraisal Cell functioning under him were recommended to be increased from Rs. 750.00 lakhs to Rs. 1750.00 lakhs in March, 1997, by the Circle Credit Committee inspite of strained liquidity position of the borrower with low current ratio at 1.00:1, 0.90:1 and 8.53:1 as on March 31, 1994, March 31, 1995 and March 31, 1996 respectively. The net profit at Rs. 2.37 lakhs, Rs. 0.66 lakh and Rs. 1.38 lakhs for the years ending March 31, 1994, March 31, 1995 and March 31, 1996 was extremely low and not commensurate with the size of business activity of the borrower. As per the provisional balance sheet as on February 28, 1997, the Maximum Permissible Bank Finance worked out to be Rs. 347.25 lakhs, less than half of the existing credit limits. In order to avail excessive finance, current assets were inflated by projecting the Sundry Debtors at Rs. 1748.27 lakhs as on March 31, 1997 which were accepted without analyzing reasons therefore, whereas the same was Rs. 86.11 lakhs as on February 28, 1997. The fact of large scale development of L/Cs and the borrowers inability to honour the same were not properly analysed. The proposal, which suffered from several infirmities in terms of various stipulations for advance and weak financials, was therefore, rejected by Central office.

In the meantime, a fresh EPC limit of Rs. 7.5 crores and L/C limit of Rs. 7.5 crores to Mohalchand Motilal Kothari (P) Ltd. and EPC limit of Rs. 7.5 crores to DSKPL was granted on April 5, 1997 to accommodate Kothari Group.

Charge-IV:

Even though the Credit Appraisal Cell which made re-assessment of credit needs is working under his administrative control, it was not ensured that, while sanctioning non-fund based limits, overall assessment of working capital was made. Resultantly, excessive limits were sanctioned to the Group Companies, allowing opportunity for diversion of Bank's funds.

Charge-V:

It was not ensured by him that the proposals were appraised in a comprehensive manner so that the credit needs were commensurate with the scale of operations. The projected figures given by the Group Companies were generally 3/4 times higher than the actuals. Similarly critical/comparative analysis of financial data such as sales, equity, profit and ratios were not made. Also, the concerns' financial health, which was weak in terms of stipulated bench mark of current Ratio of 1.33, and TOL/TNW Ratio of 3:1 was not gone into deeply so as to ascertain the actual health of concerns before sanctioning loans under his discretionary powers or getting it approved by the Circle Credit Committee, of which he is a member, (representing Commercial Network, Guwahati Branch being an important constituent thereof). As the adverse features reflecting on the weak financial health and non-adherence of financial discipline as brought out by Central Office and RBI Inspection Report were fully known to him, he should have been much more circumspect while handling the credit proposals of the Group in the capacity of a member representing commercial Network.

For instance, in the case of Sampat Industrial & Constructions Co. Ltd. (Guwahati branch), the Circle Credit Committee sanctioned fund based limit of Rs. 750.00 lakhs and increased the non-fund based limit from Rs. 600.00 lakhs to Rs. 750.00 lakhs in October 1996 without abstention of projected financial data for the year 1996-97 and in spite of the fact that the Debt Equity Ratio increased from 1.53: 1 as on March 31, 1995 to 7.45:1 as on March 31, 1996. The fact that there were large scale development of bills under Letters of Credit (L/Cs) was ignored. The sanctioning of credit limits appeared to be unjustified as on March 31, 1996 (date of balance sheet), as against the total quantum of stock at Rs. 881.66 lakhs and Sundry Debtors of Rs. 14.36 lakhs, Sundry Creditors stood at Rs. 700.19 lakhs which along with stipulated margin was sufficient to finance the exiting level of the stock as against the credit availment of Rs. 553.66 lakhs as on the date of balance sheet. The loans and advances to group companies amounted to Rs. 471.72 lakh, notable amongst them being Mahal Chand Motilal Kothari & Company (Rs. 184.25 lakhs), Mohalchand Motilal Kothari (Rs. 112.85 lakhs), Guwahati Trading Company (Rs. 5.67 lakhs), Nauratanmal Nirmal Kumar (Rs. 17.98 lakhs), and Kothari Trading Company (Rs. 2.86 lakhs). This clearly

indicates that the Bank's funds were being utilized for interplay of funds within the group concerns resulting in diversion of Bank finance.

