(2006) 05 AHC CK 0230

Allahabad High Court

Case No: Civil Miscellaneous Writ Petition No. 39652 of 2000

Dinesh Chandra Jain	APPELLANT
Vs	
Syndicate Bank, Executive Director, Syndicate Bank, Head Office, The General Manager (Personnel) Syndicate Bank, Head Office and Assistant General Manager, Industrial Relation Cell	RESPONDENT

Date of Decision: May 26, 2006

Acts Referred:

- Constitution of India, 1950 - Article 226, 227, 311
- Syndicate Bank Officer Employees (Conduct) Regulations, 1976 - Regulation 13(1), 16, 17, 24, 3(1)

Citation: (2006) 6 AWC 6254 : (2007) 1 LLJ 119

Hon'ble Judges: Sanjay Misra, J; R.K. Agrawal, J

Bench: Division Bench

Advocate: R.K. Awasthi and R.K. Jain, for the Appellant; H.R. Misra, P.K. Singhal, D.P. Bahadur, for the Respondent

Final Decision: Dismissed

Judgement

R.K. Agrawal, J.

By means of the present petition filed under Article 226/227 of the Constitution of India, the petitioner, Dinesh Chandra Jain, seeks the following reliefs:

(i) Issue a writ, order or direction in the nature of certiorari quashing orders dated 19.2.2000 passed by the Disciplinary Authority, Assistant General Manager, Industrial Relation Cell, Zonal Office, Syndicate Bank, Lucknow, respondent No. 4, order dated 12.5.2000, passed by the General Manager (Personnel), Syndicate Bank,

Head Office, Manipal, State of Karnataka (Annexure No. 2) and order dated 14.7.2000 passed by the Executive Director, Syndicate Bank, Head Office, Manipal, State of Karnataka, respondent No. 2 (Annexure No. 3).

(ii) Issue a writ, order or direction in the nature of certiorari quashing the entire disciplinary proceedings emanating with issuance of charge sheet dated 5.2.99 (Annexure No. 14) and all proceedings including the punishment orders.

(iii) Issue a writ, order or direction in the nature of mandamus commanding respondent No. 3 to treat the petitioner in service as Assistant Manager of the Syndicate Bank, Meerut and to pay him his salary and allowances alongwith arrears of pay.

(iv) Pass such other and further order which this Hon''ble Court may deem fit and proper in the facts and circumstances of the case.

(v) Award costs.

2. Briefly stated, the facts giving rise to the present petition are as follows:

According to the petitioner, he joined the Syndicate Bank on 21.5.1978 as a Clerk. He was promoted to the post of the Assistant Manager under Junior Management Grade Scale I on 3.6.1985. It is alleged by the petitioner that in the year 1986 while posted as Assistant Manager in the Maliwara Branch of the Bank at Ghaziabad he was constrained to file Original Suit No. 580 of 1989 in the Court of the Munsif, Ghaziabad, impleading Sri Y.K. Singhal, the then Manager, as defendant No. l and the Bank as other defendant. The relief sought for in the said suit was for a decree of Rs. 1,010.48P. on account of alleged illegal deductions made by Sri Y.K. Singhal or, in the alternative, a decree for mandatory injunction directing the defendants to credit his salary from the month of January, 1989 in the Savings Bank Account No. 3910 with the Bank''s Maliwara Branch, Ghaziabad. According to the petitioner, he was pressurized to withdraw the suit as it was damaging the image of the Bank. On his refusal to withdraw the suit, harassment started with frequent transfers. He was transferred five times during the period of 49 months from April 1994 to May 1998. Sometimes in the year 1995, he developed some problems of osteo arthritis in his left hip joints and he was advised not to strain too much. In May 1998, while the petitioner was posted at Dola Branch in the district of Baghpat, he was transferred to Naripura Branch at Agra. He represented to the higher authorities against the said transfer. According to him, he was on medical leave during the period 1996-97 and while he was on leave, he had applied for his transfer to Meerut on medical grounds for better and effective medical treatment, which request was turned down. The petitioner again represented the matter on 28.7.1998 and 10.11.1998 but without any success. According to him, he did not join at Naripura Branch at Agra on the expectation of a favourable response from the Bank and also in the wake of the medical advice. He was served with a communication issued by the Regional Office, Agra on 20.10.1998 wherein he was informed that his absence from 27.6.1998

