

(2016) 03 TP CK 0042
In the Tripura High Court
Case No : W.P.(C) No. 205 of 2015

Sri Jiban Krishna Banik

APPELLANT

Vs

Tripura Gramin Bank

RESPONDENT

Date of Decision : 31-03-2016

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2016) 2 CLR 705

Hon'ble Judges : S. Talapatra, J.

Bench : Single Bench

Advocate : Mr. D.K. Biswas, Advocate and Mr. A.K. Bhowmik, Sr. Advocate and Mr. R. Dutta, Advocate, for the Appellant; Mr. K. Bhattacharjee, Addl. G.A, for the Respondent

Final Decision : Dismissed

Judgement

S. Talapatra, J.—Both these writ petitions, seeking judicial review of the final order passed on culmination of the disciplinary proceeding, are faced with the identical question whether this Court can review the finding of the fact as returned in the disciplinary proceeding and hence, these writ petitions are clustered for disposal by a common judgment. However, for laying the perspective, the factual matrix be laid briefly and separately.

I have heard Mr. A.K. Bhowmik, learned senior counsel and Mr. D.K. Biswas, learned counsel for the petitioners as well as Mr. K. Bhattacharjee, learned counsel for the respondents.

2. Lord Halton in Chief Constable of the North Wales Police v. Evans, reported in (1982) 3 ALL ER 141 observed:

"The purpose of judicial review is to ensure that the individual receives, fair treatment and not to ensure that the authority, after according fair treatment, reaches, on a matter which it is authorised by law to decide for itself, a conclusion which is correct in the eyes of the Court."

In *Apparel Export Promotion Council v. A.K. Chopra*, reported in AIR 1999 SC 625, the apex court while dwelling on the ambit of judicial review vis-a-vis the disciplinary proceeding has observed as under:

"18. Judicial Review, not being an appeal from a decision, but a review of the manner in which the decision was arrived at, the Court while exercising the power of Judicial Review must remain conscious of the fact that if the decision has been arrived at by the Administrative Authority after following the principles established by law and the rules of natural justice and the individual has received a fair treatment to meet the case against him, the Court cannot substitute its judgment for that of the Administrative Authority on a matter which fell squarely within the sphere of jurisdiction of that authority.

19. It is useful to note the following observations of this Court in *Union of India v. Sardar Bahadur* : (1972) 4 SCC 618:

?Where there are some relevant materials which the authority has accepted and which materials may reasonably support the conclusion that the officer is guilty, it is not the function of the High Court exercising its jurisdiction under Article 226 to review the materials and to arrive at an independent finding on the materials.

If the enquiry has been properly held the question of adequacy or reliability of the evidence cannot be canvassed before the High Court.?

20. After a detailed review of the law on the subject, this Court while dealing with the jurisdiction of the High Court or Tribunal to interfere with the disciplinary matters and punishment in *Union of India v. Parma Nanda* : (1989) 2 SCC 177, opined :

?We must unequivocally state that the jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the Enquiry Officer or Competent Authority where they are not arbitrary or utterly perverse. It is appropriate to remember that the power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of Legislature or Rules made under the proviso to Article 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter of exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority.

21. In *B.C. Chaturvedi v. Union of India* : (1995) 6 SCC 749, this Court opined :

The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to re-appreciate the evidence or the nature of punishment. In a Disciplinary Enquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/

Tribunal.

Further it was held :

A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof."

[Emphasis supplied]

3. In *S.R Tewari v. Union of India and another*, reported in (2013) 6 SCC 602, the apex court again revisited the law and held as under:

13. In *Commissioner of Income-tax, Bombay & Ors. v. Mahindra & Mahindra Ltd. & Ors.*: AIR 1984 SC 1182, this Court held that various parameters of the court's power of judicial review of administrative or executive action on which the court can interfere had been well settled and it would be redundant to recapitulate the whole catena of decisions. The Court further held:

"11.....it is a settled position that if the action or decision is perverse or is such that no reasonable body of persons, properly informed, could come to, or has been arrived at by the authority misdirecting itself by adopting a wrong approach, or has been influenced by irrelevant or extraneous matters the Court would be justified in interfering with the same."

20. The court can exercise the power of judicial review if there is a manifest error in the exercise of power or the exercise of power is manifestly arbitrary or if the power is exercised on the basis of facts which do not exist and which are patently erroneous. Such exercise of power would stand vitiated. The court may be justified in exercising the power of judicial review if the impugned order suffers from mala fide, dishonest or corrupt practices, for the reason, that the order had been passed by the authority beyond the limits conferred upon the authority by the legislature. Thus, the court has to be satisfied that the order had been passed by the authority only on the grounds of illegality, irrationality and procedural impropriety before it interferes. The court does not have the expertise to correct the administrative decision. Therefore, the court itself may be fallible and interfering with the order of the authority may impose heavy administrative burden on the State or may lead to unbudgeted expenditure. (Vide: *Tata Cellular v. Union of India*: AIR 1996 SC 11; *People's Union for Civil Liberties & Anr. v.*

Union of India & Ors.: AIR 2004 SC 456; and State of N.C.T. of Delhi & Anr. v. Sanjeev : AIR 2005 SC 2080).

21. In *Air India Ltd. v. Cochin International Airport Ltd. & Ors.*, AIR 2000 SC 801, this Court explaining the scope of judicial review held that the court must act with great caution and should exercise such power only in furtherance of public interest and not merely on the making out of a legal point. The court must always keep the larger public interest in mind in order to decide whether its intervention is called for or not.

22. There may be a case where the holders of public offices have forgotten that the offices entrusted to them are a sacred trust and such offices are meant for use and not abuse. Where such trustees turn to dishonest means to gain an undue advantage, the scope of judicial review attains paramount importance. (Vide: *Krishan Yadav & Anr. v. State of Haryana & Ors.*: AIR 1994 SC 2166).

23. The court must keep in mind that judicial review is not akin to adjudication on merit by re appreciating the evidence as an appellate authority. Thus, the court is devoid of the power to re-appreciate the evidence and come to its own conclusion on the proof of a particular charge, as the scope of judicial review is limited to the process of making the decision and not against the decision itself and in such a situation the court cannot arrive on its own independent finding. (Vide: *High Court of Judicature of Bombay v. Udaysingh & Ors.*, AIR 1997 SC 2286; *State of Andhra Pradesh & Ors. v. Mohd. Nasrullah Khan*, AIR 2006 SC 1214; and *Union of India & Ors. v. Manab Kumar Guha*, (2011) 11 SCC 535).

[Emphasis added]

Even the question of interference on the quantum of punishment has been considered in *S.R. Tewari v. Union of India* having due regard to the catena of judgment of the apex court where the law has been restated that if the punishment awarded is disproportionate to the gravity of the misconduct, it would be arbitrary and thus, would violate the mandate of Article 14 of the Constitution. It has been observed in *S.R. Tewari v. Union of India* after making a survey of the precedents as under:

"24. In *Ranjit Thakur v. Union of India & Ors.*, AIR 1987 SC 2386, this Court observed as under:

"25. But the sentence has to suit the offence and the offender. It should not be vindictive or unduly harsh. It should not be so disproportionate to the offence as to shock the conscience and amount in itself to conclusive evidence of bias. The doctrine of proportionality, as part of the concept of judicial review, would ensure that even on the aspect, which is otherwise, within the exclusive province of the Court Martial, if the decision of the Court even as to sentence is an outrageous defiance of logic, then the sentence would not be immune from correction.

