

General Manager Personnel Syndicate Bank & Ors Vs B S N Prasad

Court: Supreme Court Of India

Date of Decision: Jan. 21, 2025

Acts Referred: Constitution of India, 1950 " Article 226

Hon'ble Judges: Abhay S. Oka, J; Augustine George Masih, J

Bench: Division Bench

Advocate: Hetu Arora Sethi, Rahul Jain, Seshagiri Vadlamani, Bela Maheshwari, Ananya Kukreti

Final Decision: Partly Allowed

Judgement

Abhay S. Oka, J

FACTUAL ASPECT

1. The respondent was employed with the appellants (Syndicate Bank) as a clerk. In due course, he was promoted as a branch manager. He worked

as the branch manager of the Mudigubba branch between 11th June 2007 and 03rd November 2008. An investigation was conducted against the

appellant. On 02nd December, 2010, the Investigating Officer submitted a report against the appellant. After issuing notices, the Syndicate Bank

issued a chargesheet to the respondent on 17th October, 2011. The allegation, in short, in the chargesheet was that while working as the branch

manager in the Mudigubba branch during the period between 11th June, 2007 and 03rd November, 2008, the respondent abused his position by making

fictitious debits to crop insurance account narrating the credit to various Syndicate Kisan Credit Cards (SKCC) accounts. He fraudulently withdrew

the amounts by debiting the SKCC head without the borrowers' knowledge. The allegation against him was that he made fictitious debits/releases

under SKCC accounts and, in certain cases, exceeded the sanctioned limit. He dishonestly obtained additional withdrawals from certain customers by

deceiving them. Another allegation is that he sanctioned a vehicle loan to a borrower, which was a Non-Performing Asset (in short, "NPA"), in

violation of the guidelines. In collusion with two other persons (Shri A Nagireddy and Shri M Ramakrishna), he fraudulently siphoned off " 70,000/-.

He misappropriated a sum of " 9,000/- received by the branch under the debt waiver scheme to the SKCC account of one Shri D. Nagaraju. It was

alleged that the respondent had committed many illegalities and irregularities, which tarnished the fair image of the Syndicate Bank. The statement of

imputations was also served upon the respondent.

2. A disciplinary inquiry was conducted against the respondent. The inquiry officer submitted a report on 15th March, 2012. He held that the charges

against the respondent were proved. After receiving a copy of the inquiry report, the respondent submitted a written response on 18th April, 2012. By

order dated 03rd May, 2012, the Disciplinary Authority dismissed the respondent from the service of Syndicate Bank with immediate effect for

committing the breach of Regulation 3(1) read with Regulation 24 of Syndicate Bank Officer Employees' (Conduct) Regulations 1976 (for short

the Regulations). The respondent preferred an appeal. The Appellate Authority, by an order dated 30th March 2013, confirmed the order of

the Disciplinary Authority.

3. As the respondent was exonerated in criminal proceedings, he made representations on 28th August, 2013 and 24th November, 2014 requesting the

Bank to set aside the penalty of dismissal. Thereafter, the respondent filed a writ petition to challenge the order of dismissal. Learned Single Judge on

15th June, 2022 set aside the orders of the Disciplinary Authority and Appellate Authority on the ground that principles of natural justice were not

followed in the inquiry and ordered the reinstatement of the respondent and since he had superannuated, the Court held that he would be entitled to all

consequential benefits from the date of dismissal from service till the date of his superannuation. The appellant challenged the decision of the learned

Single Judge by preferring a Writ Appeal before the Division Bench. By the impugned judgment, the Division Bench dismissed the appeal by holding

that it was a case of no evidence against the respondent.

SUBMISSIONS

4. Learned senior counsel appearing for the appellants invited our attention to the allegations against the respondent in the chargesheet served upon

him. Learned senior counsel submitted that during vigilance investigation and disciplinary inquiry, the respondent admitted the transactions in respect of

which allegations were made in the charge sheet. He submitted that the officer who conducted the preliminary inquiry was examined as a witness in

the disciplinary inquiry. He submitted that there was no need for the Bank to examine any other witness as the entire case was based on admitted

documentary evidence and statements of the customers of the Bank which the respondent did not dispute.