onward till he would join duty at Naripura Branch at Agra had been treated as unauthorised with consequential cut in salary, postponement of annual increment date and the period counted as break in service for superannuation benefits etc., which was without prejudice to the right of the Bank to initiate any disciplinary action that might be deemed fit. The communication was preceded by issue of a show cause notice dated 13.8.1998 and the reply given by the petitioner on 31.8.1998. A charge sheet was issued to the petitioner on 5.2,1999. In the articles of charge, it was mentioned that he had contravened Regulation 13(1) and 3(1) read with Regulation 24 of the Syndicate Bank Officer Employees (Conduct) Regulations, 1976 (hereinafter referred to as "the 1976 Regulations"). A specific charge was framed against the petitioner that he had been transferred to Naripura Branch, Agra on 21.5.1998 and relieved from Dola Branch, Baghpat on 6.6.1998, which he never joined and remained absent without any information/sanction of leave, which caused lot of inconvenience to the Bank. The petitioner submitted his reply denying commission of any misconduct within the meaning of Regulation 13(1) and 3(1) read with Regulation 24 of the 1976 Regulations. He also submitted that the leave was available in his leave account and hence it was incorrect to state that his absence was unauthorised. No case for initiating disciplinary proceeding was made out. The request for engaging a legal practioner was declined by the Enquiry Officer. A regular enquiry was held and the Enquiry Officer submitted his report dated 4,1.2000 to the disciplinary authority. The disciplinary authority issued a show cause notice on 17.1.2000 calling upon the petitioner to show cause. The petitioner submitted his reply on 6.2.2000. The disciplinary authority after taking into consideration the material, the evidence recorded and the reply/explanation given by the petitioner as also the finding of the Enquiry Officer, held the petitioner guilty of all the charges and had imposed the penalty of removal from service of the Bank which shall not be a disqualification for future employment. Feeling aggrieved, the petitioner preferred an appeal before the General manager (P) under Regulation 17 of the Syndicate Bank Officer Employees (Discipline and Appeal) Regulations, 1976 (hereinafter referred to as "the Discipline Regulations, 1976"). The General Manager (P), vide order dated 12.5.2000, had dismissed the appeal. A review petition under Regulation of the Discipline Regulations, 1976 was also preferred which had been dismissed as not maintainable. All the three orders are under challenge in the present writ petition.

3. We have heard Sri Ravi Kiran Jain, learned senior counsel, assisted by Sri R.K. Awasthi, on behalf of the petitioner, and Sri H.R. Misra, learned Counsel assisted by Sri P.K. Singhal on behalf of the respondent Bank.

4. Sri Jain, learned senior counsel, submitted that as per the own statement regarding leave given by the Bank on 4.5.1998, copy of which has been filed as Annexure 13 to the writ petition, there was a balance of 498 days of sick leave with half pay to the credit of the petitioner and, therefore, the petitioner could have availed of the medical leave to that extent. According to him, as the petitioner was

suffering from osteo arthritis and was advised not to strain too much, he could not join the transferred place at Naripura Branch, Agra. However, he had sent the application for medical leave alongwith the medical certificate which have not at all been taken into consideration. He further submitted that the Bank had already predetermined the issue of leave when it sent the communication dated 20.10.1998, copy of which has been filed as Annexure 9 to the writ petition. It is a case of double jeopardy as paragraph 4 of the communication dated 20.10.1998 had already treated the absence from 27.6.1998 onwards as unauthorised with consequential cut in salary, postponement of annual increment date and the period as break in service for superannuation benefits. Thus, the regular enquiry held against the petitioner as also the punishment imposed is wholly illegal and contrary to law.

5. He further submitted that there was no evidence or material on record to establish that the Bank had suffered loss/inconvenience or that the leave was not available to the petitioner. Thus, the finding of the Enquiry Officer as also the disciplinary authority is vitiated being based on no evidence on record.

