(2015) 04 DEL CK 0277

In the Delhi High Court

Case No : Writ Petition (C) No. 6571 of 1998

R.L. Sahi APPELLANT

Vs

Syndicate Bank and Others RESPONDENT

Date of Decision : 17-04-2015

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2015) 04 DEL CK 0277

Hon'ble Judges : Valmiki J. Mehta, J

Bench : Single Bench

Advocate : Rajiv Bakshi, for the Appellant; Jagat Arora and Rajat Arora, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Valmiki J. Mehta, J.—By this writ petition filed under Article 226 of the Constitution of India, the petitioner who was an employee of the respondent no. 1/Syndicate Bank and worked as Chief Manager/Assistant General Manager of the respondent no. 1/Bank at Asaf Ali Road Branch, New Delhi and as Divisional Manager (DM) at Chandigarh Branch, impugns the orders passed by the departmental authorities imposing the punishment of dismissal from services of the petitioner.

2. There were three charges against the petitioner. The first charge against the petitioner was that the petitioner while working in the Asaf Ali Road Branch, New Delhi of the respondent no. 1/Bank, allowed unauthorized withdrawals in the account of M/s. Arora Associates which was the proprietorship concern of one Smt. Swarnadevi, Smt. Swarnadevi being the mother of one of the Sub-Manager of the respondent no. 1/Bank posted at the Asaf Ali Road Branch, New Delhi. With respect to nine cheques of different amounts ranging from Rs. 2,460/- to Rs. 15,700/- the charge against the petitioner was that he allowed withdrawals although he had no power to allow withdrawals and overdrafts in the account of M/s. Arora Associates. With respect to ten other cheques which were debited in

the account of M/s. Arora Associates the charge is that the petitioner did not report the aspect of allowing of overdrafts qua these cheques to the higher authorities. As per the second article of charges, petitioner while being posted as DM at the Chandigarh Branch allowed discounting of four cheques totalling to Rs. 40,000/- issued by the said M/s. Arora Associates and in fact which cheques were drawn upon none other than the son and daughter of the petitioner and his own self. The four cheques which were discounted took 38 days, 44 days, 75 days and 75 days respectively for realization. Discounting of these cheques was done without prior permission and without reporting the transactions to the competent authority as required by the relevant circulars of the respondent no. 1/ Bank. Petitioner was also bound to report as to for what consideration he and his family members received the total amount of Rs. 40,000/- vide the four cheques from M/s. Arora Associates but the petitioner did not do so. The third article of charges, and which is a very serious article of charges, is that the petitioner got opened a total of 13 bank accounts in the name of his own or in the name of his wife or in the name of his three minor children or in the name of his mother individually or jointly, and in these accounts there were found a total of 349 credit entries totaling to an amount of Rs. 46.89 lacs. Out of this amount of Rs. 46.89 lacs, an amount of Rs. 13.73 lacs was comprised of credits by means of cash deposits. The charge against the petitioner is that he never informed the respondent no. 1/Bank with respect to opening of these accounts by himself or his dependant family members including the fact that all transactions above Rs. 5,000/- of the family members of the petitioner were to be reported to the respondent no. 1/Bank but were not reported. In essence, this charge also is as to how the petitioner could have got such large credit running into a huge amount of Rs. 46.89 lacs.

3. Petitioner appeared in the departmental proceedings and contested the same. Enquiry Officer conducted proceedings firstly at Delhi and then at Mumbai and thereafter again at Delhi. On behalf of the management/respondent no. 1 two witnesses were examined and a total of 278 documents were proved. Petitioner brought on record six documents and produced eight witnesses being his wife, two daughters, one son and four friends. The Enquiry Officer after analyzing the evidence which was led in this case has arrived at the following conclusions:-

"Regarding Issue No. 1:

As to whether Sh. R L Sahi while functioning as CM of Asaf Ali Road Branch, during the period 23.6.92 to 19.8.1993, unduly accommodated M/s. Arora Associates without authority in detriment to the interest of the Bank by exposing the funds of the Bank to the risk of financial loss by committing the irregularities.

a. During the said period had had no powers to allow the debit balance as per HO Cir. No. 142/91/BC dated 29.5.91.

b. by not reporting the debit balance in some of the transactions to his higher authorities and by not obtaining subsequent approval from the Competent

Authority.

c. by unduly accommodating Sri. SP Arora, staff who was running a business.

The evidence brought on record by the management through the documents produced before the enquiry forum coupled with the oral deposition of MW2 has gone on record unrebutted. No doubt the defence/CSOE has brought on record certain additional information during the cross-examination of MW2, but they could not dislodge or disprove any of the statements made by MW2. As such the entire deposition of MW2 goes on record unrebutted. None of the defence witnesses have spoken regarding this issue. The evidence brought on record by the management through the documents produced before the enquiry forum goes to show that Asaf Ali Road Branch had one current a/c got opened on 14.11.91 with initial deposit of Rs. 500/- in the name and style of Swarn Devi, Prop. Of M/s. Arora Associates. The occupation of the customer has been declared as business and address has been provided as 19F, Mourice Nagar New Delhi as per M Ex. 68. The said a/c also bears introduction of Sri S.P. Arora staff of Asaf Ali Road Branch, New Delhi. Further the evidence brought on record through M Ex. 196 shows that branch has allowed overdrawals in the Current a/c 3985 of M/s. Arora Associates on several occasions. Sri R L Sahi has also permitted several overdrawals as reported in M Ex. 186. It is also on record of the enquiry forum through the deposition of the witness that though Mourice Nagar is situated about 10-12 K.M.S. away from Asaf Ali Road Branch they have chosen Asaf Ali Road Branch as their bankers solely for the person that Sri S.P. Arora was mainly operating the a/c, Swarn Devi being his mother. It is also on record of the enquiry forum that she is an aged lady who cannot even read and write fluently. All the transactions have been carried out by Sri S.P. Arora himself and only for the name sake Smt. Swarn Devi is the Proprietrix. No doubt the a/c has been opened at Asaf Ali Road Branch prior to Sri R L Sahi''s joining the branch. It is on record of the enquiry forum that the branch has allowed overdrawals on 117 items without even written request from the a/c holder. As such the purpose of overdrawals are not on record. Sri R L Sahi during his tenure as CM has also allowed overdrawals on several occasions knowing fully well the way in which the a/c has been transacted. Of the overdrawals allowed by Sri R L Sahi about 9 overdrawals have been reported in AR 3013 by the branch and the remaining 10 overdrawals have not been reported to ZO nor any approval has been sought from the higher authorities. It is on record of the enquiry forum during the said period in view of the stringent measures imposed by RBI to curtail the credit by impounding the resources of the Bank, HO had withdrawn all discretionary powers earlier communicated vide cir. No. 72/90 and 156/90 vide cir. No. 142/91 as could be seen from M. Ex. 244. Inspite of the same it is on record that Sri R L Sahi has allowed overdrawals to M/s. Arora Associates on several occasions without even a written request from the a/c holder and the same has not been reported to higher authorities on 10 such occasions. The above facts clearly go to show that Sri R L Sahi has extended undue financial accommodation to Sri S.P. Arora, staff of Asaf Ali Road Branch, New Delhi who was running the business. The defence/CSOE has not disputed the above facts. No doubt the defence in the cross-examination has produced D Ex. 2 to D Ex. 8 showing that the cheque were not bearing the signatures of Sri R L Sahi. Sri R L Sahi has reported these transactions under his signatures to ZO which amounts that he had consented for allowing withdrawals on these occasions. It is also on record of the enquiry that the noting on the ledger a/c of M/s. Arora Associates showing that "Refer to SP Arora" which also goes to show that the a/c is being operated with the knowledge of Sri S.P. Arora only. None of the above facts have been disputed/dislodged by the defence in the enquiry. As such I have no hesitation in answering this issue in affirmative.