Similarly, the credit limits in the case of D.S. Kothari Private Limited (Guwahati Branch) were renewed by the Circle Credit Committee at the existing level of Rs. 436.00 lakhs and L/C limit was increased from Rs. 200.00 lakhs to Rs. 750.00 lakhs in spite of low Current Ratio of 0.62: 1, 0.51:1 and 0.51:1 and high Debt Equity ratio at 7.34:1, 8.27:1 and 7.85:1 as on March 31, 1994, March 31, 1995 and March 31, 1996 respectively. The profitability was extremely low at Rs. 0.88 lakh, Rs. 0.15 lakh and Rs. 0.95 lakh during the period 1993-94, 1994-95 and 1995-96 respectively. Necessary measures to induct long term resources in view of the adverse parameters were not taken and the low equity base at Rs. 28.96 lakhs had not been raised by Rs. 125.00 lakhs, in terms of the stipulation of the sanction. The projected sales of Rs. 4455.00 lakhs for the year 1996-97 was inconsistent with the actual sales of Rs. 320.41 lakhs, Rs. 50.29 lakhs and Rs. 444.12 lakhs for the years ending March 31, 1994, March 31, 1995 and March 31, 1996 respectively. The borrower's capacity to honour the bills under L/Cs was not assessed at the time of enhancement of L/C limit and there was large scale development of L/Cs in the accounts of the borrower and its five associate concerns.

Charge- VI:

It was ensured that review/renewal was done for all the concerns on a particular date on the basis of audited balance sheets so as to get/analyse the overall position of the Group, e. g. total stake of the Group, our Bank's exposure to the Group, other financial institutions exposure to the Group, etc. Appraisals were lacking in details of the exposure to the Group from the banking system, so necessary in a multi-concern group. In such a situation not only the date ratios were distorted, the Bank has been saddled with debtors/creditors, which are almost 100% among the group concern. Had the appraisals been done properly, frequent and heavy inter-corporate borrowing/lendings and diversion of funds which were restored to freely by the Group concerns could have been restrained. Although he was made aware of this situation by the RBI Inspection Report, he never adopted effective measures to put a stop to such transactions.

Limits to four firms (viz. Gauhati Trading Co., Nauratanmal Nirmal Kumar, Mahal Chand Motilal Kothari and Kothari Trading Co.) were last renewed in 1990 and since then these have been allowed to be utilized without renewal/review. In the case of Mohalchand Motilal Kothari Pvt. Ltd. when review proposal was put up in 1996, it was returned by him on the plea that the business of these firms was being taken over by a new company. The outstandings of the four firms were allowed to continue despite clear understanding with the Kothari Group that these would be liquidated as soon as the new company was incorporated. In this connection, it is pertinent to mention that other accounts were renewed/enhanced 2/3 times a year as and when the concerns required any facility other than the existing ones.

In the case of Mohalchand Motilal Kothari (P) Ltd. in the proposal from the Branch for sanction of EPC (sic) limit of Rs. 7.5 crores and L/C limit of Rs. 7.5 crores, only L/C limit was approved. EPC (sic) limit was declined on the grounds that (i) it was a new company, (ii) capital not raised, (iii) huge existing exposure to the group, (iv) firms accounts as agreed upon earlier not taken over, (v) movements/storage of stocks not advised, (vi) no opinion report on the importers and (vii) no additional security offered.

Branch again recommended within a few days for the sanction of the EPC limit and he got the proposal cleared through the Circle Credit Committee, subject to giving securities worth Rs. 2.5 crores, obtention of opinion report on importers, obtaining higher margin etc. All the above conditions were removed/amended, despite Central Office instructions to exercise utmost care in handling the group accounts, to suit the Company at their request within a space of 40 days by means of two notes dated May 5, and May 24, 1997. This was obviously done to accommodate the borrowers.