6. He further submitted that in the show cause notice dated 17.1.2000 the disciplinary authority had not mentioned the proposed punishment to be awarded which deprived the petitioner from giving the effective explanation and to show that if at all a lesser punishment could have met the cause of justice. According to him, the petitioner''s reply to the show cause notice, which was filed on 6.2.2000, had not been considered in true perspective. Without prejudice to the aforesaid, he submitted that the punishment awarded to the petitioner is highly disproportionate to the charges levelled against him. In support of his various submissions, he has relied upon the following decisions:

(i) Union of India and others Vs. Mohd. Ramzan Khan,

(ii) Managing Director, ECIL, Hyderabad, Vs. Karunakar, etc. etc.,

(iii) Kailash Nath Gupta Vs. Enquiry Officer, (R.K. Rai), Allahabad Bank and Others,

(iv) Dev Singh Vs. Punjab Tourism Development Corporation Ltd. and Another, and

(v) Shri Bhagwan Lal Arya Vs. Commissioner of Police Delhi and Others,

7. Sri H.R. Misra, learned Counsel appearing for the Bank, submitted that the petitioner was not attending to his duties in the Bank and he did not join at the transferred place, i.e., Naripura Branch, Agra, for no rhyme or reason. If he was really unwell, the proper course for him would have been to join the duties at the transferred place and apply for the leave if it was available. The petitioner having not done so, had absented himself without leave which is a serious misconduct, taking into consideration the fact that the Bank is a service oriented organisation and absence of a person of an officer level would greatly hamper the working and cause inconvenience to the valuable customers of the Bank. According to him, the enquiry has been conducted in most fair and reasonable manner. The petitioner had

fullest opportunity to submit his reply, to cross examine the witness and also to say whatever he wanted to say in his defence. He further submitted that under the Discipline Regulations, 1976, the disciplinary authority is not required to mention the proposed punishment and, therefore, the petitioner cannot derive any advantage from the mere omission to mention the proposed punishment in the show cause notice. He further submitted that the punishment is not disproportionate to the charges of absence without leave and this Court in exercise of powers under Articles 226/227 of the Constitution of India should not interfere with the order passed by the disciplinary authority. In support of his various submissions, he has relied upon the following decisions:

(i) Union Bank of India Vs. Vishwa Mohan, and

(ii) State of Rajasthan and Another Vs. Mohammed Ayub Naz,

8. We have given our anxious consideration to the various pleas raised by the learned Counsel for the parties.

9. Before adverting to the various issues raised on the merits, we deem it proper to mention that it is to be remembered that this Court in proceedings under Article 226/227 of the Constitution of India does not sit in appeal over the findings recorded by the Enquiry Officer, the disciplinary authority and the appellate authority as held by the Apex Court in the case of (i) R.M. Yellatti Vs. The Assistant Executive Engineer, (ii) Union of India (UOI) and Others Vs. Flight Cadet Ashish Rai, and (iii) Govt. of A.P. and Others Vs. Mohd. Narsullah Khan,

10. In the case of Mohd. Ayub Naz (supra) the Apex Court has held as follows:

14. This Court in B.C. Chaturvedi Vs. Union of India and others, , further held that the Court/Tribunal cannot interfere with the findings of fact based on evidence and substitute its own independent findings and that where the findings of the disciplinary authority or the Appellate Authority are based on some evidence the Court/Tribunal cannot reappreciate the evidence and substitute its own findings. Observing further, this Court held that judicial review is not an appeal from a decision but a review of the manner in which the decision is made and that 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 eye of the Court. This Court further held as follows: (SCC p.759, paras 12-13)

When an inquiry is conducted on charges of a 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 be 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. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. When the authority accepts that evidence and the conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent office is guilty of the charge. The disciplinary authority is the sole judge of facts. Where appeal is presented, the Appellate Authority has coextensive power to reappreciate the evidence or the nature of punishment. The Court/Tribunal in its power of judicial review does not act as Appellate Authority to reappreciate 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.