Regarding Issue No. 2:

As to whether while functioning as CM of Asaf Ali Road Branch, New Delhi during the period 23.6.92 to 19.8.93 and thereafter while functioning as DM/AGM of DO Chandigarh for the period from 23.8.93 to 21.8.95 has misused CDD facility and violated the provisions of the Competent Authority before undertaking the transactions with the customer of the Bank and by not reporting the transactions to the Competent Authority as required as per the provisions of Cir. 267/93/BC as these amounts exceed Rs. 5,000/- and by not disclosing/reporting as to for what consideration he and his family members received the cheques amounting to Rs. 40,000/- from M/s. Arora Associates, a customer of the Bank.

The evidence brought on record by the management through the documents produced before the enquiry forum coupled with oral deposition of MW2 has gone on record unrebutted. The defence/CSOE has not dislodged/disputed any of the deposition made by MW2. The evidence brought on record through the documents produced before the enquiry forum goes to show that Sri R.L. Sahi while functioning as CM/AGM at DO Associates amounting to Rs. 40,000/-. It is also on record of the enquiry forum that Sri R L Sahi has not reported these transactions to HO as needed as per HO Cir. 267/93 nor did he obtain any prior permission while dealing with a customer of Asaf Ali Road Branch. It is also on record that the CDDs discounted to Sri R L Sahi took enormous time for realization. As Sri R L Sahi was earlier functioning as CM of Asaf Ali Road Branch knowing fully well the conduct of the current a/c of M/s. Asaf Ali Road Branch he should have been very careful while dealing/while getting these cheques discounted. Apart from this, the cheques discounted for Rs. 10,000/- and Rs. 20,000/- are in his name and the remaining 2 cheques were in the name of his son Manu Sahi and Honey Sahi. It is also on record that Sri. R L Sahi does not have any child in the name of Honey Sahi. Payee''s name and date of the cheques have been filled in by him which also have gone on record to show that he was in possession of these cheques with the payee''s name and date blank.

The oral evidence adduced by the management before the enquiry forum has clearly gone on record to show that the relevant OG 72s discounting forms were signed by Sri R L Sahi himself including those of Manu Sahi and Honey Sahi and the discounting charges on certain occasions have been collected at the staff rate only though the cheques were in the names of Manu Sahi and Honey Sahi which clearly goes to show that he was dealing with M/s. Arora Associates in selling of shares and he has charged only staff rate. The evidence brought on record by the management has clearly gone to show that Sri R L Sahi has not reported these transactions which are exceeding Rs. 5,000/- as the consideration of these cheques obtained from M/s. Arora Associates, a customer of the Bank to higher authorities. The evidence adduced by the management before the enquiry forum has gone on record to show that the proceeds of all CDDs on certain occasions have been credited to the joint a/cs of Sri R L Sahi with his family members. The evidence has further also brought on record the cheques/CDDs were taken for realization 38,44, 75 and 75 days on each of the 4 occasions respectively. No doubt the defence through cross-examination has brought on record that there is no financial loss to the branch as over due interest has already been collected and no 2 CDDs were outstanding at a time. Sri Sahi, knowing fully well the way in which current account of M/s. Arora Associates has been operated at Asaf Ali Road Branch while he was functioning as C.M. in the past also this, these transactions are for more than Rs. 5,000/- which Sri R.L. Sahi should have reported to Zonal office as per Cir. No. 267/93 which on record to show that they have complied with the requirements of Cir. No. 267/93. None of the defence witnesses have spoken regarding the above issue. As such the entire evidence of the management brought on record has gone on record unrebutted and I have no hesitation to answer this issue also in affirmative.

Regarding Issue no. 3:

As to whether Sri R L Sahi while functioning as CM of our Asaf Ali Road Branch, New Delhi during the period 23.6.92 and 19.8.93 and thereafter while functioning as DM/AGM at DD Chandigarh during the period from 23.8.93 to 28.1.95 has maintained at Asaf Ali Road Branch, with Chandigarh Branch and with Andhra Bank and Bank of India Chandigarh Branch, 13 accounts including the C a/c in his and his family members names and transacted 349 credit entries amounting to Rs. 46,89,010/- which also includes 108 cash entries amounting to Rs. 13,73,016/- ad failed to furnish his explanations to the Bank when called for by the Bank which indicates that he holds movable assets far in excess disproportionate to his known source of income.

The evidence produced by the Management through the documents produced before the enquiry forum coupled with the deposition of MW1 has gone on record unrebutted. No doubt, the CSOE/defence have produced 8 witnesses in their defence. It is on record that all the 8 witnesses are either known persons/family friends, spouse and kith and kin of the CSOE. Naturally being interested witnesses they have tried their level best to defend the CSOE while their deposition is not backed by documentary evidence. Still taking into account their evidence, analysis/appreciation of the evidence is as follows:

The CSOE has not appeared as his own witnesses nor has he replied for the general examination conducted in this regard, which clearly goes to show that he does not have valid defence except that he has denied the charges in the preliminary enquiry. The deposition of the management is backed by the documents produced before the enquiry forum. MW1 Sri S.K. Abrol has categorically stated that while functioning as Dy. Divisional Manager of Vigilance Unit, New Delhi he has conducted a thorough investigation into the matter pertaining to unusual transactions in the a/cs of Sri R L Sahi, the then DM/DO Chandigarh/his family members and others. While Sri R L Sahi was working at DO Chandigarh, he has even visited Chandigarh branch, DO Chandigarh, Zonal Office, Delhi, Andhra Bank-Chandigarh, Bank of India-Chandigarh, Andhra Bank Pusa Road, Zonal Office Delhi and other places. For that he has also met Sri S.S. Makker, CM of Andhra Bank Chandigarh, Sri Christ Acharya, Manager Andhra Bank Chandigarh, Sri Chwla, incoming CM of Bank of India, Chandigarh, Sri Bhawan Singh, outgoing CM of Bank of India, Chandigarh, Sri S.K. Goel, Zonal Manager of Andhra Bank, New Delhi and also Chief Vigilance Officer of Andhra Bank, Hyderabad during this visit to New Delhi. It is also on record of the enquiry forum that superintendent of police, CBI-Anti Corruption Unit, New Delhi under Prevention of Corruption Act 1988 has filed an FIR against Sri R L Sahi as the only accused person and the documents collected by the Vigilance Unit has been collected by the CBI by leaving a certified Xerox copy seized by them with the Vigilance Unit. MW1 has identified all the documents collected by him and produced before the enquiry forum including the opinion tendered by the Director, CFSL addressed to CBI, CGO Complex, Lodhi Road, New Delhi along with questionnaire of Sri A K Sinha, S.P. of Police, New Delhi. Further, the witness has also identified M Ex. 270, his note supplied to CVO, Vigilance HO giving the full details of the opinion tendered by CFSL to CBI. It is also on record as per the records produced before the enquiry forum that Sri R L Sahi while functioning as DM at DO Chandigarh during the period from 23.8.93 to 289.1.95 and subsequently as AGM at ZO, New Delhi, with effect from 30.1.95. While functioning in his position as such, he has opened the following 13 accounts the details of which are as under:

1. SB Account No. DO-259 opened at Chandigarh branch on 28.8.93 with the initial deposit entry of Rs. 111.05 in the name of Sri R L Sahi.

2. SB a/c No. 17739 dt. 27.11.93 in the name of M/s. R L Sahi HUF opened at Chandigarh Branch on 27.11.93 with an initial deposit of Rs. 25,000/-

3. SB a/c no. 17683 dt. 1.11.93 in the name of Master Manu Sahi, son of Sri R L Sahi opened at Chandigarh branch on 1.11.93 with an initial deposit of Rs. 100/-. This a/c was later converted into a joint account with effect from 8.12.94 with Smt. Rita Sahi, wife of Sri R L Sahi as the other depositor.

4. SB a/c no. 17684 in the joint names of Smt. Lajwanti Sahi (mother of Sri R.L. Sahi) and another person with name Honey Sahi opened on 1.11.93 at Chandigarh branch with an initial deposit of Rs. 100/-

5. SB a/c no. 17689 opened at Chandigarh branch on 2.11.93 in the name of Mss

Pooja Sahi (daughter of Sri R L Sahi) with an initial deposit of Rs. 100/-. This account was later converted into a joint account w.e.f. 8.12.94 with Smt. Rita Sahi as the other depositor.

6. SB a/c No. 17742 opened at Chandigarh branch on 30.11.93 in the name of Sri Ramesh Lal Sahi with an initial deposit of Rs. 100/-. This a/c was later converted into a joint a/c w.e.f. 8.12.94 with Smt. Rita Sahi the other joint depositor.

7. SB a/c no. 28448 opened at Bank of India, Chandigarh in the name of Smt. Rita Sahi on 4.11.93 with an initial deposit of Rs. 100/-

8. SB a/c no. 28448 opened at Bank of India, Chandigarh in the name of Miss. Smrithi Shai on 4.11.93 with an initial deposit of Rs. 100/-

9. Current a/c no. 3054 opened at Andhra Bank, Chandigarh on 21.1.94 in three names of " Ramesh Lal", " Pooja Sahi", and a person with the name "Honey Sahi". This a/c was opened with an initial deposit of Rs. 40,000/-.

10. Current a/c no. 3169 opened at Andhra Bank, Chandigarh on 7.2.94 with an initial deposit of Rs. 500/- in the name of Smt. Rita Sahi.

11. SB a/c no. 15398 opened at Andhra Bank, Chandigarh on 7.2.94 in the name of Mrs. Rita Sahi with an initial deposit of Rs. 100/-.

12. SB a/c no. 15471 opened at Andhra Bank, Chandigarh on 22.3.94 in the name of Miss Smrithi Sahi with an initial deposit of Rs. 100/-.

13. SB a/c no. 445 which was continuing at our Asaf Ali Road Branch New Delhi in the name of Sri R L Sahi.

It is on record of the enquiry forum that all the account opening forms, specimen signature cards are in the hand-writing of Sri R L Sahi and almost all the a/cs have been introduced by him only. The said fact has not been disputed by Sri R L Sahi. While the Defence Witnesses DW5 to DW8 have stated that they have gone to the Bank and signed in person, but they have not gone to the Bank and signed in person, but they have not been identified their signatures appearing on the management documents. Added to this, the opinion tendered by CFSI clearly shows that the hand-writing appearing on the questioned/referred documents, xerox copies of which were produced before the enquiry forum are that of Sri R L Sahi.