* * *

27. In the present case, the punishment is so stringently disproportionate as to call for and justify interference. It cannot be allowed to remain uncorrected in judicial review."

(Emphasis supplied)

(See also: *Union of India & Anr. v. G. Ganayutham* : AIR 1997 SC 3387; *State of Uttar Pradesh & Ors. v. J.P. Saraswat*: (2011) 4 SCC 545; *Chandra Kumar Chopra v. Union of India & Ors.*: (2012) 6 SCC 369; and *Registrar General, High Court of Patna v. Pandey Gajendra Prasad* : AIR 2012 SC 2319).

25. In *B.C. Chaturvedi v. Union of India & Ors.*, AIR 1996 SC 484, this Court after examining various its earlier decisions observed that in exercise of the powers of judicial review, the court cannot "normally" substitute its own conclusion or penalty. However, if the penalty imposed by an authority "shocks the conscience" of the court, it would appropriately mould the relief either directing the authority to reconsider the penalty imposed and in exceptional and rare cases, in order to shorten the litigation, itself, impose appropriate punishment with cogent reasons in support thereof. While examining the issue of proportionality, court can also consider the circumstances under which the misconduct was committed. In a given case, the prevailing circumstances might have forced the accused to act in a certain manner though he had not intended to do so. The court may further examine the effect, if the order is set aside or substituted by some other penalty. However, it is only in very rare cases that the court might, to shorten the litigation, think of substituting its own view as to the quantum of punishment in place of punishment awarded by the Competent Authority.

26. In *V. Ramana v. A.P.S.R.T.C.*, AIR 2005 SC 3417, this Court considered the scope of judicial review as to the quantum of punishment is permissible only if it is found that it is not commensurate with the gravity of the charges and if the court comes to the conclusion that the scope of judicial review as to the quantum of punishment is permissible only if it is found to be "shocking to the conscience of the Court, in the sense that it was in defiance of logic or moral standards."

In a normal course, if the punishment imposed is shockingly disproportionate, it would be appropriate to direct the Disciplinary Authority to reconsider the penalty imposed. However, in order to shorten the litigation, in exceptional and rare cases, the Court itself can impose appropriate punishment by recording cogent reasons in support thereof.

27. In *State of Meghalaya & Ors. v. Mecken Singh N. Marak*, AIR 2008 SC 2862, this Court observed that:

"13.....A court or a Tribunal while dealing with the quantum of punishment has to record reasons as to why it is felt that the punishment is not commensurate with the proved charges."

14. In the matter of imposition of sentence, the scope for interference is very limited and restricted to exceptional cases. The punishment imposed by the

disciplinary authority or the appellate authority unless shocks the conscience of the court, cannot be subjected to judicial review. [See also: Depot Manager, A.P.S.R.T.C. v. P. Jayaram Reddy, (2009) 2 SCC 681)].?

28. The role of the court in the matter of departmental proceedings is very limited and the court cannot substitute its own views or findings by replacing the findings arrived at by the authority on detailed appreciation of the evidence on record. In the matter of imposition of sentence, the scope for interference by the court is very limited and restricted to exceptional cases. The punishment imposed by the disciplinary authority or the appellate authority unless shocking to the conscience of the court, cannot be subjected to judicial review. The court has to record reasons as to why the punishment is disproportionate. Failure to give reasons amounts to denial of justice. The mere statement that it is disproportionate would not suffice. (Vide: Union of India & Ors. v. Bodupalli Gopalaswami, (2011) 13 SCC 553; and Sanjay Kumar Singh v. Union of India & Ors., AIR 2012 SC 1783).

29. In Union of India & Ors. v. R.K. Sharma, AIR 2001 SC 3053, this Court explained the observations made in Ranjit Thakur (supra) observing that if the charge was ridiculous, the punishment was harsh or strikingly disproportionate it would warrant interference. However, the said observations in Ranjit Thakur (supra) are not to be taken to mean that a court can, while exercising the power of judicial review, interfere with the punishment merely because it considers the punishment to be disproportionate. It was held that only in extreme cases, which on their face, show perversity or irrationality, there could be judicial review and courts should not interfere merely on compassionate grounds."

4. In S.R. Tewari v. Union of India, the apex court also briefly dwelled upon on the scope of interference in the finding of facts thus:

"30. The findings of fact recorded by a court can be held to be perverse if the findings have been arrived at by ignoring or excluding relevant material or by taking into consideration irrelevant/ inadmissible material. The finding may also be said to be perverse if it is ?against the weight of evidence?, or if the finding so outrageously defies logic as to suffer from the vice of irrationality. If a decision is arrived at on the basis of no evidence or thoroughly unreliable evidence and no reasonable person would act upon it, the order would be perverse. But if there is some evidence on record which is acceptable and which could be relied upon, the conclusions would not be treated as perverse and the findings would not be interfered with. [Vide: Rajinder Kumar Kindra v. Delhi Administration: AIR 1984 SC 1805; Kuldeep Singh v. Commissioner of Police: AIR 1999 SC 677; Gamini Bala Koteswara Rao & Ors. v. State of Andhra Pradesh : AIR 2010 SC 589; and Babu v. State of Kerala, (2010) 9 SCC 189].

31. Hence, where there is evidence of malpractice, gross irregularity or illegality, interference is permissible."

5. On a keen reading it would irresistibly be inferred that the law as enunciated

in *Jayrajbhai Jayantibhai Patel v. Anilbhai Nathubhai Patel & Ors.*, reported in (2006) 8 SCC 200, is the crux, which has been enunciated as under:

"18. Having regard to it all, it is manifest that the power of judicial review may not be exercised unless the administrative decision is illogical or suffers from procedural impropriety or it shocks the conscience of the court in the sense that it is in defiance of logic or moral standards but no standardised formula, universally applicable to all cases, can be evolved. Each case has to be considered on its own facts, depending upon the authority that exercises the power, the source, the nature or scope of power and the indelible effects it generates in the operation of law or affects the individual or society. Though judicial restraint, albeit self-recognised, is the order of the day, yet an administrative decision or action which is based on wholly irrelevant considerations or material; or excludes from consideration the relevant material; or it is so absurd that no reasonable person could have arrived at it on the given material, may be struck down. In other words, when a court is satisfied that there is an abuse or misuse of power, and its jurisdiction is invoked, it is incumbent on the court to intervene. It is nevertheless, trite that the scope of judicial review is limited to the deficiency in the decision-making process and not the decision."

[Emphasis added]

6. The petitioner in W.P.(C) No. 205 of 2015 has challenged the inquiry report dated 25.04.2013, part of Annexure-2 to the writ petition and the order of punishment dated 27.05.2015, Annexure-2 to the writ petition. His appeal against the final order dated 27.05.2014 has been dismissed in 215th Board of Directors meeting held on 10.02.2015, as would be evident from the minutes of the said meeting, Annexure-R/2 to the counter affidavit filed by the respondents and the said decision was communicated by the letter dated 14.03.2015, Annexure-3 to the writ petition. But the petitioner did not challenge the said decision of the Board of Directors in dismissing his appeal and no reason thereof has been incorporated by amendment or otherwise.