15. V. Ramana v. A.P. U.P. State Road Transport Corporation (Arijit Pasayat and H.K.Sema, JJ.): the challenge in the above matter was to the legality of the judgment rendered by a Full Bench of the Andhra Pradesh High Court holding that the order of termination passed in the departmental proceedings against the appellant was justified. This Court in para 11 has observed thus: (SCC p.348, para 11)

11. The common thread running through in all these decisions is that the Court should not interfere with the administrator''s decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the Court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in the Wednesbury''s case (Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation (1948) 1 KB 223 : (1947) 2 All ER 680 (CA), the Court would not go into the correctness of the choice made by the administrator open to him and the Court should not substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in decision-making process and not the decision.

11. The Apex Court in the case of Maharashtra State Seeds Corpn. Ltd Vs. Haridas and Another, has held that it is now well settled that in a matter of disciplinary proceedings the High Court exercises a limited power. The Apex Court relied upon the case of Mohd. Nasrullah Khan (supra); L.K. Verma Vs. H.M.T. Ltd. and Another, ; Karnataka Bank Ltd. v. A.L. Mohan Rao (2006) 1 SCC 63 ; and Hombe Gowda Edn. Trust and Another Vs. State of Karnataka and Others,

12. Therefore, this Court can only see as to whether the inquiry was held by a competent authority, rules of natural justice have been complied with or not, the findings or conclusions are based on some evidence or not but adequacy or reliability of evidence cannot be gone into. The Court can interfere only if any of the

aforementioned things are missing.

13. In view of the limitation on the powers to be exercised by the Courts in the matters relating to misconduct by a public servant, we proceed to consider the merits of the matter. We find that it is not in dispute that the petitioner did not join at Naripura Branch, Agra after he was transferred from Dola Branch, Baghpat in the month of May 1998. The petitioner was informed about his unauthorised absence vide letter dated 20.10.1998 reserving the right to initiate the disciplinary action which the Bank may deem fit and proper. Regulation 13(1) of the 1976 Regulations specifically provides that no officer shall absent himself from his duty without having first obtained the permission of the competent authority. Thus, under Regulation 13(1) of the 1976 Regulations the petitioner was obliged to obtain the permission of the competent authority before absenting himself from duty. It is to be remembered that an employee cannot claim the leave as a matter of right. If an employee wants to go on leave, he has to make an application supported with relevant document for sanction of leave either before proceeding on leave or ex post facto. In the event of ex post facto leave is not sanctioned by the competent authority, the absence from the duty during that period would become unauthorised exposing the employee concerned to the risk of disciplinary action being taken against him. So far as the statement of leave dated 4.5.1998 is concerned, it only mentions the balance of sick leave. It does not mention that the petitioner is entitled to avail the same as a matter of right.
14. In the case of State of Punjab and Others Vs. Charanjit Singh, the Apex Court has held as follows:

In the The State of Punjab and Others Vs. Bakshish Singh, which was relied upon by the Courts below in holding that the misconduct stood condoned, was explained in Maan Singh Vs. Union of India (UOI) and Others, No law has been laid down in Bakshish Singh (supra) to the effect that only in the event, leave without pay is directed to be granted while passing an order of punishment, the leave having been regularised the order of punishment also becomes bad in law and void ab initio. While deciding Bakshish Singh (supra), this Court had not taken into consideration an earlier binding precedent in State of Madhya Pradesh v. Harihar Gopal 1969 SLR 274 (SC), wherein it has clearly been stated that such an order is passed only for the purpose of regularising the leave and thereby the effect of punishment is not wiped out. In Maan Singh (supra), it was held that the period of absence when treated as leave without pay, was with a view to regularise the leave and not for condonation of misconduct.

15. In this view of the matter, the communication dated 20.10.1999 is self-explanatory and would not amount to double jeopardy as canvassed by Sri Jain.

16. Now coming to the question as to whether there was any evidence regarding loss/inconvenience caused to the Bank on account of absence of the petitioner, we

are of the considered opinion that taking into consideration the nature of the service rendered by a Bank, prolong absence of a person of officer level does cause inconvenience and loss of image and prestige of the Bank as it adversely affects the business and customer relations. We further find that the Enquiry Officer and the disciplinary authority had taken into consideration the entire material and evidence on record and the principles of natural justice has been fully complied with.