Charge VIII:

Due to above acts on the part of Shri Laskar, the Bank has been exposed to a risk of vast magnitude and the Bank is likely to suffer substantial loss."

23. Rule 19(3) permits continuation of an officer of the bank in service for the purpose of a disciplinary proceeding initiated against him before he ceases to be so. Though the proceeding in the instant case was initiated just one week before the date of his superannuation, the materials available on record are not considered sufficient to constitute a factual foundation to hold that the action taken under the aforementioned provision of the Rules was either mala fide or prompted by extraneous considerations.

24. As the acts detailed in the Statement of Imputations of Misconduct forming the substratum of the charges taken in their face value prima facie constitute a conduct opposed to the behaviouristic prescriptions contained in Rule 50, initiation of the disciplinary proceeding in my view, on the count of misconduct on the part of the petitioner cannot be held to be misconceived, unauthorized or in defiance of logic.

25. Rule 68(2)(iii) mandates framing of definite and distinct charges on the basis of the allegations by the disciplinary authority in case an inquiry is proposed to be held. Further, the articles of charge, together with a statement of the allegations on which they are based, have to be communicated in writing to the delinquent officer. The underlining object of the above precept is to acquaint the delinquent officer with allegations constituting the charge so as to equip him with effective defence in the ensuing disciplinary proceeding. The charge should be capable of being culled out from the allegations and has to be unequivocally clear and intelligible. The Statement of Imputations on which the charges are founded therefore are inseverable components thereof and, as the aforementioned provision of the Rules postulate, have to be read together. The charge in the

instant case clearly refers to the acts enumerated in the accompanying Statement of Imputations so as to form an integral part thereof.

26. Rule 50 outlines the conduct to be displayed by the Bank officials while in service. The charge framed alleged that the petitioner had failed to discharge his duties with devotion and diligence and that he had acted in a manner unbecoming of a bank official highly prejudicial to the bank's interest in violation of Rule 50(4). The petitioner being a highly placed Bank official at the relevant time was expectedly conversant with the bank procedure and therefore having regard to the charges as framed read with the Statements of Imputations of Misconduct, it is not possible to hold that the same was incomprehensible or (sic) unfathomable to him. In other words, having regard to the language of the charge and the details provided in the Statement of Imputations of Misconduct, the contention of breach of Rule 68(2)(iii) of the Rules cannot be upheld.

27. The plea of denial of the procedural safeguard with regard to the furnishing of documents mandated under Rule 68(2)(ix)(b) of the Rules, however appears to be formidable. Admittedly, three documents prayed for by the petitioner before submission of his written statement of defence were furnished to him initially on the ground that the request was not justified and later claiming privilege. Though the letter dated April 3, 1998, Annexure-2 to the writ petition discloses that the petitioner's request was turned down as not justified, in the counter before this Court, however, the stand of the respondent Bank is that the documents were refused as those were privileged.

28. Under Rule 68(2)(ix)(b) when the charged officer does not plead guilty, the Inquiring Authority is obliged to record an order that the officer may for the purpose of preparing his defence inter alia submit a list of documents and witnesses, he wants for the inquiry and be supplied with the copies of statement of witnesses if any recorded earlier not later than three days before the commencement of the examination of the witnesses. The said provision of the Rules, however, requires that the officer concerned would have to indicate the relevancy of the documents.

29. Under Rule 68(2)(xi) the Inquiring Authority on receipt of the notice for the discovery or production of the documents shall have to forward the same or copies thereof to the authority in whose custody or possession the documents are kept with a requisition for production of the documents on such date as may be specified. In terms of Rule 68(2)(xii) the Authority having custody or possession of the requisitioned documents shall have to arrange to produce the same before the Inquiring Authority on the date, place and time specified. Under the proviso thereof, the authority having custody and possession of the requisitioned documents may claim privilege if the production of such documents would be against public interest or the interest of the bank and in such a case, it would inform the Inquiring Authority accordingly.

