HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

FRIDAY, THE ELEVENTH DAY OF APRIL
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT JUSTICE RENUKA YARA

WRIT APPEAL NO: 208 OF 2011

Writ Appeal under clause 15 of the Letters Patent against the order dt. 20-01-2011 in W.P. No. 1108 of 2004. on the file of the High Court.

Between:

The Syndicate Bank, Rep. by its Dy. General Manager, Zonal Office, Punjagutta, Hyderabad.

...APPELLANT/
RESPONDENT No.2

AND

1. Smt. R.S. Sudha Rani, W/o. Sri R.S. Surya Prakash, Aged about 42 years, R/o. H.No. 1-11-29, Golnaka, Alwal, Secunderabad.
2. The Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Government of India, Ministry of Labour, M-2 Block, Manoranjan Complex, M.J. Road, Hyderabad.

(Respondent No.2 is not necessary in the appeal)

...RESPONDENTS/
PETITIONER No.1

I.A. NO: 1 OF 2011(WAMP. NO: 476 OF 2011)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the order dt. 20-01-2011 in W.P.No.1108 of 2004 passed by the Learned Single Judge, during the pendency of the above appeal.

Counsel for the Appellant: SRI A.KRISHNAM RAJU
Counsel for the Respondent No.1: SRI G.VIDYASAGAR
Counsel for the Respondent No.2: SRI SAI PRASEN GUNDAVARAM FOR SMT. K.UDAYA SRI, SC FOR CENTRAL GOVT.

The Court made the following: JUDGMENT

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT. JUSTICE RENUKA YARA

WRIT APPEAL No.208 of 2011

JUDGMENT: *(Per Hon'ble the Acting Chief Justice Sujoy Paul)*

Sri A.Krishnam Raju, learned counsel for the appellant and Sri Sai Prasen Gundavaram, learned counsel representing Smt. K.Udaya Sri, learned counsel for the respondent.

2. This *intra* Court appeal takes exception to the order of the learned Single Judge passed in W.P.No.1108 of 2004 decided on 20.01.2011.

Facts:-

3. The respondent was appointed as a clerk in the appellant Bank on 11.08.1990. From 26.12.1991 to 20.06.1998, the respondent worked in Alwal Branch of the Bank. The respondent was transferred on 20.06.1998 to S.D.Road Branch. In contemplation of a disciplinary proceeding for the misconduct allegedly committed by the respondent, she was placed under suspension on 29.06.1998. A charge sheet dated 13.10.1998 was issued to the respondent. In turn, the respondent submitted detailed explanation to charge sheet on 02.12.1998 and denied the charges in toto. Dissatisfied with the response of the delinquent

employee, the Bank appointed an enquiry officer on 12.12.1998. In the departmental enquiry, delinquent employee participated. The enquiry officer recorded the evidence of parties and submitted his report dated 15.07.1999 before the disciplinary authority. The disciplinary authority provided copy of enquiry report to the delinquent employee on 16.07.1999. The delinquent employee, in turn submitted her response on 04.09.1999. The disciplinary authority issued notice dated 20.09.1999 proposing the punishment of dismissal from service. After obtaining written submission of the delinquent employee dated 29.09.1999, and after giving a personal hearing to her, the disciplinary authority passed the punishment order dated 08.10.1999, whereby the punishment of dismissal from service was inflicted on the delinquent employee. Aggrieved, the delinquent employee preferred an appeal, which came to be dismissed by the appellate authority on 03.02.2000.

4. The delinquent employee raised an industrial dispute, which was ultimately referred for adjudication before the Central Government Industrial Tribunal (Tribunal) and was registered as I.D.No.89 of 2000. The Labour Court after completion of pleadings and recording of evidence, passed its Award on 04.08.2003 and answered the terms of reference in favour of the Management. This

Award dated 04.08.2003 became the subject matter of challenge in W.P.No.1108 of 2004. The learned Single Judge passed the impugned order and set aside the order of the Tribunal and directed reinstatement of respondent with 50% backwages and attendant benefits. This order of the learned Single Judge is assailed in this writ appeal.

Contentions of the appellant/Bank:-

5. Sri A.Krishnam Raju, learned counsel for the appellant/Bank submits that the first reason for interference in the departmental enquiry by the learned Single Judge was that the officer who has conducted preliminary enquiry/investigation became management representative/presenting officer. The departmental enquiry was initiated on the report of such management representative and therefore, domestic enquiry became defective. Criticizing this finding, learned counsel for the appellant submits that the investigation was conducted by one Sri G.Srinivasan, Deputy Chief Manager (Vigilance), whereas the presenting officer was one Sri S.Sridhara Rao. Thus, finding of learned Single Judge on the first count is factually incorrect.