It is also on record of the enquiry forum that as per the copy of the LFC application dated 22.8.92 tendered by Sri R L Sahi his family dependents consists of his mother, Mrs. Lajwanthi Sahi aged 70 years; Mrs. Rita Sahi, spouse; children Manu Sahi aged 17 years, Ms. Smrithi Sahi aged 14 years; Ms. Pooja Sahi aged 12 years which goes to show that children were minors as of 1992. It is also on record that Sri R L Sahi has intimated the Bank regarding the demise of his mother during December 1993, vide his letter dated 31.12.93 (M Ex. 27). The above facts have gone on record unrebutted. It is also on record that Sri R L Sahi does not have a child in the name of Honey Sahi. While as per the deposition of MW1, Honey Sahi is a nick name of Pooja Sahi, the defence has gone to the extent of saying it is the nick name of Smrithi Sahi. And, so also Smrithi Sahi came on record saying that it is her nick name. Still the fact remains that signatures of P Sahi, S. Sahi and H Sahi were all in the hand-writing of Sri R L Sahi himself, as per the reports appearing before the enquiry forum. Further Sri R Sahi maintained a current a/c with Andhra Bank Chandigarh in the name of Ramesh Lal while in other a/cs his name is spelt out as R L Sahi which clearly goes to show the modus operandi and opening several a/cs with various banks. Moreover, it is on record that Andhra Bank CM Sri S.S. Makker of Chandigarh, as informed by him to MW1, has stated that he has introduced the a/cs of Sri R L Sahi only out of obligation as Sri R L Sahi was also CM of Syndicate Bank and he does not know Pooja Sahi or Honey Sahi, who are minors at that time. No doubt these witnesses have appeared before the enquiry forum under their signatures as appearing in the enquiry proceedings also differ from signatures appearing on the documents produced before the enquiry forum which also goes to show that those documents produced before the enquiry forum are in the hand-writing of Sri R L Sahi only. It is also on record of the enquiry forum as per M Ex. 191 that if the Bank employee opens an a/c in another bank, the bank has also got a duty to intimate the Bank of opening an a/c by the employee to its employer. So also, the employee should also inform the employer of opening the a/c which has not been complied by Sri R L Sahi nor by the other 2 banks. It is also on record of the enquiry forum that Sri R L Sahi during the period from 23.6.92 to 28.1.95 has carried out transactions in all these 13 a/cs amounting to Rs. 46,89,010/- which also includes 108 cash entries amounting to Rs. 13,73,016/- as per the Annexures 2 and 3 produced before the enquiry forum by MW1 which has gone on record unrebutted. It is also on record of the enquiry forum that Bank had called for the explanations of the CSOE as per M Ex. 193 which has gone unreplied as per M Ex. 192. Further it is also on record that as per M Ex. 194 an officer employee has to intimate the competent authority any transactions exceeding Rs. 5,000/- within 15 days, which the CSOE has failed nor the voluminous transactions conducted by him have been reported regularly in the property statement submitted by him. Further as per M Ex. 278 he has not reported the transactions exceeding R.5,000/- during his tenure as CM, DM/AGM at Asaf Ali Road Branch, New Delhi, DO Chandigarh and while at ZO New Delhi. The witness MW1 has clearly spelt that Sri R L Sahi has opened benami/fictitious a/c in the name of Honey Sahi while his name has also been changed from RL Sahi to Ramesh Lal while opening the current a/c with Andhra Bank. Further he has gone to the extent of saying that Sri R L Sahi has forged the signatures of his family members. No doubt I had questioned the CSOE in this matter in the general examination which has also gone unanswered. Since forgery/benami is not a charge under the said chargesheet, I am not discussing the same here while the fact remains as per the evidence recorded before the enquiry forum that Sri R L Sahi has freely signed in the name and style of his family members including that of his mother. Further he has failed to report the matter/transactions exceeding Rs. 5,000/- as required under Cir. no. 267/93 as per M Ex. 194 to the Competent Authority. No doubt the defence has brought on record 8 witnesses in their defence. But it is on record of the enquiry forum 4 witnesses are none other than his spouse and 3 children. No doubt these are interested witnesses who have appeared before the enquiry forum. The children have gone to the extent of saying that they do not remember as to whether they have given their specimen signatures to CBI people, it clearly goes to show that they are hiding out the facts from the enquiry forum. Their answering that it might be so and they have forgotten, cannot be accepted before the enquiry forum for the reasons that if their memory power is so, they cannot depose even the facts which have taken place prior to obtaining their signatures/hand-writing by CBI people. No doubt, the spouse of the CSOE has appeared as DW5 and in her deposition she has tried to bring on record so many extraneous factors such as gifts received by her right from her marriage to several years while she has not been able to given any evidence for the gifts received by her/loan availed by her, though they wanted to take the shelter that all the documents have been seized by CBI, the documents which they have tried to produce before the enquiry forum clearly goes to show that these are all manufactures documents at a later date, as could be seen from the submissions made by her. In page no. 48 of the inquiry proceedings, she has produced photocopy of a certificate issued by the Bank for a transaction of 1986. The reasons for issuing the certificate by the Bank at that time are not known. As such, I have disallowed the same. So also, carbon copy of the certificate dated 9.1.97 issued by an individual having paid a sum of Rs. 1,33,100/- on 22.5.93 for having purchased gold ornaments as claimed by her. The reasons for obtaining these documents for the purpose of defending, which clearly goes to show that these are all obtained at a subsequent/later date and not then and there itself, which clearly go to show the purpose for which these documents have been obtained. As such I have not allowed these documents in the enquiry, for the reasons stated by me earlier.

While the witness DW5 claims that she has earned substantial amount by way of giving tuitions to the children, she has gone to the extent of saying that during cross-examination that she is not prepared to answer such question as could be seen from the answer given by her to Q No. 7 posed by the PO which clearly goes to show that her deposition is not exposed for thorough cross-examination. Further, even for the second question she has answered that she cannot say and she has a right to utilize the money in her own manner. While nobody can question regarding her style of utilising the money, her deposition as long as it is not being backed by cross-examination has no evidentiary value. So also, the style of deposition given by DW6 to DW8, children of Sri RL Sahi that all of them have deposed in similar fashion which clearly goes to show that it is an after-thought by them. More over, they have replied that they do not remember specifically as to whether CBI has obtained their specimen signatures clearly goes to show that they are hiding facts that are coming to fore as the evidence before the enquiry forum produced by the management through M Ex. 271 to

276 clearly goes to show that the hand-writing/signatures appearing on the management questioned documents are that of Sri R L Sahi''s and not theirs. The first 4 witnesses have clearly told that they have appeared before the enquiry forum because of their friendship with Sri R L Sahi and their deposition is also not backed by any documents. No doubt all the four witnesses have made the same stereotyped deposition. Only DW2 has gone to the extent of saying that he has given a loan to Mrs. Rita Sahi which she too has repeated in her deposition while no records have been produced for the same. The Defence/ CSOE has not brought on record to show that they have reported these transactions exceeding Rs. 5,000/- to the Competent Authority as needed as per Cir. 267/93. Moreover, the fact that the CSOE has not replied to the explanations called for by the Bank through M Ex. 193 has also not been disputed or dislodged by the defence. The fact that he has not reported these transactions which are exceeding Rs. 5,000/- in various 13 a/cs narrated above clearly goes to show that by these means Sri R L Sahi had moveable assets far in excess of/ disproportionate to his known source of income. It is also on record of the enquiry forum that Sri R L Sahi while functioning as CM/DM of Asaf Ali Road Branch and DO Chandigarh was drawing a net salary of Rs. 7,000/- with 5 and thereafter 4 dependents in the family. As such, the voluminous transactions conducted by him in the various 13 a/cs clearly goes to show that he had through these means had acquired movable assets far in excess/disproportionate to his known source of income.

No doubt the management had produced 2 witnesses and 278 documents in their favour while the CSOE has produced 8 witnesses and documents before the enquiry forum. While evaluating the value of evidences, I find that the management has proved their charges in their favour while the defence witnesses were all interested witnesses. No doubt the defence has gone to the extent of asking as to whether there is any loss to the Bank due to the transactions conducted by the CSOE, through the reply submitted by the witness it is on record of the enquiry forum that because of the witness it is on record of the enquiry forum that because of the various dailies appeared in Delhi, the fair image of the Bank is lost in the eyes of public. The witness has also produced the xerox copies of Newspapers before the enquiry forum.

As such I have no hesitation in answering this issue also in affirmative.