30. A reading of the provisions of the Rules referred to above makes it explicit

that in case the charged officer submits a list of documents indicating the relevancy thereof to the charges or the subject matter of the inquiry in a disciplinary proceeding initiated under the Rules, the authority having the custody and possession thereof would be bound to produce the same before the Inquiring Authority as specified to be done. In case, privilege is claimed in respect of such documents on the ground that discovery thereof would be against public interest or the interest of the bank the custodian of the documents is obliged to bring it to the notice of the Inquiring Authority accordingly. The Rules per se, however, do not mandate that once privilege is claimed on the grounds enumerated hereinabove, the Inquiring Authority or the disciplinary authority would be thereafter helpless in the matter and would be without any alternative but to refuse production thereof.

31. On the aspect of relevance, the petitioner has pleaded that the three documents sought for by him and the statements contained therein were vital for his defence to the charge as three different officers/inquiring authorities had submitted three different reports on the transactions forming the basis of the charge and the Imputations of Misconduct. According to him, those documents contained reports about the role played by the petitioner as well as other authorities in respect of the loan proposals in question and in two of such reports, the petitioner was absolved of personal complicity, negligence of duty or misconduct. He maintained that he was seriously prejudiced in submitting his written statement of defence in absence of the said documents. He asserted that before initiation of the disciplinary proceeding, the Chief General Manager (N.E. Circle) by letter dated February 27, 1998 asked him to submit his explanation in respect of the same allegations reflected in the Imputations of Misconduct on which the charge was structured which he did. He, therefore, being without any alternative while denying the charge and the allegations levelled against him along with his written statement of defence submitted his reply to the letter. On a perusal of the written statement of defence and the reply annexed thereto, the petitioner's plea is found to be vindicated. The reply dated March 5, 1998 in response to the bank's letter dated February 27, 1998 deals with the documentary export bill referred to in Imputation No. I, his defence in connection therewith as well as his stand regarding the other proposals involving the same Group of Companies sanctioning financial accommodation which wholly comprise the subject matter of the Imputations of Misconduct. The very fact that the petitioner after being denied the copies of the said documents or any access thereto for inspection thereof, had annexed the reply dated March 6, 1998 detailing his stand to the charge and the statement of allegations to his written statement of defence is a clear indicator that the subject matter of inquiry set out in the letter dated February 27, 1998 was substantially the same as in the impugned disciplinary proceeding and how heavily he sought to rely on these documents for his defence.

32. The respondent Bank in its counter has not disputed the petitioner's request for the aforesaid documents. It has, however, contended that the documents

were refused as the request therefore was not "justified", and further as those were internal investigation reports were privileged documents. According to it, neither were those documents relied upon by the disciplinary authority in the proceeding nor were those vital for the petitioner's defence. The plea that the petitioner was absolved of personal complicity, negligence of duty or misconduct in two of the reports was also denied. It is, however, decipherable that the respondent Bank did not deny the preliminary inquiry as claimed by the petitioner or that the subject matter of such inquiry was akin to the statement of allegations in the departmental probe. The relevant records pertaining to the disciplinary proceeding in support of the respondent Bank's stand, however, have not been placed before, this Court. Be that as it may, the question which falls for the consideration of this Court is whether in face of the above edict of the Rules and the rival stand of the parties as above, the documents sought for by the petitioner were rightly withheld and if no, whether the same has resulted in a denial of procedural fairness guaranteed under the Rules thereby vitiating the proceeding.