The petitioner in W.P.(C) No. 293 of 2015 has challenged the charge sheet dated 26.08.2013 issued by the respondent No.2, Annexure-3 to the writ petition, the inquiry report dated 04.07.2014 submitted by the respondent No.4, Annexure-9 to the writ petition, the order of penalty dated 05.11.2014, issued by the respondent No.2, Annexure-11 to the writ petition and the appellate order dated 26.05.2015, issued by the respondent No.3, Annexure-13 to the writ petition.

7. For purpose of appreciation, the essential facts in a brief form are required to be laid at the outset. Since there is difference in the perspective and the transaction based on which the disciplinary action has been taken, it would be apposite to lay the fact separately against each of the writ petitions.

W.P.(C) No.205 of 2015

8.1. The petitioner while working as the Branch Manager at Bishalgarh Branch during the period of 2010-2011, one of the officers of the said branch acted fraudulently by manipulating the transactions and transferred huge amount of fund to the account of one account holder. It was collusive in nature and the embezzlement in that mode was to the tune of Rs. 22.00 lacs which was located much later. The petitioner even though had claimed that for his initiative, the entire money could be recovered and was credited in the bank. The petitioner filed a complaint to the police for taking penal action against the said officer. But the respondent No.2 by the communication dated 11.02.2012, Annexure-1 to the writ petition, levelled as many as 8(eight) charges of dereliction of duty. For purpose of reference, the articles of charge as brought against the petitioner are reproduced hereunder:

"While working as Branch Manager at Bishalgarh Branch you have committed some irregularities and misconduct without looking into the interest of the Bank and violated instructions of the Bank. The charges on which the enquiry is proposed to be held against you are as under:-

1. It appears from the record of Bishalgarh Branch that on 24.04.2010 you as Branch Manager passed two irregular transfer vouchers for Rs. 200000/- as debit SB A/c No. 18602 of Sri Jagabandhu Debbarma and credit SB A/c No. 18530 of Sri Chitta Ranjan Debbarma stating simple narration in debit voucher, being the amt. tr. to SB A/c No. 18530 which was wrongly credited and in credit voucher, being the amt. tr. from SB A/c No. 18602 which was wrongly credited, without scrutiny and verification the fact from where and when the amount wrongly credited in SB A/c No. 18602 of Sri Jagabandhu Debbarma. As a result Sri Chitta Ranjan Debbarma had withdrawn the entire amount from his SB A/c No. 18530. Thus it establishes that you did not serve the Bank honestly and faithfully. This your act of negligence causing financial loss to the Bank is an act detrimental to the interest of the Bank which constitutes misconduct on your part.

2. Again on 30.10.2010 you as Branch Manager passed two transfer vouchers of Rs. 39620/- for entry as debit OTLDP (SP) A/c and credit PL (intt. on non agri) A/c but the amount of credit voucher was credited to SB A/c No. 18530 of Sri Chitta Ranjan Debbarma instead of PL A/c. As a result Sri Chitta Ranjan Debbarma had withdrawn the entire amount from his SB A/c No. 18530 causing financial loss to the Bank. As Branch Manager it was your duty to monitor and analyse the daily function of the branch. But you did not do so. This your act of negligence causing financial loss to the Bank is an act detrimental to the interest of the Bank which constitutes misconduct on your part.

3. You were well aware about all the irregular entries made by Sri Satyendra Bhattacharya in SB A/c No. 18530 of Sri Chitta Ranjan Debbarma but you did not feel to inform the matter to the higher authority. Thus it establishes that you did not serve the Bank honestly and faithfully. You committed acts detrimental to the interest of the Bank which constitutes misconduct on your part.

4. From the records of the Branch it appears that Sri Satyendra Bhattacharya, officer, remaining absent from the duties, opened the day's business i.e. BOD of 14.01.2011 in advance beyond the office hour and made a transfer transaction of Rs. 4,79,000/- without preparing voucher, debit SB A/c No. 18530 of Sri Chitta Ranjan Debbarma and credit subsidy Reserve Fund A/c with some other transaction. You as Branch Manager accepted those entries made in a surveillance SB A/c as mentioned in Para point No. 5 of your explanation letter dated 30.11.2011 when maker and checker of the entries was absent from duties on that day. You did not feel it necessary to inform the matter to the higher authority rather, you indulged him for misappropriation of Bank's money. You did not serve the Bank honestly and faithfully. You committed acts detrimental to the interest of the Bank which attracts major misconduct on your part.

5. You were also aware of the fact that someone entered in the data base of the system and deleted some data/entries from the data base. Some entries were deleted from the data base especially the entries related to the entries of Subsidy Reserved Fund A/c with SB A/c No. 18530 dated 12.01.2011 and the entries dated 13.01.2011 in SB A/c No. 18530. Deletions of records are major irregularities. You as a Branch Manager of the branch did not feel necessary to inform the matter to the higher authority of the Bank. Thus you did not serve the Bank honestly and faithfully. You committed acts detrimental to the interest of the Bank which attracts major misconduct on your part.

6. You as Branch Manager of Bishalgarh Branch sanctioned housing loan of Rs. 14,49,000/- in favour Sri Satyendra Bhattacharya on 02.03.2011 keeping outstanding another housing loan bearing No. 8010301801481 violating the lending norms of the bank. You disbursed Rs. 14,00,000/- in two instalments on 05.03.2011 and 12.03.2011 without acceptance of the terms & conditions of the sanction letter by the borrower and without obtaining any utilisation report from Sri Bhattacharya which are also violation of the guideline of the Bank for disbursement of housing loan. You committed acts detrimental to the interest of the Bank which attracts misconduct on your part.

7. You did not follow proper guideline of the Bank in sanctioning the housing loan of Rs. 14,49,000/- bearing No. 8010211600016. It is also reported that no sanction letter, processing sheet and DDO's certificate found with the loan documents. Thus you did not serve the Bank honestly and faithfully. You committed acts detrimental to the interest of the Bank which attracts misconduct on your part.

8. It is observed that you and other officer of your Branch is in a habit of taking over and handing over the charge of the Branch including keys of the cash in improper manner and thus performed duties with negligence. This your act of negligence is an act detrimental to the interest of the Bank which attracts misconduct on your part.

9. The following vouchers are not found in the branch by the inspecting officer:

Sl.

Particulars of vouchers

Date of vouchers

Amount

1

Debit HBL Block A/c

27.01.2010

Rs. 200000/-

2

Credit SB A/c No. 18602

27.01.2010

Rs. 200000/-

3

Debit HBL Block A/c

03.07.2010

Rs. 600000/-

4

Credit SB A/c No. 18530

03.07.2010

Rs. 600000/-

5

Debit OTLDN A/c (SP 86 Nos.)