17. Now coming to the question as to whether in the show cause notice issued by the disciplinary authority, the proposed punishment has to be mentioned or not, we find that after the Constitution (Forty Second Amendment) Act, 1976, the provision of Article 311 of the Constitution of India has been amended and after the amendment, it is not necessary that the proposed punishment should also be mentioned in the show cause notice to be issued by the disciplinary authority. However, in case the service regulations provide for mentioning the proposed punishment in the show cause notice, in that event, it is obligatory on the part of the disciplinary authority to mention the proposed punishment in the show cause notice otherwise the said notice would be bad.

18. In Associated Cement Companies Ltd. Vs. T.C. Shrivastava and Others, , the Apex Court has held that "neither under the ordinary law of the land nor under industrial law a second opportunity to show cause against the proposed punishment is necessary".

19. The Constitution Bench of the Apex Court in the case of Union of India and Another Vs. Tulsiram Patel and Others, while considering the Constitution (Forty Second Amendment) Act, 1976, which substituted Clause (2) of Article 311 with effect from 1.1.1977, had, in paragraph 68 of the report, held as follows:

68....The amendments made by this Act are that in Clause (2) that portion which required a reasonable opportunity of making representation on the proposed penalty to be given to a government servant was deleted and in its place the first proviso was inserted, which expressly provides that it is not necessary to give to a delinquent government servant any opportunity of making representation on the proposed penalty...

20. In Tulsiram Patel (supra) the Apex Court has further held that since a right to such opportunity does not exist in law, it follows that the only right which the government servant had to make a representation on the proposed penalty was to be found in Clause (2) of Article 311 prior to its amendment by the Constitution (Forty-second Amendment) Act. This right having been taken away by the Constitution (Forty-second Amendment) Act, there is no provision of law under which a government servant can claim this right.

21. The Apex Court in the case of Managing Director, Uttar Pradesh Warehousing Corporation and Another Vs. Vijay Narayan Vajpayee, of the report, while holding the Uttar Pradesh Warehousing Corporation to be a statutory body, wholly

controlled and managed by the Government, its status is analogous to that of a Corporation which was under consideration in Sukhdev Singh, Oil and Natural Gas Commission, Life Insurance Corporation, Industrial Finance Corporation Employees Associations Vs. Bhagat Ram, Association of Clause II. Officers, Shyam Lal, Industrial Finance Corporation, has held as follows:

14... The ratio of Sukhdev Singh''s case, therefore, squarely applies to the present case. Even if at the time of the dismissal, the statutory regulations had not been framed or had not come into force, then also, the employment of the respondent was public employment and the statutory body, the employer could not terminate the services of its employee without due enquiry in accordance with the statutory Regulations, if any in force, or in the absence of such Regulations, in accordance with the rule of natural justice. Such an enquiry into the conduct of a public employee is of a quasi-judicial character. The respondent was employed by the appellant-Corporation in exercise of the powers conferred on it by the statute which created it. The appellants'' power to dismiss the respondent from service was also derived from the statute. The Court would therefore, presume the existence of a duty on the part of the dismissing authority to observe the rules of natural justice, and to act in accordance with the spirit of Regulation 16, which was then on the anvil and came into force shortly after the impugned dismissal. The rules of natural justice in the circumstances of the case, required that the respondent should be given a reasonable opportunity to deny his guilt, to defend himself and to establish his innocence which means and includes an opportunity to cross-examine the witnesses relied upon by the appellant-Corporation and an opportunity to lead evidence in defence of the charge as also a show-cause notice for the proposed punishment.
(Underlined by us)

22. In the aforesaid case, Regulation 16 which had been framed and was to be enforced very shortly, did contain such a provision. However, in the present case, we find that the Discipline Regulations, 1976 do not contain any such provision and, therefore, the law laid down by the Apex Court in the case of Associated Cement Companies Ltd. and Tulsiram Patel (supra) will apply with full force.

23. The petitioner is not a member of a civil service of the Union of India or of All India Service or a civil service of a State or holds a civil post under the Union of India or a State so as to entitle him to claim the protection of Article 311 of the Constitution of India. The Discipline Regulations, 1976, which is applicable in the present case, do not provide for mentioning the proposed punishment while issuing the show cause notice to the delinquent officer. Thus, even under the Discipline Regulations, 1976, the petitioner cannot insist upon mentioning of the proposed punishment in the show cause notice.