5. The learned senior counsel invited our attention to written communication made by the respondent in which he accepted the allegations against him.

He submitted that there was adequate evidence on record of the inquiry, mainly in the form of documentary evidence. Relying upon a decision of this

court in the case of B.C. Chaturvedi v. Union of India and Others (1995) 6 SCC 749, he urged that a writ court cannot go into the question of the

adequacy of evidence adduced in the disciplinary proceedings. The question to be examined by the writ court is whether there was some evidence

available against the delinquent employee in the disciplinary proceedings.

6. Learned senior counsel submitted that branch managers of banks are expected to have higher standards of honesty and conduct. He relied upon a

decision of this court in State Bank of India and Others v. Ramesh Dinkar Punde (2006) 7 SCC 212. He submitted that the acquittal of the

respondent in the criminal case was of no relevance to the disciplinary inquiry. He relied upon a decision of this court in the case of Manager,

Reserve Bank of India, Bangalore v. S. Mani and Others (2005) 5 SCC 100.

7. He pointed out that 89 documents were produced in the disciplinary inquiry. Moreover, the respondent was granted inspection of the documents

pertaining to the vigilance inquiry. The respondent cross-examined the officer who conducted a vigilance investigation. He submitted that out of the 6

transactions in respect of which a chargesheet was issued, in the case of 5 transactions, the amounts were returned to customers after the vigilance

investigation. Only to one customer, amount was paid before the vigilance investigation.

8. Learned counsel submitted that the respondent's admission in the written communications and the fact that he returned the money to the

customers shows that the allegation of misappropriation was duly proved. He would, therefore, submit that in the absence of any perversity in the

findings recorded in the disciplinary inquiry and in the order of the Disciplinary Authority, the High Court, in the exercise of its jurisdiction under

Article 226 of the Constitution of India, ought not to have interfered.

9. The learned counsel appearing for the respondent pointed out that the allegation against the respondent was that he fraudulently withdrew and

misappropriated a total amount of ₹1,10,000/- from four different accounts. Moreover, he paid excess amounts to two customers. He submitted that

all the amounts have been recovered, and the monetary loss caused to the bank has been made good by the respondent. Learned counsel invited our

attention to a letter dated 03rd March, 2010, addressed by the Deputy General Manager of the Syndicate Bank to the respondent. He submitted that

after considering the allegations in the notice dated 30th April, 2009 and reply to the notice submitted by the respondent, the Deputy General Manager

closed the issue by advising the respondent to discharge his duties with utmost devotion and diligence to protect the Bank's interest. The respondent

was cautioned against the recurrence of such lapses. The learned counsel would urge that disciplinary proceedings could not have been initiated

against the respondent after issuing this letter.

10. He would urge that it was a case of no evidence. Still, the inquiry officer purported to hold that the charge against the respondent was proved. He

submitted that the respondent had a very clean record from 1985 to 2007, and therefore, it was not a case of a loss of confidence on the part of the

employer. He submitted that it was a case of no evidence. He relied upon a decision of this court in the case of Indian Airlines Limited v. Prabha

D. Kanan (2006) 11 SCC 67. He also relied upon another decision of this court in the case of Roop Singh Negi v. Punjab National Bank and

Others (2009) 2 SCC 570.

11. Lastly, he submitted that the powers of the Disciplinary Authority must be exercised subject to principles of propriety and fair play. He placed

reliance on another decision of this court in the case of Pravin Kumar v. Union of India and Others (2020) 9 SCC 471. Learned counsel, therefore,

submits that this court should not interfere with the concurrent decisions of the learned Single Judge and Division Bench of the High Court.