I have held the Preliminary inquiry on 2.8.95 and subsequently made it clear to the CSOE that I will be holding Regular Inquiry on 3.2.98 and he should come duly prepared alongwith his list of witnesses and documents to lead his evidence soon after the management concludes. Still, in order to be fair and reasonable I have adjourned this enquiry at the request of the CSOE, duly recording the management''s deposition, to a future date. The adjournment was given at the request of the CSOE and I have also made it clear to the CSOE that he should come duly prepared to lead his evidence soon after the Management concludes its evidence. I had concluded the enquiry on 27.2.98 by conducting the general examination which has gone unanswered even till now. Subsequently though the inquiry was concluded for all practical purposes in order to give him all fair and reasonable opportunities, the same was re-opened from the stage from where it has been treated as concluded as per the request made by him to the Disciplinary Authority and a sitting was also held with due notice, subsequently postponing the same by another 10 days on 28.5.1998. Even after this sitting of enquiry as he has made his own representations to the Disciplinary Authority, the enquiry was again re-opened in order to facilitate him to bring his defence to the fore under the Principles of Natural Justice and the sitting was held on 7.9.1998. Even in the said sitting, his harping on the point of 15 days'' time while 13 days notice has already been given to him is not acceptable. As such I have gone ahead with the enquiry on 7.9.1998 in which he has lead the evidence by producing 8 witnesses. No doubt the witnesses have deposed before the enquiry forum in his favour but their deposition is not backed by any documents. As such it has no evidentiary value while compared to the evidence brought on record by the management and for the reasons stated by me earlier.

CONCLUSION:

In the departmental enquiry, the management has produced 2 witnesses and 278 documents in all. The evidence produced by the management through the witnesses is corroborated by the documents produced before the enquiry forum has gone on record unrebutted. While 8 witnesses have appeared in their defence, their statements are not backed by the documents. Moreover, the CSOE has not even replied the general examination conducted by me. For the reasons stated above, I have no hesitation in stating that the management has proved all the 3 charges levelled against Sri R L Sahi vide chargesheet no. 35/PD:IRD/DA-3 dated 28.11.96, beyond any shadow of doubt."

(Emphasis is mine)

4. From and in addition to the aforesaid conclusions which have been arrived at by the Enquiry Officer, the following salient aspects need to be noted:-

(i) There is no dispute that the petitioner, so far as the factual aspects of the first two articles of charges are concerned, did in fact allow withdrawals in the account of M/s. Arora Associates and also discounted the four cheques. It is an undisputed position that with respect to these withdrawals he did not have the necessary powers to allow withdrawals with respect to nine cheques and he did not inform the head office with respect to ten other cheques. It is also not disputed on behalf of the petitioner that with respect to the four discounted cheques totalling to Rs. 40,000/-, the petitioner at no point of time ever informed the respondent no. 1/Bank that these transactions are of his family members and are above the amount of Rs. 5,000/-, though the same was the requirement as per the relevant circulars of the respondent no. 1/Bank.

(ii) Petitioner in spite of being given an opportunity did not step into the witness box and instead produced his witnesses being his family members and four friends. Once therefore petitioner did not have the courage of conviction to depose in his favour and stand the test of cross-examination (and which cross-examination would have put the petitioner to considerable difficulty) a very strong adverse presumption needs to be drawn against the petitioner.

(iii) Petitioner caused considerable and a huge delay in the departmental proceedings before the Enquiry Officer and the Enquiry Officer was more than liberal and considerate to the petitioner by repeatedly reopening the enquiry after closing the right of the petitioner and whereafter ultimately petitioner led the evidence of eight witnesses being his wife, two daughters, one son and four friends.

(iv) Petitioner does not dispute that there existed 13 accounts in his name and the name of his wife and which were opened with the Asaf Ali Road Branch, New Delhi, Chandigarh branch (six in number), Bank of India, Chandigarh Branch (two in number) and Andhra Bank, Chandigarh Branch (four in number). These accounts are as under:-

I) "A) With our Asaf Ali Road Branch:

1. SB/STF 445 in his name

B) With our Chandigarh Branch:

1. SB/DO 259 in his name

2. SB 17739 in his name

3. SB 17742 in the joint names of himself and Smt. Reeta Sahi his wife.

4. SB 17683 in the joint names of his son Sri Manu Sahi and his wife, Smt. Reeta Sahi.

5. SB 17684 in the joint names of his mother Smt. Lajwanthi Sahi and his daughter Kum Honey Sahi.

6. SB 17689 in the joint names of his daughter Kum Pooja Sahi and his wife Smt. Reeta Sahi.

C) With Bank of India, Chandigarh Branch:

1. SB 28448 in the name of Smt. Reeta Sahi, his wife

2. SB 28449 in the name of Kum. Smriti Sahi, his daughter

D) With Andhra Bank, Chandigarh Branch:

1. CA 3054 in the joint names of himself, Kum. Pooja Sahi and Kum Honey Sahi, his daughters.

2. CA 3169 in the name of Smt. Reeta Sahi, his wife

3. SB 15398 in the name of Smt. Reeta Sahi, his wife

4. SB 15471 in the name of Kum. Smriti Sahi, his daughter."

II) The further details with respect to these accounts and with respect to the date on which they were opened and with what amount they were initially opened are as under:-

"1. SB a/c No. DO-259 opened at Chandigarh branch on 28.8.93 with the initial deposit entry of Rs. 111.05 in the name of Sri R L Sahi (M Ex. 8 and 9).

2. SB A/c No. 17739 dt. 27.11.93 in the name of M/s. R L Sahi HUF opened at Chandigarh Branch on 27.11.93 with an initial deposit of Rs. 25,000/- (M Ex. 11 to 14)

3. SB a/c no. 17683 dt. 1.11.93 in the name of Master Manu Sahi, son of Sri R L Sahi opened at Chandigarh branch on 1.11.93 with an initial deposit of Rs. 100/- (M Ex. 28 to 30). This a/c was later converted into a joint account with effect from 8.12.94 with Smt. Rita Sahi, wife of Sri R L Sahi as the other depositor. (refer M Ex. 28 to 30)

4. SB a/c no. 17684 in the joint names of Smt. Lajwanti Sahi (mother of Sri R.L. Sahi) and another person with name Honey Sahi opened on 1.11.93 at Chandigarh branch with an initial deposit of Rs. 100/- (M Ex. 87 to 90)

5. SB a/c no. 17689 opened at Chandigarh branch on 2.11.93 in the name of Mss Pooja Sahi (daughter of Sri R L Sahi) with an initial deposit of Rs. 100/-. This account was later converted into a joint account w.e.f. 8.12.94 with Smt. Rita Sahi as the other depositor. (M Ex. 100 to 104)

6. SB a/c No. 17742 opened at Chandigarh branch on 30.11.93 in the name of Sri Ramesh Lal Sahi with an initial deposit of Rs. 100/-. This a/c was later converted into a joint a/c w.e.f. 8.12.94 with Smt. Rita Sahi the other joint depositor. (M Ex. 126 to 129 and M Ex. 120A)

7. SB a/c no. 28448 opened at Bank of India, Chandigarh in the name of Smt. Rita Sahi on 4.11.93 with an initial deposit of Rs. 100/- (M Ex. 177 and 178)

8. SB a/c no. 28448 opened at Bank of India, Chandigarh in the name of Miss. Smrithi Shai on 4.11.93 with an initial deposit of Rs. 100/- (M Ex. 177 and 179)

9. Current a/c no. 3054 opened at Andhra Bank, Chandigarh on 21.1.94 in three names of " Ramesh Lal", " Pooja Sahi", and a person with the name "Honey Sahi". This a/c was opened with an initial deposit of Rs. 40,000/-. (M Ex. 180 to 182 and 187).