6. Secondly, the learned Single Judge found that the Tribunal has not assigned adequate reasons in support of its conclusion. By taking this Court to the findings of the Tribunal, it is submitted that this bald finding of the learned Single Judge is not sustainable. More so, when the learned Single Judge has not taken pains to mention as to which conclusion of Tribunal is not supported by any reasoning.

7. The interference by the learned Single Judge on the ground that the report of handwriting expert (MW.2) was not furnished and identified specified signatures were not there is factually incorrect. MW.2 was an independent government official and an expert in the field of handwriting examination. He entered the witness box, deposed his statement and respondent was permitted to cross-examine him. During the enquiry, no objection of any nature was raised by the delinquent employee regarding any shortcoming in his deposition or in other words regarding non-supply of handwriting expert report prepared by MW.2.

8. Furthermore, it is submitted that the learned Single Judge has erred in holding that before introducing the handwriting expert as management witness, the prosecution was required to seek permission from enquiry officer. Neither there exists any such

requirement under the rules nor is it spelt out by the learned Single Judge. Secondly, there was no comparison of signatures in absence of any specimen signature available with the Bank.

9. The finding of learned Single Judge is further assailed by contending that if there was no complaint from concerned account holders, the Bank on its own could not have conducted enquiry. If there is misappropriation, procedural infirmity and lack of purity, Bank can always take action against its erring employees whether or not there exists a complaint by account holder. The learned Single Judge further erred in holding that it was not alleged that the petitioner has misappropriated any amount or has diverted funds to her account. In absence of any such allegation, punishment could not have been imposed. Learned counsel for the appellant placed heavy reliance on charge sheet dated 13.10.1998 and apprised the Court that specific allegations of dishonest intention, fraudulent act and misappropriation were made against the respondent.

10. Sri A.Krishnam Raju, learned counsel for the Bank placed reliance on the recent judgment of the Supreme Court in **State of**

Rajasthan and others vs. Bhupendra Singh[1] to bolster the submission that scope of judicial review in case of departmental enquiry is limited. If decision making process is in consonance with principles of natural justice and no prejudice is caused to the other side, no interference is warranted. The Court is not obliged to sit as an appellate Court to re-weigh/re-appreciate the evidence. Interference can be made only in cases of 'no evidence'. The punishment can be interfered with if it is shockingly disproportionate It is prerogative of the employer to take a decision on quantum of punishment. In the instant case, if learned Single Judge was of the opinion that the departmental enquiry was vitiated, the only course open to the learned Single Judge was to remit the matter back for conducting further enquiry from the stage error had crept in. The learned Single Judge has not considered the aforesaid aspect and interfered with the punishment. The present case was not a case of 'no evidence'. It is a matter of common knowledge that Bank handles huge money of customers. Thus its employees must work with integrity and devotion. In a case of this nature, where misappropriation is established, no interference should have been made.

[1]2024 SCC OnLine SC 1908

11. The Bank lost confidence on the respondent and therefore, in view of the judgments of the Supreme Court in **Suresh Pathrella vs. Oriental Bank of Commerce**[2], **State Bank of Bikaner and Jaipur vs. Nemi Chand Nalwaya**[3] and **Karnataka SRTC vs. M.G.Vittal Rao**[4], interference should not have been made.

12. Furthermore, it is submitted that even assuming that preliminary enquiry report was not supplied to the delinquent employee, it will not cause any dent to the main enquiry and punishment. More so, when in the main departmental enquiry and its enquiry report, no reliance is placed on the preliminary report. Reliance is placed on the judgments of the Supreme Court in **Pandit D.Aher vs. State of Maharashtra**[5], **Manoj Kumar vs. State of Uttar Pradesh**[6] and **P.S.Malik vs. High Court of Delhi**[7]. Lastly, it is submitted that even hearsay evidence is admissible in departmental enquiry by taking assistance from the judgments of the Supreme Court in **J.D.Jain vs. Management of State Bank of India**[8] and **State of Haryana vs. Rattan Singh**[9].

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[2](2006) 10 SCC 572
[3](2011) 4 SCC 584
[4](2012) 1 SCC 442
[5](2007) 1 SCC 445
[6](2018) 13 SCC 161
[7](2020) 19 SCC 714
[8](1982) 1 SCC 143

13. By placing heavy reliance on the judgment of the Supreme Court in **State Bank of India vs. Tarun Kumar Banerjee**[10], it is submitted that in cases of departmental enquiry of bank employees, it is not necessary to call the customers to enter the witness box. If cogent evidence is led by the department to prove the charges, that is sufficient.