OUR VIEW

12. We must note the respondent's version of the allegations against him, which is reflected in clauses (iii) and (iv) of paragraph 2 of the written

submissions filed by the respondent:

“(iii) That the Petitioners allege that the Respondent had fraudulently withdrawn and misappropriated an amount of Rs. 1,10,000/- from the following accounts:

a. Sri G. Gopal (A/c. No. 454/06) Rs. 25,000/- (Recovered on 22.02.2011)

b. Smt. B. Sakamma (A/c No. 860/07) Rs. 20,000/- (recovered on 19.02.2011)

c. Sri D. Sreedhar (A/c. No. 952/06) Rs. 35,000/- (Recovered on 19.02.2011)

d. D. Sri M. Ramakrishna (A/c No. 1690/07) Rs. 30,000/- (Recovered on 18.02.2011)

(iv) Further, the excess amounts paid to Mr. Nagireddy (Rs. 40,000) and Mr. Narayanappa (Rs.16,000) were duly recovered on 12.05.2009 which shows that the alleged

loss to the Petitioner Bank has already been made good. Further, in the Cross Examination of Mr. R.V. Ramana Sastry dated 02.02.2012, his response to questions 13

and 14 makes it clear that the excess amounts that had been credited to the accounts mentioned hereinabove had been duly recovered which meant that the alleged

loss to the Bank had been made good by the Respondent upon the realisation of the error that had been caused in the transactions.

13. Thus, even according to the respondent's case, an excess amount was paid to at least six customers. In the case of four customers, the excess

amount was made good only after the Investigating Officer submitted the report dated 02nd December, 2010, holding that the respondent's integrity and honesty were under a cloud.

Vide letter dated 02nd April, 2011, the Deputy General Manager of the Syndicate Bank called upon the

respondent to explain the lapses more particularly set out in the said letter. The respondent replied by his letter dated 20th May, 2011, stating that after

joining the branch, he had the responsibility of renewing more than 4,700 SKCC accounts within 60 days apart from mobilising deposits/recovery from

NPAs. He pointed out that he committed mistakes due to the pressure of work. But, the amounts paid in excess have been recovered. Syndicate

Bank appointed an inquiry officer to conduct an investigation. He submitted a report dated 02nd December, 2010, holding that acts committed by the

respondent were very serious involving the perpetration of fraud against the Bank. He concluded that the respondent had misappropriated the money

of the customers/Bank, and, therefore, the honesty and integrity of the respondent were under a cloud. The Investigating Officer observed that it may

not be desirable to continue to assign sensitive areas to the respondent as his acts have been unbecoming of an employee.

14. Thereafter, a show cause notice dated 2nd April 2011 was issued to the respondent by the appellant, calling upon him to explain the allegations

against him set out in the said notice. He was called upon to submit the explanation/remarks within 7 days. The appellant replied by a letter dated 20th

May, 2011. He offered an explanation for the allegations against him. A Charge sheet dated 17th October, 2011 was served upon the respondent. The

Disciplinary Authority (Assistant General Manager) submitted a report dated 15th March, 2012 holding that the charge against the respondent was

proved. The respondent replied on 18th April, 2012. Ultimately, by order dated 03rd May, 2012, the Disciplinary Authority dismissed the respondent

from service.

15. We have carefully perused the findings recorded by the learned Single Judge and Division Bench in the impugned judgments. The High Court

considered the following factors:

i. Criminal case in the subject matter resulted in acquittal;

ii. Inquiry was not fair;

iii. There was no documentary evidence to arrive at a correct decision; and

iv. The cashier and customers were not examined as witnesses in the departmental inquiry. Therefore, it was a case of no evidence.

16. It is well settled that an acquittal in a criminal case is no ground to exonerate a delinquent in disciplinary proceedings as the standard of proof

differs in these proceedings. It is well settled that the adequacy of the evidence adduced during disciplinary inquiry cannot be gone into in writ

jurisdiction. In the case of *B.C. Chaturvedi v. Union of India and Others*¹, in paragraphs 12 and 13, this court held thus:

“12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the

individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is

conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or

whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold

inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules

of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion

receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of

judicial review does not act as appellate authority to reappraise the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal

may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of

statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion

or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as

to make it appropriate to the facts of each case.