33. The essence of the charge and the Imputations of Misconduct against the petitioner is that by disregarding the negative recommendations of the Deputy General Manager and other infirmities featuring in the export bill purchase proposal, he instead of making a detailed review of the accounts of the Group of Companies involved and without dealing with the issue himself (as it was within his discretionary powers) got the matter referred to the committee by circumventing the procedure for seeking its views regarding acceptability of the proposal and thereby played the role of a facilitator for interplay of funds amongst the said Group of Companies. Further, though in the capacity of the General Manager (Commercial Banking), Local Head Office, he was aware of the irregular accounts of the Group of companies involved and their falling financial condition, he played a decisive role in the process of consideration of the sanction proposals by the committee which readily endorsed his view in the matter. The Imputations of personal connivance of the petitioner in getting the sanction proposal passed in favour of the Group of Companies involved was, therefore categorically made and is discernible from the supporting statement of allegations. The assertion of personal complicity and extra zealous role as a facilitator for purchasing the documentary export bill and for sanction of financial limits to the Group of companies facilitating interplay of funds not permissible under the bank's guidelines is therefore the gravamen of the charge.

34. The above narration indubitably strikes a perceptible nexus between the subject matter of the impugned disciplinary proceeding and the preliminary investigation preceding it. The documents sought for by the petitioner in the above factual premises therefore, in my view have a substantial bearing on the charge and the Imputations of Misconduct faced by him and necessary for structuring his defence.

35. It is significant that apart from an inconsistency in the stand of the

respondent Bank, qua, the ground on which the petitioner was refused copies of the aforesaid documents or an access thereto for inspection thereof, the material on record do not indicate the exact ground for claiming such privilege. Though initially, the request was declined on the ground that it was not justified, in its counter before this Court the respondent Bank claimed privilege as the documents were internal investigation reports. It has, however, not been disclosed even to this Court as to whether the production of such documents or inspection of the same by the petitioner would be against public interest or the interest of the bank or both. It assumes importance in view of the proviso to Rule 68(2)(xii) which permits a claim of privilege only on the above two grounds. Apt, it would be at this stage to refer to the authorities cited at the bar on the claim of privilege.

36. In *State of Punjab v. Sodhi Sukhdev Singh* (supra) the Apex Court in the context of Section 123 and 162 of the Evidence Act, 1872 held that though the Court cannot hold an enquiry into the possible injury to public interest which may result from the disclosure of the document in question, it is competent and indeed, bound to hold a preliminary enquiry and determine the validity of the objections to its production. If in course of the inquiry, it holds that the document does not relate to the affairs of the State, it should reject the claim for privilege and direct its production. It should leave it to the head of the department to decide whether he should permit its production or not if it concludes that the document relates to the affairs of the State. It, however added that it would be within the competence of the Court in course of the inquiry to decide whether the document falls in the class of innocuous or noxious documents and if document belongs to the innocuous class, production thereof would be directed. But if the document belongs to the noxious class, it would be left to the discretion of the head of the department whether to permit its production or not.

37. In the *State of Uttar Pradesh v. Raj Narain and Ors.* (supra), the Apex Court was of the view that an affidavit raising objections to the disclosure of a document have to be filed by the head of the department and if the Court is satisfied with the affidavit evidence that the document should be protected in public interest, the matter ends there, but the Court may still to satisfy itself may inspect the document.

38. The Apex Court in *R.K. Jain v. Union of India* (supra) ruled that if the disclosure of a particular document is objected to on the ground that it would be against public interest or the interest of the State or public service and such an objection is contained in an affidavit made either by the concerned Minister or the head of the department, the Court would be slow to question such opinion or to allow even interest of justice to prevail over it except for factors suggesting lack of good faith, error of judgment on the part of the Minister claim in administrative routine or attempt to avoid inconvenience or injury to their defence. The power of the Court, above notwithstanding, however was recognized to decide whether the public interest which requires that the

document should not be produced outweighs the public interest that a Court of justice in performing its functions should not be denied access to relevant evidence. By operation of Section 162 of the Evidence Act the final decision with regard to the validity of an objection against disclosure raised u/s 123 was left with the Court.

39. The judicially enounced principle discernible from the above is that if an objection is taken to the discovery of a document relating to the affairs of the State on the ground that the same would be against the public interest or in the interest of the State, a Court of law would not insist on production thereof if the reservation is expressed in an affidavit either by the head of the department or the concerned Minister. If the document does not relate to the affairs of the State, it would be directed to be produced rejecting the objection. Even if the document pertains to the affairs of the State it would still be open for the Court to ascertain as to whether it is of such a character that its disclosure would be against the interest of the State and if so, whether the public interest in its disclosure would prevail over the public interest in the administration of justice requiring its disclosure.