26.07.2010

Rs. 170000/-

6

Credit SB A/c 18530

26.07.2010

Rs. 170000/-

7

Debit deposit suspense A/c

11.11.2010

Rs. 300000/-

8

Credit Subsidy Reserved Fund A/C

11.11.2010

Rs. 300000/-

9

Debit Subsidy Reserved Fund A/C

11.11.2010

Rs. 300000/-

10

Credit MTFLD A/c 77(SHG)

11.11.2010

Rs. 100000/-

11

Credit MTFLD A/c 87(SHG)

11.11.2010

Rs. 80000/-

12

Credit MTFLD A/c 79(SHG)

11.11.2010

Rs. 120000/-

13

Debit MTFLD A/c 77(SHG)

11.11.2010

Rs. 100000/-

14

Debit MTFLD A/c 87(SHG)

11.11.2010

Rs. 80000/-

15

Debit MTFLD A/c 79(SHG)

11.11.2010

Rs. 120000/-

16

Credit SB A/c 18530

11.11.2010

Rs. 300000/-

17

Debit Subsidy Reserved Fund A/C

12.11.2010

Rs. 300000/-

18

Credit SB A/c 18530

12.11.2010

Rs. 300000/-

19

Debit Subsidy Reserved Fund A/C

12.01.2011

Rs. 479000/-

20

Credit SB A/c 18530

12.01.2010

Rs. 479000/-

21

Credit SB A/c 18530(Cash)

14.01.2010

Rs. 479000/-

22

Debit SB A/c 18530

14.01.2011

Rs. 479000/-

23

Credit Subsidy Reserved Fund A/c

14.01.2011

Rs. 479000/-

It is observed that you did not follow the Head Office instruction in respect of preservation of vouchers by maintaining voucher record register. You violated the Head Office instruction which attracts misconduct on your part."

8.2 The petitioner has himself admitted in Pra-4 of the writ petition that he was afforded opportunity for engaging the defence assistant. On culmination of the inquiry, the inquiry officer submitted his report. The grievance of the petitioner has finally dissolved to the point that the disciplinary authority without supplying a copy of the inquiry report, deprived the petitioner on making representation. Even without any application of mind to the report or to the record of evidence, the disciplinary authority, the respondent No.2 herein, accepted the finding and imposed the major penalty of reducing the petitioner to the next lower grade. Even the appellate authority did not consider the grounds set out in the memorandum of appeal nor discussed the matter in its meeting. Hence, the petitioner has approached this Court. According to the petitioner, the petitioner had no reason to doubt integrity of the other officers unless it is so recorded or established and whenever those vouchers were produced before him on good faith, he signed those. That officer had taken the advantage of such trust and preparing transfer vouchers, he transferred the huge account of money as stated to the account of an account holder. When the petitioner discovered that fact, he recovered the entire amount and credited the same in the account of the bank. Thus the bank in fact did not suffer any financial loss. However, an inquiry team constituted of two officers of the bank, namely Jaganath Sur (General Manager) and Sri Tapan Kr. Deb, Manager (Vigilance) made thorough inquiry and submitted their report. On the basis of that report, the charge sheet was framed for regular departmental proceeding. The report of the preliminary inquiry which was based for drawing a charge-sheet was not supplied to the petitioner. The finding of the said inquiry report was never shown to the petitioner. In short, the petitioner's grievance can be enumerated as under:

- (i) the original documents were not produced;
- (ii) the preliminary inquiry report was not made available to the petitioner;
- (iii) the petitioner was not given opportunity to represent against the finding of the inquiry officer;
- (iv) the disciplinarily authority has mechanically accepted the findings of the

inquiry officer.

Even the appellate authority, the Board of Directors did not make any deliberation while dismissing the appeal. Thus, the petitioner has contended that every action of the state or its instrumentalities is to be informed with reason. State is not a hierarchy of regressively genuflecting couture of bureaucracy. The petitioner was never asked to produce any witness.

8.3 By filing the counter affidavit, the respondents have seriously controverted the allegations made by the petitioner. They have stated that the petitioner has suppressed the real facts of embezzlement of huge amount. A loan was sanctioned irregularly by the petitioner worth Rs.14.49 lacs under the housing Scheme vide A/C No. 8010302901563 to one Sri Satyendra Bhattacharya, earlier referred to as the officer or the said officer. The said amount of loan was adjusted with the embezzlement amount with the knowledge of the petitioner as would be evident from the bank's report. If the petitioner was alert and was not acting collusively, the bank could have avoided further fraud of Rs.49.74 lacs at NIT Agartala Branch of the Bank [the subject of the other writ petition being W.P. (C) No.293 of 2015]. The petitioner has admitted the embezzlement of the bank money to the extent of Rs.22.00 lacs from the period from 20.04.2010 to 02.01.2011 and adjusted the same on March, 2011. Hence, the bank has suffered a huge loss. The respondents have categorically stated that all reasonable opportunities were provided to the petitioner in terms of the Tripura Gramin Bank (Officer and Employees) Service Regulations, 2010. In Para-15 of the counter affidavit, they have categorically stated that there is no provision for supplying the copy of the inquiry report to the charged officer. The respondents have asserted that all the relevant records as well as the reports were taken into consideration while passing the final order imposing penalty. The appellate authority as well has considered all the relevant records and the grounds of objection. In Para-17 of the counter affidavit, the respondents have emphatically stated that it has been clearly established that the petitioner is incapable of holding the post of Manager as it is the primary duty of the Manager to look after the bank works as well as the other works of the bank staffs/officer of the branch as the check and control system are scientifically designed and observed by all banks. The Manager is supposed to check all the transactions. By this system, irregular transaction can be located. The said officer was given Rs. 14,49,000/- under the housing scheme without report to the competent authority as per norms. The petitioner has taken a causal approach even after discovery of huge fraud but he has stated in his petition that 'thereafter the matter was verbally reported to the controlling officer?'. The manager should have written about the disorderly events to the controller and should have avoided communicating verbally, if that was so detected by the bank, the proper action could have prevented another fraud by the same officer for an amount of Rs.49.74 lacs from the NIT Agartala Branch. Thus, the bank has suffered serious loss. The original documents of the banks were mostly seized and for that reason, the photocopies were produced and those photocopies were duly signed by the petitioner. The

respondents have stated that (i) the principle of natural justice has been observed (ii) the charge-sheet was not defective and it has clearly narrated the charges (iii) the proportionality of the punishment cannot be stated to be unjust. The petitioner has clearly admitted that he had passed some vouchers bona-fide keeping trust on the said officer. The order of punishment having regard to the gravity of the misconduct cannot be held disproportionate nor can it be stated that the decision of Board of Directors in dismissing the appeal suffers from any infirmity. On proper deliberation, the minutes was written and the reasons has been given, for obvious reason not elaborately.

W.P.(C) 293 of 2015

9.1 The petitioner while working as the Branch Manager at NIT-Agartala Branch, one Satyendra Bhattacharya, a Scale-I officer was also posted in the said branch. He was working under the petitioner. At that time, the petitioner was asked to show cause for alleged manipulation of the accounts and misappropriation of huge amount. The petitioner did not know about the activities of the said officer. On 30.06.2012, the petitioner filed the reply to the said show cause stating that the petitioner had no information about the honesty and the integrity of the said officer. Under the bona-fide belief that the said officer would clear the arrears of works of the bank efficiently, she entrusted works to Mr. Bhattacharji. In the show cause notice dated 04.06.2012, Annexure-1 to the writ petition, the following allegations had been levelled against the petitioner:

"1. It appears from the record that you had made recovery of monthly loan instalments of CDL, UWP & OHBL for the month of January, February & March, 2011 from the SB A/C of the borrowers on the very date of salary credited in the SB A/Cs and credited the said monthly loan instalments in the SB A/C No.30259 of CDL loan standing instruction, SB A/C No.30260 of TSR UWF loan standing instruction and SB A/C No.30261 of TSR OHBL loan standing instruction respectively.