13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to reappraise the evidence or the

nature of punishment. In a disciplinary inquiry, 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. In *Union of India v. H.C. Goel* [(1964) 4 SCR 718: AIR 1964 SC 364 : (1964) 1 LLJ 38], this

Court held at p. 728 that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from patent error on the

face of the record or based on no evidence at all, a writ of certiorari could be issued.”

(emphasis added)

17. It is well settled that the Bank officers are expected to maintain a higher standard of honesty, integrity, and conduct. In paragraph 17 of the

decision of this court in the case *Damoh Panna Sagar Rural Regional Bank & Another v. Munn Lal Jain* (2005) 10 SCC 84, it was held thus:

17. A bank officer is required to exercise higher standards of honesty and integrity. He deals with money of the depositors and the customers. Every

officer/employee of the bank is required to take all possible steps to protect the interests of the bank and to discharge his duties with utmost integrity, honesty,

devotion and diligence and to do nothing which is unbecoming of a bank officer. Good conduct and discipline are inseparable from the functioning of every

officer/employee of the bank. As was observed by this Court in Disciplinary Authority-cum-Regional Manager v. Nikunja Bihari Patnaik [(1996) 9 SCC 69: 1996

SCC (L&S) 1194], there is no defence available to say that there was no loss or profit resulting in case, when the officer/employee acted without authority. The

very discipline of an organisation more particularly a bank is dependent upon each of its officers and officers acting and operating within their allotted sphere.

Acting beyond one's authority is by itself a breach of discipline and is a misconduct. The charges against the employee were not casual in nature and were serious.

These aspects do not appear to have been kept in view by the High Court.

(emphasis added)

18. We have already referred to the allegations against the respondent. Inspection Reports Review Cell of the Bank addressed a letter dated 30th

April, 2009, inviting the respondent's attention to some of the lapses and irregularities observed during his tenure as a Bank manager. The respondent

replied to the said letter. After considering the reply, the Deputy General Manager, by a letter dated 3rd March, 2010, advised the respondent to

discharge his duties with utmost devotion and diligence. It is pertinent to note that the letter dated 30th April, 2009 was addressed by the Inspection

Reports Review Cell after finding lapses and irregularities in the functioning of the respondent. Merely because advice was rendered to the

respondent, it does not take away the right of the appellant employer to initiate disciplinary proceedings. The advice was not rendered by the

Disciplinary Authority. Moreover, all the imputations forming part of the charge sheet were not part of the letter dated 30th April, 2009.

19. Before initiating an inquiry by serving the charge sheet, an Investigating Officer was appointed who submitted a detailed report dated 02nd

December, 2010. A notice was issued to the respondent on 02nd April, 2011. The allegations made in the charge sheet are found in the notice dated

02nd April 2011. In the reply dated 20th May, 2011, the respondent accepted that:

a) There was an excess release of crop insurance amount in the SKCC account of one Shri A Narayanappa. Later on, the said amount was

recovered;

b) As regards Shri Nagireddy, due to a mistake, an excess crop insurance amount was sanctioned, which was recovered from that party;

c) There was a wrong credit of Rs. 9,000/- to the account of one Nagaraju, and the same was later on recovered;

d) As regards the allegation of excess claim amount paid to Shri Gopal and Smt. Sakamma, the credits were done due to the pressure of work.

20. Paragraph 4 of the letter dated 20th May, 2011 reads thus:

“4. In respect of excess claim amount paid to Sri. Gopal and Smt. Sakamma, these credits were done in pressure of work due to wrong claims of crop insurance for

Kharif 2006. The excess amount paid was recovered in full. Parties have given a letter to this effect stating that the same was withdrawn by them and repaid the

amount. I request you to kindly condone the mistake as a special case as these mistakes have happened due to some pressure of work.”