10. Current a/c no. 3169 opened at Andhra Bank, Chandigarh on 7.2.94 with an initial deposit of Rs. 500/- in the name of Smt. Rita Sahi. (M Ex. 180, 188, 183 and 184)

11. SB a/c no. 15398 opened at Andhra Bank, Chandigarh on 7.2.94 in the name of Mrs. Rita Sahi with an initial deposit of Rs. 100/-. (M Ex. 180 and 189)

12. SB a/c no. 15471 opened at Andhra Bank, Chandigarh on 22.3.94 in the name of Miss Smrithi Sahi with an initial deposit of Rs. 100/-. (M Ex. 180, 190, 186)

13. SB a/c no. 445 which was continuing at our Asaf Ali Road Branch New Delhi in the name of Sri R L Sahi."

5. Before I turn to the arguments urged on behalf of the petitioner, it is relevant to note the legal position with respect to the scope of hearing before this Court in a petition under Article 226 of the Constitution of India which challenges the orders passed by the departmental authorities. The law in this regard is that this Court does not sit as an appellate court to re-apprise the findings and conclusions of the departmental authorities. This Court can only interfere if the findings are grossly perverse. This Court cannot interfere if as per the preponderance of probabilities departmental authorities arrive at one view of the matter, although this Court may be shown that there exists another view of the matter. Orders of the departmental authorities therefore can be challenged only if either they are perverse or are in violation of the principles of natural justice or are against the rules of the organization/law or the punishment imposed is disproportionate.

6. In the present case, petitioner has essentially argued with respect to violation of principles of natural justice and disproportionate punishment imposed upon the petitioner. The arguments which have been urged on behalf of the petitioner are as under:-

(i) The departmental enquiry is hit by the principles of natural justice inasmuch as petitioner in spite of asking that certain documents be supplied to him the same were not supplied to him, and hence petitioner is prejudiced and the orders of the departmental authorities have to be set aside.

(ii) The Enquiry Officer wrongly closed the right of the petitioner to lead further evidence after the petitioner examined eight witnesses, and this aspect alongwith other aspects show that since the Enquiry Officer was sitting with a pre-determined mind, enquiry proceedings must fail.

(iii) Against the petitioner, the CBI had registered a case but ultimately that case was dropped by the CBI and therefore no case of disproportionate assets is made out against the petitioner and hence this Court can act on the basis of this fresh information which has now come into existence after filing of the Enquiry Officer''s report and set aside the findings of the departmental authorities. In support of this argument, reliance is placed upon the judgment of the Supreme Court in the case of G.M. Tank Vs. State of Gujarat and Another, AIR 2006 SC 2129 : (2006) 3 CTC 494 : (2006) 11 JT 36 : (2006) 3 LLJ 1075 : (2006) 5 SCALE 582 : (2006) 5 SCC 446 : (2006) SCC(L&S) 1121 : (2006) 3 SCR 253 Supp : (2006) 3 SLJ 312 : (2006) AIRSCW 2709 : (2006) 4 Supreme 740 .

(iv) No financial loss has been caused to the respondent no. 1/Bank by any of the transactions which are alleged against the petitioner and this aspect must be taken alongwith the aspect that technical violations should not have resulted in the punishment of removal from services which is said to be grossly disproportionate to the facts of the present case. Reliance is also placed upon the judgment of the Supreme Court in the case of Kailash Nath Gupta Vs. Enquiry Officer, (R.K. Rai), Allahabad Bank and Others, AIR 2003 SC 1377 : (2003) 97 FLR 556 : (2003) 3 JT 322 : (2003) 2 LLJ 367 : (2003) 3 SCALE 428 : (2003) 9 SCC 480 : (2003) SCC(L&S) 1137 : (2003) AIRSCW 1813 : (2003) 3 Supreme 318 .

7.(i) So far as the first argument is concerned, in order to establish that principles of natural justice have been violated because petitioner was not supplied the documents, it is necessary to understand what were the documents which were asked for by the petitioner from the respondent no. 1/Bank, whether the request made was bonafide and how the same could have affected the conclusions arrived at by the departmental authorities. In this regard, counsel for the petitioner has drawn my attention to the letter given by the petitioner to the Enquiry Officer dated 9.7.1998 and this letter reads as under:-

R.L. SAHI B 103, Mansarover Garden New Delhi 110015 9.7.1998

Shri Y.M. Pai Enquiry Authority, Dy. General Manager, Syndicate Bank, Zonal Office Hyderabad

Respected Sir,

Re: Enquiry in respect of charge sheet no. 35/PD/IRI, DA-3 dated 24.11.96

Kindly refer to my letter dated 6.6.1998 requesting you to refer the matter to the Disciplinary Authority before taking a final decision on my enquiry. I had also requested GM(P)-the DA to give me an opportunity to lead my defence witnesses and also produce the defence documents in order to give me a fair and reasonable chance to defend myself in the above enquiry.

Vide my letter dated 31.3.1998, I had given a detailed list of my defence documents. On perusal of the list, you would kindly observe that the following documents are in the custody of CBI: ACU VIII New Delhi. I contacted the CBI for the documents who advised me to contact my employer i.e. Syndicate Bank Head Office who would in turn request the CBI for the documents and the Bank would make the documents available to me:

(1) Copies of Property Returns submitted to the Bank from 1993-1994 (Complete File)

(2) Details of NSC''s purchased by me during the period 1980-1994 and interest accrued thereon.

(3) Income Tax Returns File relating to the Income Tax Returns filed by my wife-Mrs. Rita Sahi.

(4) Statement of Assets and Liabilities of Manu Sahi, Shruti Sahi, Pooja Sahi-complete file

(5) Statement of dividends/interest received from various Ltd. companies and counterfoils of dividends/interest warranty received by my family members.

(6) File pertaining to following property transactions.

(i) Flat No. KD-233, Pitampura, New Delhi.

Further, vide my letter dated March 30, 1998, I had given a detailed list of the defence witnesses to be produced during the enquiry. The following witnesses are the officers of the Syndicate Bank and I request your good selves to summon them in the next session of enquiry for their evidence. As a quasi judicial authority, you have all the powers to call them:

(1) Shri P.S. Verma, Manager Bawana, New Delhi

(2) Shri S.P. Arora, Officer, DO, Faridabad

(3) Shri J.C. Singhal, Divisional Manager, ZO, Lucknow

(4) Shri Paruthi, Officer, Current A/c Asaf Ali Road Br

(5) Shri S.L. Mukhi, Senior Scientific Officer, Grade I, (Document) Central Forensic Science Laboratory, CBI, Block No. IV, CGO, New Delhi.