But you did not take care to credit the said loan instalment to the respective loan A/C of the borrowers in time causing immense loss to the reputation of the Bank which is detrimental to the interest of the Bank.

2. On 28.03.2012 you have authorised 2(two) irregular SB A/C bearing No.30402 & 30405 in the name of TSR OHBL & All Loan Block Amount respectively. The A/C No.30402 was created by ID SBT (Sri Satyendra Bhattacharya, deputed officer) and SB A/C No. 30405 was created by ID 600 (System ID) which was most irregular and violation of banking rules & norms.

3. On the same day Sri Satyendra Bhattacharya, deputed officer of your branch prepared following irregular vouchers and entered in manual transfer journal and in transfer machine PC-101 by his computer operator ID SBT.

a

Dr. OHBL (adjustment)

for Rs. 2027538/-

Dr. OCDL (adjustment)

for Rs. 1018000/-

Cr. OTL(adjustment)

for Rs. 3045538/-

b

Dr. MTFL (D) (adjustment)

for Rs. 572941/-

Cr. OTL A/C (adjustment)

for Rs. 572941/-

c

Dr. OHBL A/C (adjustment)

for Rs. 69554137.78/-

Cr. OTL A/C (adjustment)

for Rs. 69554137.78/-

d

Dr. SB 30261 of TSR OHBL loan instalment

for Rs. 3563730/-

Cr. SB 30405 of All Loan Block amount

for Rs. 3563730/-

e

Dr. SB 30259 of CDL loan standing instruction

for Rs. 3314927/-

Cr. SB-30402 of TSR OHBL

for Rs. 1791426/-

Cr. OCDL A/C (adjustment)

for Rs. 1523501/-

f

Dr. SB-30405 of All Loan Block Amount

for Rs. 1791426/-

Cr. SB-30402 of TSR OHBL

for Rs. 1791426/-

g

Dr. SB A/C 30260 of TSR UWP loan instalment

for Rs. 3105928/-

Cr. UWP A/C (adjustment SI)

for Rs. 3105928/-

h

Dr. SB A/C 30405 of All Loan Block Amount

for Rs. 167994/-

Cr. UWP A/C (adjustment SI)

for Rs. 167994/-

You as Branch Manager of the branch authorised all the irregular vouchers. As a result, an amount of Rs. 3582852/- & Rs. 1604310/- had been credited in fictitious SB A/C No. 30402 and 30405 respectively and helped the fictitious A/C holder to misappropriate the Bank's money by allowing withdrawal cash of Rs. 4910000/- on various dates causing financial loss to the Bank.

4. It appears from the record that on 26.04.2011 Sri Satyendra Bhattacharya, deputed officer of your branch prepared following irregular vouchers and entered in manual transfer journal for issuing a Banker's Cheque for Rs.104000/- in favour of M/s. Jyotish Chandra Saha. The vouchers were entered in transfer machine PC- 105 by system ID 600 and passed by system ID 500 which is most irregular.

a

Dr. SB 30405 of All Loan Block Amount

for Rs. 65000/-

Cr. SB 2498 of Sri Goutam Das

for Rs. 65000/-

b

Dr. SB 2498 of Sri Goutam Das

for Rs. 65000/-

Cr. SB 30405 of All Loan Block Amount

for Rs. 65000/-

c

Dr. SB 30260 TSR UWP loan instalment

for Rs. 64000/-

Cr. Marginal Deposit A/C

for Rs. 64000/-

d

Dr. SB 2498 of Sri Goutam Das

for Rs. 40000/-

Cr. Marginal Deposit A/C

for Rs. 40000/-

e

Dr. Marginal Deposit A/C

for Rs. 104000/-

Banker's Cheque Payable A/C

for Rs. 104000/-

You as Branch Manager of the branch without scrutiny and verifying details of the transactions authorised all the irregular vouchers and issued Banker's Cheque causing financial loss to the Bank.

5. It appears from the daily branch record that Sri Satyendra Bhattacharya, deputed officer discharged the duties of the Branch Manager by passing/authorizing all the transactions including cash in & cash out through safe guide register of 12.05.2011, 13.05.2011, 03.06.2011 & 11.06.2011. It means you remained absent in the branch on the mentioned dates and put signature in the attendance register. You as Branch Manager adopted corrupt practise by putting signature in the attendance register on the absent dates.

6. It appears from the record that system generated Ids (600 for entry & 500 for pass) were always used in your branch which is violating the Head Office instruction as the identification of the user of the transaction is not possible, if entry and pass made by system generated ID. You as Branch Manager always use system generated ID and allowed others to use the system generated ID which is major irregularity on your part.

7. It also appears from the record that you used server as client machine and allowed others to use the database server of the Branch which is most irregular and violating the Head Office instruction which is a major irregularity on your part.

8. It reveals that you did not follow the Head Office instruction in respect of security aspect of Computer System branch. All the Branch Manager of computer system branch were advised to take external back-up on every working day after the close of day's transaction in 2(two) CDs (one should be kept in safe custody of the branch and the other copy must be kept outside the branch premises. i.e. in personal custody of the Branch Manger) to avoid loss of data due to any reason but you did not feel it necessary, which is also major irregularity on your part.

9. You also did not feel it necessary to take print out of everyday's Cash Scroll, Transfer Journal, Day Book and Trial Balance which is also violation of Head Office instruction and major irregularity on your part.

10. It is observed from the Key register that you are in a habit of handing over and taking over the keys of the branch in improper manner and thus you performed your duties with negligence.

11. It appears from the attendance register & movement register that you had shown 'TD' (absent on duty) on 05.02.2011 for discussion with SM (C&R) & General Manager and on 05.07.2011 for discussion with IT officer but no record in the reporting register that you reported at Head Office on those days.

Again you had shown 'TD' (absent on duty) in the attendance register on 15.02.2011, 26.02.2011, 09.04.2011 & 20.07.2011 but no record in the movement register of your branch. It proves that you remained absent on those days and had adjusted such absence by marking 'TD' (absent on duty) which is gross irregularity on your part.

12. It is reported by the investigation officer that you are not able to produce the cashier's scroll for the period of 01.03.2011 to 07.07.2011 before the investigation team, which proves that you performed your duties negligently.

13. It is also reported that a few cash vouchers are not available in the following day's voucher bundle of your branch:

Sl.No.