Contentions of the respondent:

14. Learned counsel for the respondent supported the impugned order passed by the learned Single Judge and urged that the whole case of prosecution is based on the opinion of handwriting expert. The preliminary enquiry, the charge sheet and finding of enquiry officer are founded upon such opinion of the handwriting expert. By placing reliance on the judgments of the Supreme Court in **Smt. Bhagwan Kaur vs. Shri Maharaj Krishnan Sharma**[11], **Magan Bihari Lal vs. State of Punjab**[12] and **S.P.S.Rathore vs. Central Bureau of Investigation**[13], it is argued that in view of Section 45 of the Evidence Act and principles of law laid down in the said

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[9](1977) 2 SCC 491
[10](2000) 8 SCC 12
[11](1973) 4 SCC 46
[12](1977) 2 SCC 210
[13](2017) 5 SCC 817

judgments, in the absence of any corroboration, the conviction/guilt cannot be recorded on the basis of opinion of handwriting expert. The said opinion has no substantive value and at best, it can be used as supportive evidence.

15. Learned counsel further submits that there is no eye witness who entered the witness box in the domestic enquiry and deposed that he had seen the delinquent employee forging signature or committing misconduct. Thus, learned Single Judge has not committed any error of fact and law while passing the impugned order.

Rejoinder Submissions:

16. Learned counsel for the Bank submits that MWs.4 and 5 entered the witness box on behalf of the management and these cashiers deposed that the money was given to the present respondent. Thus, substantive evidence was led by the cashiers which got support from the statement of handwriting expert. Thus, there exists some evidence and it is not a case of 'no evidence'.

17. No other point is pressed by learned counsel for the parties.

18. We have heard the parties at length and perused the record.

Findings:

19. As rightly pointed out by the learned counsel for the Bank, it is trite that the scope of judicial review in departmental enquiry is limited. If departmental enquiry is conducted in flagrant violation of principles of natural justice and such violation caused serious prejudice to the employee, interference can be made. However, in such cases also as rightly argued, if enquiry is found to be defective, before Industrial Tribunal, employer gets an opportunity to lead evidence afresh to prove the misconduct. In writ petitions, if interference is made on technical ground, namely violation of principles of natural justice, the matter is remitted back to the employer to conduct further enquiry from the stage defect was found. Interference in the enquiry can be made if findings are perverse or it is a case of 'no evidence'. The principle of 'preponderance of probability' is the principle which governs domestic enquiries and not the principle that 'charges must be proved beyond reasonable doubt'. The latter principle deals with criminal cases. Thus, degree of proof required in domestic enquiry is different than the proof required in criminal cases. In case of no evidence, interference can be made. If punishment is shockingly disproportionate and is not commensurate to the misconduct,

interference can be made. Under Section 11A of Industrial Disputes Act, 1947, the Labour Court/Tribunal has statutory power to interfere with quantum of punishment and can even substitute the punishment. However, in writ jurisdiction, ordinarily, if punishment is found to be excessive/ disproportionate, the course open is to record such finding and remit the matter back to the disciplinary authority to pass a fresh order imposing substituted punishment (see **Apparel Export Promotion Council vs. A.K.Chopra**[14]).

20. Coming to the instant case, the first reason for interference by the learned Single Judge was that the officer of the Bank who conducted the preliminary enquiry/investigation acted as presenting officer in the enquiry. This finding of learned Single Judge is factually incorrect and legally improper. The record shows that the investigation was done by Sri G.Srinivasan, Deputy Chief Manager (Vigilance), whereas Sri S.Sridhara Rao acted as presenting officer. Even otherwise, no authority/law is cited by the learned Single Judge to hold that the person conducting preliminary enquiry/investigation cannot become presenting officer. Thus, this finding needs to be axed.

[14] (1999) 1 SCC 759

21. Learned Single Judge has given a finding that the Tribunal has not given reasons in support of conclusions. Curiously, the learned Single Judge has not recorded any such conclusion, which is not supported by any reasons/findings by the Tribunal. For this reason, we are unable to countenance the order of the learned Single Judge on this aspect.

22. The handwriting expert (MW.2) entered the witness box and deposed his statement in the presence of the delinquent employee. The delinquent employee got full and reasonable opportunity to cross-examine him. The case of prosecution was supported by statement of cashiers (MWs.4 and 5). They were also subjected to cross-examination. Thus, there is no procedural infirmity in the departmental enquiry. The delinquent employee did not raise any objection during the cross-examination of MW.2 and did not demand any document.

23. The eyebrows are raised by the Bank on another finding of learned Single Judge, wherein it was held that before introducing the handwriting expert as management witness, the permission ought to have been taken from the enquiry officer. We do not see any merit in this finding because it is not supported by any

authority. The only requirement as per principles of natural justice was that if such witness has entered the witness box and deposed his statement against delinquent employee, the delinquent employee must get an effective opportunity to cross-examine him. Thus, this finding of learned Single Judge also cannot be upheld.