24. In the case of Mohd. Ramzan Khan (supra) the Apex Court has held that the report is an adverse material if the Inquiry Officer records a finding of guilt and proposes a punishment, so far as the delinquent is concerned. In a quasi-judicial matter, if the delinquent is being deprived of knowledge of the material against him though the same is made available to the punishing authority in the matter of reaching his conclusion, rules of natural justice would be affected.

25. In the case of B. Karunakar (supra) the Constitution Bench of the Apex Court has held that when the Inquiry Officer is not the disciplinary authority, the delinquent employee has a right to receive a copy of the inquiry Officer''s report before the disciplinary authority arrives at its conclusions with regard to the guilt or innocence of the employee with regard to the charges levelled against him. That right is a part of the employee''s right to defend himself against the charges levelled against him. A denial of the Inquiry Officer''s report before the disciplinary authority takes its decision on the charges is a denial of reasonable opportunity to the employee to prove his innocence and is a breach of the principles of natural justice.

26. In the present case, we find that the report of the Enquiry Officer has been provided to the petitioner alongwith the show cause notice and, therefore, the principle of natural justice has not been violated.

27. Now coming to the question of punishment being disproportionate to the charge levelled, we find that the Apex Court in the case of Kailash Nath Gupta (supra) has held, in paragraph 11 of the report, as follows:

11. In the background of what has been stated above, one thing is clear that the power of interference with the quantum of punishment is extremely limited. But when relevant factors are not taken note of, which have some bearing on the quantum of punishment, certainly the Court can direct re-reconsideration or in an appropriate case to shorten litigation, indicate the punishment to be awarded....

28. In the case of Dev Singh (supra) the Apex Court has held as follows:

6. A perusal of the above judgments clearly shows that a court sitting in appeal against a punishment imposed in the disciplinary proceedings will not normally substitute its own conclusion on penalty, however, if the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the Court, then the Court would appropriately mould the relief either by directing the disciplinary/appropriate authority to reconsider the penalty imposed or to shorten the litigation its may make an exception in rare cases and impose appropriate punishment with cogent reasons in support thereof. It is also clear from the above noted judgments of this Court, if the punishment imposed by the disciplinary authority is totally disproportionate to the misconduct proved against the delinquent officer, then the Court would interfere in such a case.

29. In the case of Bhagwan Lal Arya (supra) the Apex Court has held that the punishment of dismissal/removal from service can be awarded for the act of grave misconduct.

30. In the case of Vishwa Mohan (supra) the Apex Court has, in paragraph 11 of the report, held that it needs to be emphasised that in the banking business absolute devotion, diligence, integrity and honesty needs to be preserved by every bank employee and in particular the bank officer. If this is not observed, the confidence of the public/ depositors would be impaired.

31. In the case of Mohd. Ayub Naz (supra) the Apex Court, in paragraph 9 of the report, has observed that absenteeism from office for a prolonged period of time without prior permission by government servants has become a principal cause of indiscipline which has greatly affected various government services.

32. In paragraph 10 of the report, the Apex Court in the aforesaid case has held as follows:

10. This Court in Om Kumar v. Union of India (2001) 2 SCC 386, while considering the quantum of punishment/proportionality has observed that in determining the quantum, role of administrative authority is primary and that of court is secondary, confined to see if discretion exercised by the administrative authority caused excessive infringement of rights. In the instant case, the authorities have not omitted any relevant materials nor has any irrelevant fact been taken into account nor any illegality committed by the authority nor was the punishment awarded shockingly disproportionate. The punishment was awarded in the instant case after considering all the relevant materials, and, therefore, in our view, interference by the High Court on reduction of punishment of removal was not called for.

33. Applying the principles laid down in the aforesaid cases to the facts of the present case, we are of the considered opinion that the punishment of removal from service awarded to the petitioner who did not join his duties at the transferred place and remained absent from duty for a considerable period without sanction of leave, in the facts and circumstances of the case, cannot be said to be disproportionate which may require any interference from this Court.

34. In view of the foregoing discussions, we do not find any merit in this petition which is dismissed. However, the parties shall bear their own costs.