State Bank Of India vs K.S. Vishwanath on 20 May, 2022

Author: M. R. Shah

Bench: B.V. Nagarathna, M. R. Shah

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3490 OF 2022

State Bank of India & Anr. ...Appellants

Versus

K.S. Vishwanath ...Respondent

JUDGMENT

M. R. Shah, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 16.03.2021 passed by the High Court of Karnataka at Bengaluru in Writ Appeal No.4220 of 2011 by which the High Court has dismissed the said Writ Reason: Appeal No.4220 of 2011 preferred by the appellant – employer – SBI and has confirmed the judgment and order passed by the learned Single Judge setting aside the order of dismissal passed by the Disciplinary Authority and directing the Bank to pay to the delinquent officer consequential benefits without back wages, the appellant ☐SBI – employer has preferred the present appeal.

2. The facts leading to the present appeal in nutshell are as under:

> That the respondent herein ☐the delinquent officer was working as a Deputy Manager (Cash) at SSI Peenya II Stage Branch of the SBI Bank at Bangalore from 14.03.1996 onwards. That there was a requirement of Rs.10 lakhs which was required to be collected from Peenya Industrial Estate Branch of the Bank. That on the basis of one forged letter dated 06.08.1996, the delinquent officer withdrew Rs.10 lakhs

> fraudulently. The delinquent officer produced a false letter dated 06.08.1996 at Peenya Industrial Estate Branch and withdrew the aforesaid amount of Rs.10 lakhs which remained unaccounted at the SSI Branch. The letter dated 06.08.1996 was purported to have been signed by one A.R. Balasubramanian, the AGM of the SSI Branch. He denied his signature found on the letter dated 06.08.1996. Subsequently on tallying the account it was found that Rs.10 lakhs was withdrawn from Peenya Industrial Estate Branch which was to be deposited at SSI Branch had not been accounted for and the said amount had not been deposited with the SSI Branch.

Thereafter the local Head Officer submitted a complaint to the CBI on 10.11.1998, based on which the FIR was registered. The aforesaid FIR was registered after the preliminary investigation was held on 18.09.1998. It was found that the fraud has been committed by the insider, who was well aware of the procedure for cash remittance as well as with the signature of the Branch Manager of SSI Branch. The respondent – delinquent officer was placed under suspension. Thereafter a departmental enquiry was initiated against the delinquent officer and he was charged with the charge□sheet as under:

> "(i) On 6th August, 1996, you got prepared a set of fraudulent cash remittance documented and by producing the same at Peenya Industrial Estate Branch, Bangalore made the officials threat believe them to be genuine and part with Rs.10 Lacs as cash remittance to SSI Peenya II stage Branch and you failed to account for the same in the books of SSI Peenya II Stage Branch.
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> (ii) You have made substantial investments in Kisan Vikas Patra and Special Term Deposits with SBI Staff Co□operative Credit Society, Bangalore during the period 23.09.1998 to 08.06.1988 and you failed to make proper disclosures of the same in the Assets & Liabilities Statements submitted by you.

Your act stated at (i) above has resulted in the Bank incurring an undue loss of Rs.10 Lacs." 2.1 Before the Enquiry Officer, 41 documents and 9 witnesses were produced by the management to prove the charges. After considering the statements/depositions of management witnesses PW1 to PW7 the Enquiry Officer submitted his report holding charge no.1 as proved and charge no.2 as partly proved. The Appointing Authority agreed with the findings of the Enquiry Officer and imposed the penalty of dismissal from services which came to be confirmed by the Appellate Authority.

2.2 Thereafter the respondent – delinquent officer filed a writ petition before the learned Single Judge of the High Court. By the time the writ petition came to be disposed of, the respondent – delinquent officer attained the age of superannuation. By judgment and order dated 22.03.2011 the learned Single Judge set aside the order of punishment and directed the Bank to give all the consequential benefits to the original writ petitioners except back wages as in the meantime he attained the age of superannuation. 2.3 Feeling aggrieved and dissatisfied with the judgment and order passed by the learned Single Judge setting aside the order of punishment imposed by the appointing authority, the Bank filed the present Writ Appeal No.4220 of 2011 before the Division

Bench of the High Court. The delinquent officer also filed Writ Appeal No.4599 of 2011 against the denial of back wages. Both the writ appeals came to be heard, decided and disposed of by a common impugned judgment and order. By the common impugned judgment and order the Division Bench of the High Court has dismissed both the appeals, one preferred by the appellant – management and another preferred by the delinquent officer.