24. The learned Single Judge in the impugned order opined that the customers of the Bank did not complain to the Bank about any shortcoming and did not enter the witness box. The Bank could have proceeded against the delinquent employee only when such a complaint is preferred by the customers. The Supreme Court in **Tarun Kumar Banerjee** (supra) held as under:

> **"6. A customer of the Bank need not be involved in a domestic enquiry conducted as such a course would not be conducive to proper banker-customer relationship and, therefore, would not be in the interest of the Bank.** Further, when money was secured a prudent banker would deposit the same in the account of the customer complaining of loss of money and, therefore, non-production of money also would not be of much materiality. When in the course of the domestic enquiry no reliance was placed on the so-called confessional statement made by the first respondent, then non-production of the same is also of no significance. Thus, in our opinion, these circumstances are irrelevant and the Tribunal could not have placed reliance on the same to reach the conclusion it did and, therefore, the learned Single Judge was justified in interfering with the same. In the writ appeal the learned Judges on the Division Bench reiterated the view expressed by the Tribunal which we have found to be fallacious."
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> (emphasis supplied)

25. In view of the above judgment, we find that if department itself noticed the shortcoming or misconduct, it will not preclude the Bank from initiating domestic enquiry. Every employer has a right to assess the working of its employees and if any misconduct is committed by its employee, proceed against him/her. Whether or not complaint is preferred by any person, it is prerogative of employer to initiate disciplinary action. It is a matter of common knowledge that the Bank needs to function with transparency and integrity. It is not only public money, but it is faith of people on the strength of which a Banking institution runs. In order to ensure its purity, employer must be given complete right to identify the misconduct and proceed against erring employees. The learned Single Judge, in our judgment, erred in holding that Bank could not have taken action on the delinquent employee in absence of any complaint by account holder.

26. In view of the foregoing analysis, it is clear that there is no procedural infirmity in the departmental enquiry, which vitiates the enquiry. After recording the evidence, enquiry officer prepared a detailed report and considered each and every evidence. No perversity in the findings could be pointed out. It is not a case of 'no evidence'. So far reliance on three judgments of the Supreme

Court based on Section 45 of the Evidence Act are concerned, suffice it to say that said judgments are relating to criminal cases. The strict principles of Evidence Act are not applicable in departmental enquiry. Apart from this, the case of prosecution is not wholly based on expert opinion. Instead, it is based on other evidence as well including the evidence of cashiers.

27. The learned Single Judge has further erred in holding that there was no allegation of misappropriation of money. This finding runs contrary to record, which can be seen from following allegations of the charge sheet:

> "The above circumstances go to indicate that you with a **dishonest intention** of deriving undue pecuniary benefit resorted to dubious means and withdrew Rs.15,000/- **fraudulently** from the SB account of a customer. **Having misappropriated the amount** you suppressed the said act by causing destruction/tampering of Bank records.
>
> xxx xxx xxx
>
> The above circumstances go to indicate that you with a **dishonest intention** of deriving undue pecuniary benefit for self **fraudulently withdrew** Rs.4,000/- from SB account of a customer by resorting to dubious means and to suppress your fraudulent act, you falsified/caused destruction/tampering of the records of the branch."
>
> (emphasis supplied)

28. In nutshell, in a case of this nature where allegations of misappropriation are proved, it cannot be said that the punishment was disproportionate or shocks conscience of the Court.

29. As analysed above, the order of the learned Single Judge cannot sustain scrutiny.

30. Resultantly, the order of the learned Single Judge dated 20.01.2011 passed in W.P.No.1108 of 2004 is set aside and the writ appeal is **allowed.** There shall be no order as to costs.

Miscellaneous applications, if any, pending shall stand closed.

SD/-K.SRINIVASA RAO
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Government of India, Ministry of Labour, M-2 Block, Manoranjan Complex, M.J. Road, Hyderabad.
2. The Section Officer, Writ Service Section, High Court for the State of Telangana, at Hyderabad.
3. One CC to SRI G.VIDYASAGAR, Advocate [OPUC]
4. One CC to SRI A.KRISHNAM RAJU, Advocate [OPUC]
5. One CC to SRI K.UDAYA SRI, SC FOR CENTRAL GOVT. [OPUC]
6. Two CD Copies

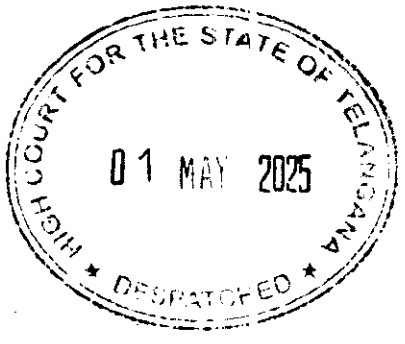
PSK.
LS

HIGH COURT

DATED:11/04/2025

JUDGMENT

WA.No.208 of 2011



ALLOWING THE WRIT APPEAL WITHOUT COSTS

PA
23/4/25