(6) Any two officers working as Managers in any two branches under Chandigarh D.O. during 1993-94.

(ii) Plot no. C-194, Vikaspuri New Delhi

(iii) Plot no. FD-12, Tagore Garden, New Delhi

7. Copy of the sale deed in respect of ancestral property at Khanna (Pb)

8. Statements of accounts with M/s. Arora Associates M/s. Kaku Investments in respect of shares sold through them during 1991, 1992, 1993 and 1994.

9. Post office C.T.D. Pass Books (CTD of Rs. 60/- p.m.) and certificate issued by Post Office in respect of CTD @ Rs. 100/- p.m.

I had made a request in this regard vide my letter dated 22.5.1998 addressed to you. Now I once again requested you to take up the matter with CBI New Delhi and help me to get the above documents so that the same may be produced by me during the enquiry as my defence.

I request you to call them for evidence (by issuing them approximate summons) in the session of enquiry.

Further, inspite of my several requests I have not yet been provided with the following documents by the presenting officer:

(1) Schedule of Returns maintained as Asaf Ali Road Branch during the year 1992

and 1993.

(2) Cheques no. 502536, 564652, 564658, 564663, 819512 and 819526 pertaining to the account of M/s. Arora Associates, Asaf Ali Road Branch.

(3) HO: Circular no. B C 142/91

(4) Copies of the reminders sent by Zonal office "CW New Delhi during 1993-94 to Asaf Ali Road Branch during 1992 and 1993 regarding non-receipt of fortnightly statement AR 3013 and AR 3014 (overdrafts)-For the fortnights during which overdraws to Arora Associates were allowed.

(5) Reasons for Bank''s claiming the privilege in respect of document no. 5 and 7 of my letter dated 13.5.1998.

The sources and rationale of all the above witnesses/documents have already been furnished to you.

I, humbly request you to do the needful before fixing the date of next enquiry if permitted by the Disciplinary authority.

Thanking you,

Yours faithfully Sd/-."

(ii) A reading of the aforesaid letter shows that as per the petitioner these wide swathe of documents which are sought from the respondent no. 1/Bank were in the custody of the respondent no. 1/Bank but they were seized by the CBI from the custody of the respondent no. 1/Bank. The first point in this regard which is to be noted is that the documents which are sought for are those which as per the petitioner he himself had supplied to the respondent no. 1/Bank. Therefore, even if the said documents were seized by the CBI from the respondent no. 1/ Bank, it does not mean that the petitioner would not have copies of the same or that the petitioner could not have otherwise obtained them from the different authorities such as the Income Tax department or his Chartered Accountant if any, or from any other government departments including the House Tax department with respect to immovable property transactions etc. Therefore, petitioner is only resorting to a convenient route by stating that petitioner is prejudiced because these documents were not supplied by the respondent no. 1/ Bank. The second aspect is that once the petitioner himself admits that the respondent no. 1/Bank did not have these documents in its possession, and once that is so, it is not understood as to how the respondent no. 1/Bank or the Enquiry Officer is guilty of not supplying the documents to the petitioner. The third aspect and which is an important aspect is that the Enquiry Officer has repeatedly noted in the Enquiry Report that the petitioner has not even categorically mentioned that he intends to use these documents (or which part thereof) inasmuch as petitioner before the Enquiry Officer only stated that he ''may'' use these documents. Clearly the request of the petitioner was not a bonafide one. The fourth aspect to be noted is that these documents are sought without stating the purpose of producing the documents and as to how and what the same will be proved. The petitioner''s case of injustice meted out to him is thus not correct including because that the petitioner had supplied each and every document to the respondent no. 1/Bank is not established. Final aspect to be noted is that none of the documents which the petitioner claims that he is entitled to are those documents which are relied upon by the Enquiry Officer to give a finding against the petitioner that the petitioner is guilty on account of such documents.

(iii) In view of the above, I do not find that petitioner can claim that enquiry proceedings are vitiated allegedly on account of violation of the principles of natural justice. This is all the more so because the petitioner has deliberately caused unnecessary delays in the departmental proceedings and after a lot of delays, ultimately petitioner did lead evidence of as many as eight witnesses, as stated above. The first argument urged on behalf of the petitioner is therefore rejected.

8. The second argument urged by the petitioner is that the Enquiry Officer wrongly closed the right of the petitioner to lead evidence and which argument is a totally unjustified argument as per the record of this case. The record of this case shows that the Enquiry Officer first conducted proceedings at Delhi where the management led its evidence. Enquiry proceedings were thereafter conducted in Mumbai and the petitioner never objected to the proceedings being conducted at Mumbai, however, at a late stage, he took up a stand that he could not call his witnesses from Delhi to Mumbai. The further aspect which is to be noted is that the Enquiry Officer then shifted the proceedings to Delhi and petitioner thereafter defaulted in not leading evidence on 2/3 occasions by claiming that he had a right to have ''15 days notice period'' but from where this 15 days notice period was required was not specified. After causing huge delays, petitioner led evidence of eight of his witnesses, and since the case had been already repeatedly adjourned over many months only on account of delaying tactics of the petitioner, the Enquiry Officer was hence justified in closing the right of the petitioner after he examined eight witnesses. In fact, as stated above, the Enquiry Officer has been more than liberal to the petitioner in re-opening the enquiry more than once although the petitioner was deliberately found to be delaying the proceedings. Enquiry Officer in this regard also notes that right till the third venue at Delhi petitioner never filed his list of witnesses, and after the same was filed with delay, still the Enquiry Officer has allowed evidence of two witnesses being the friends of the petitioner whose names were not in the list of witnesses. This argument therefore urged on behalf of the petitioner is misconceived and by no stretch of imagination it can be urged on behalf of the petitioner that the Enquiry Officer was sitting with a pre-determined mind. This argument of the petitioner is therefore rejected.