(underline supplied)

As far as allegation in respect of credit of Rs. 35,000/- to SKCC account of Shri Sreedhar is concerned, in paragraph 5 of the said reply, the respondent

stated thus:

“5. In respect of credit of Rs. 35000/- to SKCC 952/2006 of Sri. Sreedhar slip were prepared by me and sent to the concerned department for entering. Even OG 167

slip was also sent with one slip as enclosure. Missing of voucher was not brought to my notice while writing day book manually by the concerned clerk and

supervisor at that time. The excess paid amount was repaid by the party along with a letter in this regard. Hence, I request you to kindly condone the mistake as a

special case.”

(underline supplied)

21. The respondent stated that there was a threat to his life, and he worked under pressure. The respondent requested to condone the mistakes on his

part as a special case. Thus, he accepted almost all allegations in the Articles of Charge. The respondent pointed out his achievements while working

in the Mudigubba branch.

22. Thus, there was no factual dispute about the correctness of illegalities and irregularities alleged in the charge sheet. The Investigating Officer was

examined as a witness, and 95 documents were produced during the disciplinary inquiry. The respondent made a very detailed cross-examination of

the witness. The allegations in the chargesheet were based on documentary evidence which was before the inquiry officer. In view of the

respondent's admissions and the fact that documentary evidence was on record, it cannot be said that it was a case of no evidence. The principles of

natural justice were followed during the disciplinary inquiry. The respondent thoroughly cross-examined the officer examined as a witness. The

respondent did not apply for leading any evidence. Therefore, the finding that the disciplinary inquiry was not fair or was in breach of the principles of

natural justice cannot be accepted as correct. The entire premise on which the High Court had interfered is without basis.

23. It is well settled that the exercise of powers by the disciplinary authority is always subject to principles of proportionality and fair play. In the facts

of the case, the financial loss caused to the appellant was reimbursed. The respondent, at every stage, fairly accepted his mistakes. The respondent,

while replying to the notice and the letters addressed to him by the appellant, repeatedly pointed out that he had to deal with more than 4,800 SKCC

accounts during a short period of 60 days. Therefore, he worked under pressure all along. Moreover, he stated that he was in short receipt of crop

insurance claims pertaining to 2,500 farmers to the extent of ₹ 1.50 lakhs. Therefore, the farmers and political leaders pressurized him.

24. The respondent was employed in the appellant bank on 5th August, 1985 and had an unblemished record for more than 21 years till 11th June

2007. We have perused the Syndicate Bank Officer Employees (Discipline and Appeal) Regulations, 1976 (for short "the Disciplinary

Regulations"). Under Regulation 4, there is a provision for imposing minor penalties and major penalties. The respondent has already reached the age

of superannuation. In our view, the penalty of dismissal was disproportionate to the misconduct established against the respondent and his unblemished

career for a long time. However, fact remains that the misconduct alleged and proved against the respondent was of a serious nature considering the

fact that a very high standard of conduct is expected from a branch manager of a Bank. Considering the facts of the case, we are of the view that a

minor penalty, as provided in Regulation 4(e) of the Disciplinary Regulations, would be appropriate. The penalty will be of reducing the respondent to a

lower stage in the time scale of pay for a period of one year, without cumulative effect and not adversely affecting his pension.

25. The present appeal succeeds in part, and we pass the following orders:

a) The impugned judgments and orders are quashed and set aside, and the finding recorded in the disciplinary inquiry that the misconduct on the part

of the respondent was established is restored;

b) However, the order of penalty is modified, and it is directed that the respondent shall be subjected to a minor penalty under Regulation 4(e) of the

Disciplinary Regulations by reducing him to a lower stage in the time scale of pay for a period of one year, without cumulative effect and not

adversely affecting his pension; and

c) Necessary retiral dues, if any, be restored/paid to the respondent within four months from today.

The appeal is partly allowed on the above terms.