2.4 Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the Division Bench of the High Court in dismissing the Writ Appeal No.4220 of 2011 and confirming the judgment and order passed by the learned Single Judge setting aside the punishment imposed by the appointing authority, the Bank – employer has preferred the present appeal.

3. Shri Sanjay Kapoor, learned counsel appearing on behalf of the Bank has vehemently submitted that in the facts and circumstances of the case, both, the learned Single Judge as well as the Division Bench have materially erred in interfering with the findings recorded by the Enquiry Officer which were on appreciation of evidence on record, both documentary as well as oral.

3.1 It is submitted that during the enquiry the Management examined in all 9 witnesses and produced on record 41 documents to prove the charges. That the management witnesses were primarily employees of the Bank who were also cross□examined during the course of enquiry. It is submitted that in the present case PW2 and PW3, the Cash Officer and the Accountant confirmed the practice adopted by the Branch seeking remittance, as also the fact that the respondent on the relevant date had come with one more person whom he introduced as the Cashier of the Branch. By examining the aforesaid witnesses, the management has established and proved that voucher and remittance/cash was given to the respondent inside the vault.

3.1.1 It is submitted that by examining the witness namely, the Branch Manager □PW4, the management has proved that the Branch Manager whose alleged signature was found on the alleged letter was in fact not of his and that he confirmed that the letter allegedly bearing his signature seeking remittance of Rs.10 lakhs was not signed by him at all. He explained the normal practice during the course of his evidence.

3.1.2 It is submitted that PW5 and PW6 confirmed that it was the respondent – delinquent officer who had come to the Branch with another person with cash remittance and he was a witness to the said incident.

3.1.3 It is further submitted by Shri Kapoor, learned counsel appearing for the Branch Manager that even the management has been successful in establishing and proving that it was respondent – delinquent officer who got prepared the fraudulent letter. Further, PW7 □proprietor of the photo stating shop confirmed that it was the respondent who had come for typing the fraudulent letter and she got typed the same in her shop. It is submitted that she also identified the respondent in the enquiry.

3.2 It is contended by learned counsel appearing on behalf of the appellant – Bank that despite the aforesaid clinching evidence placed on record the High Court has erred in holding that the bank has

not been able to prove the complicity of the respondent in the alleged offence. It is urged that while setting aside the order of punishment the learned Single Judge acted beyond the scope and ambit of the writ jurisdiction and the power of the judicial review conferred on a constitutional court.

3.3 Relying upon the decision of this Court in the case of State of Karnataka vs. N. Ganga Raj reported in (2020) 3 SCC 423, it is submitted by Shri Kapoor, learned counsel appearing on behalf of the appellant – Bank that in the said decision this Court observed and held that the power of Judicial Review conferred on a constitutional court is not that of an appellate authority but is confined only to the decision□making process. It is submitted that as held, under Articles 226/227 of the Constitution of India, the High Court shall not reappreciate the evidence, interfering with the conclusions in the enquiry, go into the adequacy or reliability of the evidence or correct the error of fact however grave it may be. 3.4 It is contended that the High Court has committed a grave error in interfering with the findings recorded by the Enquiry Officer and setting aside the order of punishment imposed by the appointing authority.

4. While opposing the present appeal learned counsel appearing on behalf of the respondent – delinquent officer has made the following submissions:

> (i) That the respondent herein had an unblemished record from his joining as a clerk till the date of alleged incident in his career of long 28 years and had even got two promotions;
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> (ii) That the entire amount of Rs.10 lakhs was allegedly paid to one Shri M.N. Kiran and not to the respondent – delinquent officer;
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> (iii) Initially the Local Head Officer of the Branch directed one Shri M.R. Srinath, AGM to investigate the matter. Shri Srinath investigated the matter and found that there was no involvement of any officer from the SSI Peenya II Branch and completely absolved the delinquent officer. It is submitted that it was observed that the style of the letter requesting the remittance resembles the usual style adopted by the delinquent officer. That it is observed that that none of the documents at the SSI Peenya Branch was tampered with which is indicative of non□involvement of staff of the SSI Peenya Branch;
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> (iv) That in the criminal proceedings investigated by the CBI, the delinquent officer has been acquitted by the competent criminal court. That the learned Single Judge specifically observed and held that the enquiry was vitiated due to the violation of principles of natural justice;
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> (v) The enquiry officer held the respondent guilty on mere surmises and conjectures.
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> (vi) The enquiry officer erred in relying on the deposition of PW7, who claimed to be the manager of the photocopying shop;

(vii) That the manager failed to prove that document/letter dated 06.08.1996 was prepared by the respondent – delinquent officer.

(viii) Therefore, once the preparation of document was itself doubtful from the evidence of PW7 there is no question of forging the signatures on the said documents by the respondent;

(ix) That therefore, the entire allegation is made on falsehood which has not been proved by any evidence.