40. It has to be noted at the outset that all these decisions are with reference to Sections 123 and 162 of the Evidence Act, 1872 and therefore relate to a proceeding before a Court of Law and pertains to unpublished official records relating to the affairs of the State which u/s 123 would not be adducible in evidence except with the permission of the Officer at the head of the department concerned authorized to give or withhold such permission. The validity of any objection with regard to the production or admissibility of any document is to be decided by the Court u/s 162 and for such purpose, it may inspect a document unless it refers to matters of State or take other evidence so as to enable it to determine on its admissibility.

41. The objection with regard to the production or disclosure of the documents in question in the instant case was taken initially not in a proceeding before a Court. Further, it is not the case of the respondent Bank that the documents relate to the affairs of the State. The provisions of Sections 123 and 162 of the Evidence Act, 1872 are therefore attracted in the facts of the instant case. The decisions however bear the judicially evolved principle relevant to decide whether the documents in the instant case were rightly withheld under the cover of privilege more particularly as the said stand is reiterated before this Court.

42. Noticeably the Bank's counter has not been sworn either by the disciplinary authority or by the appointing authority or by any authority higher in rank. The counter does not disclose that the production of the documents involved would be adverse to public interest or the interest of the Bank so as to justify the claim of privilege. The inconsistency in the Bank's stand while turning down the petitioner's request for copies of such documents or inspection thereof has already been noticed. In view of the categorical prescription of the grounds contained in Rule 68(2)(xii) of the Rules, on which a document can be claimed to

be privileged justifying non production thereof in connection with the disciplinary proceeding under the Rules, I cannot persuade myself to sustain the respondent's plea of privilege. The petitioner, as a corollary had therefore been denied the documents sought for by him in contravention of Rule 68(2)(ix), (2)(xi) and (2)(xii) thereof.

43. The relevance of these documents vis-a-vis the charge and the Imputations of Misconduct has been dealt with hereinabove. Having regard to the charge which indicates the petitioner's decisive role in the matter of purchase of the documentary export bill and sanctioning of financial limits in breach of the bank's procedure and guidelines exposing it to financial loss and his stand that in two of the reports following a preliminary investigation into the same allegations he had been granted a clean chit, it has to be held that by the bank's refusal to furnish copies of the said documents to him or to permit him to inspect the same for preparing his defence tantamounts to an infraction of the procedural safeguard envisaged under Rule 68(2)(ix), (xi) and (xii).

44. The Rules having been framed in exercise of powers u/s 43(1) of the State Bank of India Act, 1955 for determining the terms and conditions of appointment and service of officers in the Bank, the same clearly have a statutory flavour and is binding on the Respondents.

45. Rule 68(2)(i) mandates that no order imposing any major penalty would be made except after an inquiry is held in accordance with the said sub-rule.

46. Rule 68(2)(i) to (xv) comprehend a scheme embodying the procedure for conducting the inquiry. The provisions encompassing different stages of the inquiry delineate the rights and obligations of the disciplinary authority, Inquiring Authority and the charged officer. These are guidelines dominantly to ensure procedural fairness to enable the charged officer to effectively defend himself against the charge in the inquiry. Adherence to the procedure prescribed is mandatorily essential and no departure therefrom is permissible. The Rules having been framed in exercise of a statutory power, the respondent Bank has to be firmly held to the prescribed norms by which it professes its actions on the basis thereof to be judged.

47. The oft-quoted words of FRANKFURTER, J. in *Vitarelli v. Seaton* 159 US 535, are worth recalling:

"If dismissal from employment is based on a defined procedure, even though generous beyond the requirements that bind such agency, that procedure must be scrupulously observed.... This judicially evolved rule of administrative law is now firmly established and, if I may add, rightly so. He that takes the procedural sword shall perish with that sword."