Date

Amount

1

04.05.2011

Rs. 200000/-

2

05.05.2011

Rs. 200000/-

3

07.05.2011

Rs. 5000/-

4

10.05.2011

Rs. 400000/-

5

11.05.2011

Rs. 400000/-

6

12.05.2011

Rs. 15000/-

7

26.05.2011

Rs. 200000/-

8

01.06.2011

Rs. 200000/-

9

03.06.2011

Rs. 200000/-

10

06.06.2011

Rs. 200000/-

11

07.06.2011

Rs. 400000/-

12

11.06.2011

Rs. 690000/-

13

18.06.2011

Rs. 600000/-

14

20.06.2011

Rs. 1200000/-"

9.2 In the reply dated 30.06.2012, the petitioner had taken the pleas such as that she was not acquainted with the system backed and generated by the computer and software, called bank soft. She had no knowledge about the circulars of the bank. She denied to have opened any account on 03.01.2011 as alleged. As the printer was malfunctioning, the required printout of the ledger abstract was not produced before her. She has admitted that the said officer was deputed in the said branch and in her absence, her ID was used by the said officer. However, she has denied that she had any hand in preparing the irregular vouchers or in causing loss to the bank by operation of the said fictitious account till 31.03.2011. She has categorically admitted that the said officer managed to enter those vouchers in the computer system by using Computer Operator ID 600 and Admin ID 500 and accordingly, he manipulated the process by feeding the information required for unauthorised transaction. She has denied that she can at all be made responsible for the fraudulent act as indicated. She has further stated that to curtail expenditure of printing daily she stopped taking out the printouts. She had given some details when she met with the higher officials. But in Para-11 of the reply, she has stated that she cannot give the details of the duty she performed outside as she was on leave on 26.02.2011 and 09.04.2011. The allegations were bought for victimising her. She has further stated that the cashier scroll for the period from 01.03.2011 to 07.07.2011 could not be found at the premises so she could not produce those before the investigating officer. According to her, the said officer had planned execution of the fraud in two phases. She has also stated that she came to know from authentic, genuine and reliable sources that the management had prior knowledge about the incident of alleged malpractices of the said officer. But she was not cautioned in handling such officer. According to her, she is confident to say that the said officer had removed the instruments/vouchers which have been related to the alleged fraud with a view to destroy the evidence and finally, she has stated that in any manner she cannot be made responsible. However, the competent authority was not satisfied with such reply, they issued the charge-sheet dated 26.08.2013, Annexure-3 to the writ petition which is extracted hereunder:

"While working as Branch Manager at NIT Agartala Branch you committed following malpractices/irregularities:

1. Record shows that you made recovery of monthly loan instalments of CDL, UWP & OHBL for the month of January, February & March, 2011 from the

borrower's SB A/C by executing standing instruction and credited the said recovered amount in the SB A/C No. 30259 of CDL loan Standing instruction, SB A/C No. 30260 of TSR UWP loan standing instruction and SB A/C No. 30261 of TSR OHBL loan standing instruction respectively.

But you did not take care of to credit the said loan instalment to the respective loan A/C of the borrowers in time causing immense loss to the reputation of the Bank which is detrimental to the interest of the Bank which constitute misconduct on your part.

2. Record shows that on 28.03.2011 your officer Sri Satyendra Bhattacharya created two SB A/c bearing No.30402 & 30405 without observing banking norms and you as Branch Manager by accepting the same in the Books of accounts allowed him to create the said irregular SB A/Cs. Your such activities are against the system & procedures of the Bank & thereby violated the instructions of the authority which constitutes misconduct on your part.

3. Thereafter, on the same day Sri Satyendra Bhattacharya, officer of your branch prepared following transfer vouchers most irregularly and made entries in the manual transfer journal under Sl. No. 8, 9 & 14 to 27 and in the system computer also:

a

Dr. SB A/c 30405 of All Loan Block Amount

Rs. 167994/-

Cr. UWP A/c (adjustment SI)

Rs. 167994/-

b

Dr. OHBL (adjustment)

Rs. 2027538/-

Dr. OCDL (adjustment)

Rs. 1018000/-

Cr. OTL (adjustment)

Rs. 3045538/-

c

Dr. MTFL(D) (adjustment)

Rs. 572941/-

Cr. OTL A/c (adjustment)

Rs. 572941/-

d

Dr. OHBL A/c (adjustment)

Rs. 69554137.78

Cr. OTL A/c (adjustment)

Rs. 69554137.78

e

Dr. SB 30261 of TSR OHBL loan instalment

Rs. 3563730/-

Cr. SB-30405 of All Loan Block Amount

Rs. 3563730/-

f

Dr. SB 30259 of ODL loan standing instruction

Rs. 3314927/-

Cr. SB 30402 of TSR OHBL

Rs. 1791426/-

Cr. OCDL A/c (adjustment)

Rs. 1523501/-

g

Dr. SB 30405 of All Loan Block Amount

Rs. 1791426/-

Cr. SB-30402 of TSR OHBL

Rs. 1791426/-

You as Branch Manager of the branch allowed Sri Bhattacharya to enter all the irregular vouchers in the Books of accounts and due to acceptance of those irregular vouchers an amount of Rs. 358252/- & Rs. 1604310/- had been credited in the irregular SB A/c No. 30402 & No.30405 respectively created earlier by him and helped Sri Bhattacharya to misappropriate the Bank's money amounting of Rs. 49,10,000/- by transferring the fund from the said SB A/c No. 30402 & 30405 to other A/c and allowing withdrawal cash on various dates causing financial loss to the Bank. Your such acts are detrimental to the interest of the Bank which constitutes misconduct on your part.

4. Record shows that on 29.03.2011 your officer Sri Satyendra Bhattacharya prepared & entered in manual transfer journal under Sl. No.9 & 10 a set of voucher for Rs. 23,00,000/- as debit MTFL (D) (Adjustment) stating simple narration being the amt tr. to OTL A/C and credit OTL A/C (Adjustment) stating narration being the amt tr. from MTFL (D) and adjusted the amount by increasing the outstanding the debit balance of a few MTFL (D) A/C in the manual loan ledger mentioning a imaginary entry date to misappropriate the entire amount. You as Branch Manager without scrutiny passed those irregular vouchers & included in the Books of account and helped Sri Bhattacharya to misappropriate the public money. Such acts are detrimental to the interest of the Bank which constitutes misconduct on your part.

5. It transpires from the machine transaction details of 07.06.2011 that an amount of Rs. 4,00,000/- has been transferred from the SB A/C 30405 by system ID 600 & 500 but there was no voucher with the day's voucher bundle and entries in manual transfer journal. You as Branch Manager allowed to transfer the said amount of Rs.4,00,000/- from the irregular SB A/c No.30405 created by Sri Satyendra Bhattacharya, officer and withdraw the same amount through fictitious withdrawal which justified the fact from the closing cash balance of the Day book and Safe guide register of 07.06.2011.

Again on 17.06.2011 following the same way without making voucher & entering in manual transfer journal an amount of Rs.2,00,000/- has been transferred from the SB A/C No.30402 to an another fictitious A/C 30492 created & modified on the same day. You as Branch Manager accepted all the entries entered by system ID 600 & 500 and helped to misappropriate the said amount by fictitious withdrawal.

You as Branch Manager did not feel it necessary to check all transactions made in computer machine with the manual transfer journal & cash scroll before the close of day's transaction following the Head Office instruction. You did you duty negligently causing financial loss to the Bank which constitutes misconduct on your part.