9. The third argument of the petitioner is that since the CBI had dropped the case of the petitioner, petitioner should hence also be exonerated in the

departmental proceedings and in support whereof a judgment of the Supreme Court in the case of G.M. Tank (supra) is relied upon. At the outset it is to be noted that the decision of a criminal case has no bearing upon a departmental case as the former is to be proved beyond doubt and the latter has to be proved only on preponderance of probabilities. Thus, dropping of the case cannot affect the departmental case if the department has by leading evidence proved its case before the departmental authorities. Reliance placed by the petitioner on the judgment in the case of G.M. Tank (supra) does not help the petitioner inasmuch as the facts of the said case show that evidence which was led in the Prevention of Corruption Act (PC Act) proceedings and the departmental proceedings was identical, and therefore since on the basis of the same facts and evidence charge-sheeted official was found to be exonerated in the PC Act case and hence the charge-sheeted official was exonerated even in the departmental proceedings. More importantly it is necessary to note that department did not lead evidence in that case in the departmental proceedings against the charge-sheeted official and which is noted in para 21 of the judgment which is relied upon by the petitioner himself before this Court. This para 21 reads as under:-

"21. It is thus seen that this is a case of no evidence. There is no iota of evidence against the appellant to hold that the appellant is guilty of having illegally accumulated excess income by way of gratification. The respondent failed to prove the charges leveled against the appellant. It is not in dispute that the appellant being a public servant used to submit his yearly property return relating to his movable and immovable property and the appellant has also submitted his return in the year 1975 showing his entire movable and immovable assets. No query whatsoever was ever raised about the movable and immovable assets of the appellant. In fact, the respondent did not produce any evidence in support of and/or about the alleged charges leveled against the appellant. Likewise, the criminal proceedings were initiated against the appellant for the alleged charges punishable under the provisions of P.C. Act on the same set of facts and evidence. It was submitted that the departmental proceedings and the criminal case are based on identical and similar (verbatim) set of facts and evidence. The appellant has been honorably acquitted by the competent Court on the same set of facts, evidence and witness and, therefore, the dismissal order based on same set of facts and evidence on the departmental side is liable to be set aside in the interest of justice."

(underlining added)

10. Another important aspect is that in the case of G.M. Tank (supra) the only issue upon the charge-sheeted official was of his having assets disproportionate to known sources of income whereas in the present case there is not only a charge against the petitioner of his having assets disproportionate to known source of income but against the petitioner there are three separate charges including the allegations that petitioner allowed withdrawals in the account of M/s. Arora Associates either without authorization or giving necessary intimation to

the authority and that he opened bank accounts in the name of his dependant family members without informing the respondent no. 1/Bank i.e. charges in addition to assets beyond known income. The article of charges therefore against the petitioner in the criminal case which was dropped by the CBI and the departmental enquiry charge-sheet is therefore not identical as was in the case of G.M. Tank (supra) where on account of the charge-sheet being identical with respect to disproportionate assets to the known source of income, hence the charge-sheeted official in the CBI case was exonerated in the departmental proceedings because he was exonerated on the same set of charges with respect to disproportionate income/assets in the PC Act case. Therefore the judgment in the case of G.M. Tank (supra) does not help the petitioner and the argument of the petitioner that the petitioner should be exonerated by dropping the departmental proceedings and quashing the order of the departmental authorities on the ground that CBI has dropped the case against him is an argument which lacks substance and is rejected. The argument has to be rejected also and more importantly because in the present departmental proceedings case, evidence has been led by the management of two of its witnesses and it has produced 278 documents, and that petitioner with respect to articles of charges I and II has not disputed the same and with respect to the third article of charges facts with respect to credit entries are admitted but only explanations were sought to be given with respect to those credit entries that they were because his wife used to earn by giving tuitions to children or that his wife and all his three children used to every year after year receive gifts in cash from his relatives which allegedly resulted in the credit entries in the 13 accounts. Enquiry Officer has in this regard rightly noted that it is very curious that the alleged gifts by friends and relatives are not only with respect to the wife but identically with respect to not one child but all the three children and to which aspect I note that no names are given of the friends and relatives who year after year repeatedly gave gifts of huge amount of moneys running into lacs of rupees, and how in fact such friends and relatives have moneys and that such friends and relatives did in fact gave moneys to the petitioner''s wife and his children, has not been established by leading cogent evidence before the Enquiry Officer and such conclusions of the gifts etc are urged by the petitioner only on the basis of oral evidence of the family members of the petitioner. Even with respect to two friends of the petitioner who deposed as DW1 and DW2 when they were queried as to what is the evidence they had to show the payment of money and gifts to the petitioner, they conceded that they had no evidence whatsoever that they had moneys with them and that they gave such amounts to the petitioner and his family members. The defence of the petitioner was thus contrived and the fact that this evidence is contrived is clear because the Enquiry Officer notes at various places in his report including at internal page no. 15 (last para) that petitioner in spite of being repeatedly required by the department to submit explanations with respect to the bank accounts and the transactions therein failed to give replies in spite of reminders. Enquiry Officer hence has rightly concluded that the petitioner had no explanation to offer and hence he did not give replies. Hence the evidence which is ultimately led by the petitioner was on the basis of his contrived stand which did not factually exist because in spite of the petitioner having been given sufficient opportunities to explain his case by the department of the respondent no. 1/Bank he had failed to do so.

11. I may note that there are various other aspects in the Enquiry Officer''s report with respect to petitioner himself filling every form and even forging the signatures of his family members with respect to account opening and operating of the accounts, lack of basis in so-called selling and purchasing of shares by the family members of the petitioner, how the wife of the petitioner refused to give names of the children to whom she was giving tuitions at the time when her deposition was being recorded etc. There are also further aspects as to how petitioner who had salary of just Rs. 7,000/- per month could have run up credits of around Rs. 47 lacs in the 13 accounts, details of which have been given above. Since I am not sitting as an appellate court and since the report of the Enquiry Officer is a detailed report running into 48 full scape pages of single space (i.e. around 100 full scape pages of double space) I am not reproducing various aspects and conclusions which have been noted by the Enquiry Officer in detail to hold the petitioner guilty of charges against him.

12. The last argument which was urged on behalf of the petitioner is that the punishment imposed is disproportionate and for which purpose reliance is placed upon the judgment in the case of Kailash Nath Gupta (supra) however I may note that whether punishment is disproportionate or not depends upon the facts/ charges in each case and how the charges have been proved in each case and therefore since facts of each case are different, whether the punishment is disproportionate or not will have to be seen as per the facts of each case. In the facts of the present case where all the three articles of charges have been proved against the petitioner and which show his complete lack of respect to authority of the respondent no. 1/Bank of allowing unauthorized withdrawals, and not informing the respondent no. 1/Bank, conducting transactions without the knowledge of the respondent no. 1/Bank, etc. show that it cannot be held that in the present case the punishment of removal from service is a disproportionate punishment. In fact I may note that the Supreme Court in various judgments has held that unless the punishment is grossly disproportionate so as to shock judicial conscience, courts do not interfere with the punishments which have been imposed upon the delinquent official by the departmental authorities.

13. In view of the above, it is clear that the petitioner exhibited lack of integrity with respect to his services with the respondent no. 1/Bank. Petitioner occupied a very responsible position and in fact was in charge of a large branch at Asaf Ali Road, New Delhi headed by a person of his rank being a Chief Manager of the respondent no. 1/Bank and who subsequently became an Assistant General Manager and Divisional Manager at Chandigarh. Therefore, this Court cannot interfere with the findings and conclusions of the departmental authorities or the punishment imposed and considering the facts of the present case this writ

petition is dismissed with costs of Rs. 50,000/-. Respondent no. 1/Bank can recover the costs in accordance with law.