48. The Apex Court in *Jagdish Prasad Saxena v. State of Madhya Bharat* (now Madhya Pradesh) AIR 1961 SC 1070 : 1963 I LLJ 325 SC was emphatic in holding that a departmental inquiry is not an empty formality. It is a serious proceeding

intended to give the officer concerned a chance to meet the charge and to prove his innocence.

49. The same view resounded in the Board of Trustees of the Board of Trustees of the Port of Bombay Vs. Dilipkumar Raghavendranath Nadkarni and Others, where the Apex Court examined the matter from the view point of the constitutional mandate contained in Article 21. It ruled thus at p. 7 of LLJ:

"72. ... And this view was taken as flowing from Article 21 which mandates that no one shall be deprived of his life of liberty except in accordance with the procedure prescribed by law. The expression "life" does not merely connote animal existence or a continued drudgery through life. The expression "life" had a much wider meaning, where therefore the outcome of a departmental enquiry is likely to adversely affect reputation or livelihood of a person, some of the finer graces of human civilization which make life worth living would be jeopardized and the same can be put in jeopardy only by law which inheres fair procedures. In this context one can recall the famous words of Chapter II of BHAGWAD GITA:

Sambhavitasya Chakeertir Marnad atirichyate."

50. In the State of U.P. Vs. Shatrughan Lal and Another, it was held that if a preliminary enquiry is conducted culminating in the charge-sheet, the charged officer before being called upon to submit his reply to the same, on a request made by him should be supplied with the copies of the statement of the witnesses recorded during the preliminary enquiry particularly if those witnesses are proposed to be examined at the departmental trial. Noticing that copies of such statements in the case decided had admittedly not been furnished to the respondent, it was held that the same had resulted in violation of the principles of natural justice inasmuch as he was not afforded an effective opportunity of hearing, particularly as the appellant failed to establish that non supply of the copies of the statement had not caused any prejudice to the respondent in defending himself. The Apex Court observed that one of the principles of natural justice is that a person against whom an action is proposed to be taken has to be given an opportunity of hearing which must be an effective opportunity and not a mere pretense.

51. Though the stand in the case in hand is that the documents sought for were not relied upon by the disciplinary authority in support of the charge, having regard to the bearing thereof on the charge and the purpose for which the same were sought for, in my view, the principle enunciated in the above decision is squarely attracted to the present case. The provisions of the Rules sanctioning the right to be supplied with the copies of relevant documents necessary for preparing the defence of a charged officer had to be scrupulously enforced and any interpretation that would denude those of their efficacy has to be discarded. The purpose of the enacted procedure being to ensure effective safeguards for enabling the delinquent officer to defend himself against the charge, any construction limiting the amplitude of the principle of fairness embodied in the

above provision of the Rules has to be avoided lest, the purpose thereof is frustrated. The denial of the documents has per se prejudiced the petitioner in preparing and conducting his defence at all the stages of the enquiry and has a pervasive invalidating effect nullifying the proceedings. The respondents have failed to indicate that such denial has not impaired his defence.

52. The fundamental rule of our Constitutional policy is to protect every citizen from the arbitrary action of the State or its authorities and instrumentalities. The duty to act fairly is inherent in the nature of the function to be discharged. It need not be shown to be superadded. If there is a power to decide and determine adversely against any person, the duty to act judicially is implicit in the exercise of such powers. If this essential of justice is absent and an order is passed to the detriment of any person, the same would be void. The impugned action of the respondent authorities in denying the petitioner the copies of the documents sought for by him and in refusing an inspection thereof for preparing his defence being in apparent contravention of Rule 68(2)(ix),(xi) and (xii), the proceeding stands vitiated thereby. Resultantly, the impugned order of penalty and confirmation thereof in appeal are afflicted by an incurable illegality and being unsustainable are therefore set aside and quashed.

53. In view of the above determinations, dilation on other contentions is not called for.

54. In the result, the petition is allowed. The petitioner would be entitled to all consequential service benefits under Bank's Rules and relevant administrative instructions. No costs.