6. Record shows that on 28.03.2011 you had passed 2(two) transfer vouchers for Rs. 31,05,928/- recorded in manual transfer journal under Sl. Nos. 28 & 29 and verified those vouchers in system computer also. But you submitted a false statement, while submitting your reply dated 30.06.2012 in response of Head office show cause letter vide No.TGB/Vigil/F.277/Sect. 247/2012 dated 04/06.06.2012 that you left the branch after closing of cash transaction of the Branch and in your absence Sri Bhattacharya prepared & entered all irregular vouchers mentioned in the charge No. 3 in the computer system. Your such act of dishonesty by stating false statement is an act detrimental to the interest of the Bank which constitute misconduct on your part.

7. Record shows that on 26.04.2011 Sri Satyendra Bhattacharya, officer of your branch issued a Banker's cheque for Rs. 104000/- under his signature in favour

of M/s. Jyotish Chandra Saha by debiting SB A/C No. 2498 of Goutam Das for Rs. 40,000/- & SB A/C No. 30260 of TSR UWP loan instalment for Rs. 64,000/-.

You as Branch Manager of the branch without scrutiny and verifying details of the transactions accepted all the irregular vouchers in the Books of account and allowed Sri Bhattacharya to issue the Banker's Cheque causing financial loss to the Bank which constitutes misconduct on your part.

8. Record shows that Sri Satyendra Bhattacharya, officer discharged the duties of the Branch Manager by passing/authorising all the transactions including cash in & cash out on 02.03.2011, 12.05.2011, 13.05.2011, 03.06.2011, 11.06.2011, 18.06.2011, 21.06.2011 & 05.07.2011 and key register shows that on 05.03.2011 & 12.03.2011 Sri Bhattacharya were officer in-charge of the Branch. It proves that you remained absent in the branch on the mentioned dates and put signature in the attendance register. You as Branch Manager adopted corrupt practise by putting signature in the attendance register on the absent dates which constitutes misconduct on your part.

9. Record shows that you marked 'TD' (absent on duty) in the Attendance register on 05.02.2011 & 05.07.2011 & as per movement register for attending Head Office on 05.02.2011 to discuss with SM (C &R) & General Manager and on 05.07.2011 to discuss with IT officer but there is no record in the reporting register of Head Office that you reported at head office on those days.

Again you had shown 'TD' (absent on duty) in the attendance register on 15.02.2011, 26.02.2011, 09.04.2011 and 20.07.2011 but no record is found in the movement register of your branch that you have performed duty on those days. It proves that you remained absent on those days and had adjusted such absence by marking 'TD'. This your act of dishonesty is an act detrimental to the interest of the Bank which constitute misconduct on your part.

10. Record of the key register shows that you are in a habit of handing over and taking over the keys of the branch in improper manner and thus you performed your duties with negligence. This your act of negligent is an act detrimental to the interest of the Bank which constitutes misconduct on your part.

11. Record of NIT Agartala Branch shows that system IDs (600 & 500) to be used in your branch which is violation of the Head Office instruction as the identification of the user of the transaction is not possible, if entry & pass of a voucher made by system ID. You as Branch Manager always used unidentified ID and allowed others to use the same. Your such activity are detrimental to the interest of the Bank which constitutes misconduct on your part.

12. Record of NIT Agartala Branch shows that without maintaining proper record you used server of the Branch as client machine and allowed others to use the same which is most irregular and violation of the Head Office instruction. Your such activity are detrimental to the interest of the Bank which constitutes misconduct on your part.

13. You did not follow the Head Office instruction for taking external back-up of every working day after the close of day's transaction in 2(two) CDs following the Head Office instruction for security aspect to avoid loss of data due to any reason. Your such activity is detrimental to the interest of the Bank which constitutes misconduct on your part.

14. You did not follow the Head Office instruction in respect of safety & security measures of computerized Branch by taking print out of every day's Cash Scroll, Transfer Journal, Day book and Trial Balance. This your act of violation of the instruction of the higher authority is an act of detrimental to the interest of Bank which constitute misconduct on your part.

15. It transpires from the record that an amount of Rs. 49.74 lacs had been withdrawn fraudulently from the SB A/C of your Branch within a short period prior to the quarterly closing of June, 2011 which adversely affected to your branch business but you as Branch Manager did not monitor on the matter and prepared and submitted a fictitious Balance sheet to Head Office. If you used to monitor the fact of negative business growth of your Branch, the fraudulent activity of the staff member of your Branch could be detected in time and the Bank did not sustain any loss. This you act of negligence causing financial loss to the Bank is an act of detrimental to the interest of the Bank which constitute misconduct on your part.

16. It transpires from the record that a few cash & transfer vouchers are not available with the day's voucher bundle in your branch. You as Branch Manager of the Branch did not perform the duty of tallying & counting daily passed voucher with the Cash scroll, Transfer Journal and computer machine and record it in the voucher record register following the Head Office instruction in respect of preservation & maintaining of voucher record register. This you act of violation of instruction of the higher authority is an act of detrimental to the interest of the Bank which constitute misconduct on your part."

9.3 With the charge-sheet dated 26.08.2013, the list of documents and witnesses were also furnished. The petitioner filed a comprehensive reply dated 21.10.2013, Annexure-4 to the writ petition, reiterating the reply to the show cause but with much elaboration. The petitioner has submitted that she has been the victim of circumstances and she had to bear the brunt of unauthorised action of the predecessor in the matter. She has admitted that in her absence on 07.06.2011, Rs.40.00 lacs were taken out from the bank account by the said officer but the petitioner has been made target though she was not in league with the said officer. She denied virtually that she had obligations as the manager of the bank to keep vigil on the activities to protect the interest of the bank. She has also stated that she did not commit any irregularity in the past. Again she had reiterated that she had no knowledge of computer operation and how to generate the user ID. But she had knowledge that her predecessor used Admin ID 500 but she never used that. For lack of information about the said officer, she could not exercise due vigil. She has also pleaded that she was

absent from the branch from 04.05.2011 to 11.05.2011 and 26.05.2011, 01.06.2011, 03.06.2011, 06.06.2011, 11.06.2011, 18.06.2011 and 20.06.2011. According to her, from time to time, the said officer had planned executing the said fraud by way of opening two SB accounts and transferring a huge amount by way of preparing irregular transfer vouchers and entering the same in the computer system with view to cause financial loss to the bank. She has again stated that she had been made target for misdeed committed by the said officer.

9.4 Since the petitioner did not admit the charges, the inquiry was carried out by one inquiry officer giving all sorts of opportunities to the petitioner and the petitioner did not raise any objection in the matter of providing her safeguards in terms of the principle of natural justice. On culmination of the inquiry, the copy of the inquiry report dated 04.07.2014 submitted by the respondent No.4 was supplied to the petitioner along with the letter dated 18.07.2014 by the respondent No.2. The petitioner submitted the representation reiterating her pleas as raised earlier in her reply and in her brief of defence before the inquiry officer and claimed that she was innocence. But the disciplinary authority passed the final order dated 05.11.2014 reducing the rank of the petitioner to a lower grade of the officer Scale-I as at the relevant point of time, the petitioner was holding the rank of Officer Scale-II. The pay of the petitioner has also been reduced to the initial scale of officer, Scale-I w.e.f. 01.11.2014. The petitioner has vehemently asserted that no notice of her representation was taken. As a result, the final order is the outcome of non-application of mind to the relevant records and hence, the same should be interfered by this Court. The petitioner raised one unique plea that since she did not play any role conniving with the said officer for misappropriating the huge funds, she cannot be punished. But she has categorically admitted that 'the alleged lapse on the part of the petitioner was that she could not prevent the said manipulation of accounts through computer and thereby siphoned out the money from the bank's account'.

9.5 The respondents cannot deny that the petitioner was not imparted training or she had expertise in operating computer. But while submitting the inquiry report, those aspects were not considered. Further, according to the petitioner, her appeal was not all considered. According to her, the disciplinary authority was supposed to pass a self contained order speaking and reasoned one but it would appear from the final order that the disciplinary authority had just concurred with the findings without application of his mind. Such consideration is superficial and arbitrary and hence, those to be interfered with.

9.6 By filing the counter affidavit, the respondents have categorically stated that the petitioner has accepted her lapse of failing to discharge her duties as the Branch Manager. As a result of which the said officer could manipulate the system and siphoned out the huge amount of money from the bank account. Taking every aspects of the matter and records of the proceeding, the final order has been passed by the disciplinary authority. The inquiry report dated 04.07.2014 has categorically observed how the petitioner's inefficiency,

dereliction of the duty and a complete disorderly behaviour had allowed the said officer to take the system on ride in order to siphon out huge amount. As such, it cannot be stated that the final order dated 05.11.2014 suffers from non-application of mind. Again when the petitioner filed an appeal under Regulation 49 of the Tripura Gramin Bank (Officers and Employees) Service Regulations, 2010, the Board of Directors had scaled every ground of objection and thereafter, dismissed the same. The lapses have been admitted by the petitioner. Such lapses are failures to discharge the duties of an officer which includes what has been provided under Chapter-IV of the said Regulation, 2010 which provides as under:

"17. Duties of an officer : Every officer shall perform such duties and actions as may be necessary in times and need to ensure the carrying out of the normal work of the Bank every day including securing access to the office premises or branch, documents and equipment and receipt handling, processing, movements and dispatch of documents & records and such other matters relating to the business of the Bank."

[Emphasis added]

9.7 In the memorandum of appeal also, the petitioner has categorically stated that she had not done any misconduct rather those should be treated as a bona fide mistake. She never helped any officer to do any corrupt practise. The said officer misled her and indulged in the corrupt act on his own accord. He had illegally opened one SB account No.30405 and illegally transferred money to the said account by using the system ID which had escaped her notice due to the pressure of the work. She has also transferred the responsibility to one of the office assistants for his failure to locate that the cash has been transferred illegally. From the reply, what has transpired is that the petitioner was not at all fit to hold that post, if her pleas are accepted. For that, the bank suffered loss of trust and the financial loss.

10. After appreciating the records as produced in these writ petitions and with the counter affidavits and also the original records of the proceedings as filed at the direction of this Court by the respondents, this Court is of the opinion that by means of these writ petitions, what the petitioners have asked is that to re-appreciate the evidence and ancillary thereto, to some infractions of the procedure in terms of the natural justice. In both the writ petitions, the following grounds have been raised:

(i) while passing the final order, the disciplinary authority did not discuss the evidence but mechanically accepted the findings of the inquiry officer.

(ii) the petitioners are not guilty of dereliction of the duty but they acted bona fide and hence, by upholding the charge against them they have been targeted unnecessarily.

(iii) the petitioners placed their trust on the other officers but the trust was breached by the one officer for transferring out a huge amount of fund from the

bank.

(iv) the petitioners have no training in running the system supported by computers and software.

(v) the appellate authority, the Board of Directors did not consider the grounds of objection in their perspective and passed the order mechanically and

(vi) the petitioner in the writ petition being W.P.(C) No. 205 of 2015 has raised additional ground that he was not supplied the copy of the findings of the inquiry officer before the final order was passed. But the respondents have categorically stated that the petitioners have failed to discharge their duties as Bank Managers by showing dereliction in their assigned duties communicated to them time to time and also by the said regulation. Even they have acted without following the procedure of the bank while passing the transfer vouchers or in accommodating the amount under the housing scheme. They have also denied that they have acted bona fide.

11. The writ petitioner in W.P.(C) No.205 of 2015 has not assigned how he has been prejudiced for not supplying the findings of the inquiry officer before the final order was passed. He has also not confronted the respondents? stand that according to the said regulation, the copy of the findings of the inquiry officer is not supposed to be supplied to. Regulation 39 of the said Regulation has been followed strictly and as such, the petitioners cannot have any grievance for imposing major penalty of reduction to a lower grade of post.

12. As already discussed, the scope of judicial review has been well delineated. It cannot be also stated in these cases that the findings of fact have been recorded ignoring or excluding materials or by taking into consideration irrelevant/inadmissible materials. Those findings as returned by the inquiry officer cannot also be stated to be perverse, for being outrageously defiance to the logic or for suffering for the vice of irrationality. The trite law is that if the action or decision is perverse or is such that no reasonable body or persons properly informed could come to or arrived at but the authority misdirecting itself and by adopting a wrong approach or being influenced by irrelevant or extraneous matters, has to the impugned inference, no doubt, this Court might exercise its power of judicial review for purpose of interference.

13. On close scrutiny, it is found that the findings of the inquiry officer are well reasoned. Moreover, the writ petitioners have virtually admitted their lapses for which the banks suffered in such circumstances. Such lapses are the outcome of dereliction which constitutes misconduct in the context. It cannot also be stated that the decision of the disciplinary authority is without any evidence or not based on relevant consideration.

14. Unless it is demonstrated that the petitioners have suffered any prejudice even for not complying the requisite principle of natural justice, it cannot be as a matter of inflexible rule, held that the decision as arrived is arbitrary or illogical.

As per the said regulation, the supply of the findings of the inquiry officer to the delinquent officer has not been mandated. However, this Court is of the view that such finding should have been supplied to enable the delinquent officer to have his say on the findings before the final decision is taken by the disciplinary authority. This is one of components of the principle of natural justice. But in the writ petition being W.P.(C) No.205 of 2015 no ground has been laid to show that for absence of such opportunity how the petitioner has suffered prejudice.

15. While concurring with reasoning's or findings, no authority is expected to give elaborate narration of findings as the findings or reasoning's as given by the inquiry officer have been accepted without any difference or reservation. Hence, the procedure that has been followed by the disciplinary authority or by the appellate authority by not giving the elaborate narrative of the views or reasoning cannot be held in acceptable nor their action can be held illogical for interfering the impugned orders. This Court is of the considered view that in the name of judicial review, the Court cannot act as the appellate authority/court. The ambit of judicial review is very narrow to the extent of fair treatment. It is nevertheless trite that the scope of judicial review is limited to the deficiency of the decision making process, not the decision. This Court does not find any deficiency and infirmity in the process at all for the reasons as given above. Even the penalty as imposed is not gravely disproportionate that can be called an outrageous defiance of logic or which shocks the conscience to refer the matter for reconsideration by the disciplinary authority, to eradicate the element of disproportionality.

16. Having held so, both the writ petitions are dismissed. The parties are to bear their own cost.

17. Return the records as produced by the respondents under the sealed cover through Mr. K. Bhattacharjee, learned counsel.