4.1 Relying upon the decision of this Court in the case of Nand Kishore Prasad vs. State of Bihar & Others, AIR 1978 SC 1277, it is submitted that as held by this Court the domestic tribunals are quasi-judicial in character. Therefore, the minimum requirement of the rules of natural justice is that the Tribunal should arrive at its conclusion on the basis of some evidence i.e. cogent material which with some degree of definiteness points to the guilt of the delinquent in respect of charges against him.

4.2 Relying upon the decision of this Court in the case of Rajinder Kumar Kindra vs. Delhi Administration, (1984) 4 SCC 635, it is submitted that a quasi-judicial tribunal which records findings based on no legal evidence, then the findings are either ipse-dixit or based on conjectures and surmises. The enquiry suffers from the additional infirmity of non-application of mind and stands vitiated.

4.3 On judicial review, it is submitted that if there is procedural violation and violation of principles of natural justice, the courts are justified to set aside such administrative action and in many a case may possibly direct a denovo enquiry. It is submitted that however, in the present case the delinquent officer has attained the age of superannuation, he cannot be burdened with the fresh enquiry and the courts have to set aside the said administrative action itself. It is submitted that therefore as such the respondent was required to be reinstated with full back wages. That instead the High Court has denied the back wages to the respondent – delinquent officer. Therefore, the impugned judgment and orders passed by the High Court are not required to be interfered with by this Court in exercise of powers conferred under Article 136 of the Constitution of India.

Making the above submissions, it is prayed to dismiss the present appeal.

5. In rejoinder learned counsel appearing on behalf of the appellant – Bank has pointed out that in view of the judgment and order passed by the learned Single Judge confirmed by the Division Bench, the respondent – delinquent officer would get Rs.25.61 lakhs towards terminal benefits and arrears of pension etc. and thereafter Rs.20,502/- per month towards pension, which would amount to granting premium to dishonesty.

6. We have heard learned counsel for the parties at length.

7. At the outset, it is required to be noted that in the departmental enquiry against the delinquent officer by the disciplinary authority it was alleged that he got prepared a set of fraudulent cash remittance document and by producing the same at Peenya Industrial Estate Branch, Bangalore made the officials believe them to be genuine and part with Rs.10 Lacs as cash remittance to SSI Peenya II Stage Branch and after receiving the same cash he failed to account for the same in the books of SSI Peenya II Stage Branch. To prove the aforesaid charge the management as such examined 9 witnesses and produced 41 documents. The aforesaid charge has been held to be proved by the Enquiry Officer on appreciation of the entire evidence on record including the deposition of the management witnesses examined as PW1 to PW7. On considering the enquiry report and the findings recorded by the Enquiry Officer it appears that the management has been able to establish and prove the complicity of the delinquent officer and has been successful in proving that;

(i) The delinquent officer prepared the fraudulent letter dated 06.08.1996 (by examining PW7) who at the letter requesting for remittance resembles the style/writing of the delinquent officer (PW1);

(ii) It was the respondent – delinquent officer who had come with one more person whom he introduced as a new cashier and the delinquent officer submitted the voucher and that the remittance/cash was given to him inside the vault (by examining PW2 and PW3);

(iii) The Branch Manager confirmed that the letter allegedly bearing his signature seeking remittance of Rs.10 lakhs was not signed by him (PW4);

(iv) And that it was the respondent – delinquent officer who went to the Branch with another person for cash remittance and that the cash remittance was paid to the respondent – delinquent officer.

The aforesaid findings recorded by the Enquiry Officer were on the appreciation of evidence on record, both documentary as well as oral. Despite the above, the High Court has observed and held that the management had failed to prove the complicity of the delinquent officer in the alleged offence.

7.1 From the aforesaid, it can be seen that the management has been able to prove the complete chain of events which led to the conclusion that it was the delinquent officer who prepared the false letter dated 06.08.1996; he went to the Branch for withdrawing the cash along with the fraudulent letter; that it was he who took the cash/remittance of Rs.10 lakhs and thereafter the said amount was not deposited with the SSI Peenya II Stage Branch.

Then, what else was required to be established and proved by the Management to prove the complicity of the delinquent officer?

7.2 From the impugned judgment and order passed by the High Court it appears that the High Court has dealt with and considered the writ petition under Articles 226/227 of the Constitution of India challenging the decision of the Bank/Management dismissing the delinquent officer as if the High Court was exercising the powers of the Appellate Authority. The High Court in exercise of powers under Articles 226/227 of the Constitution of India has reappreciated the evidence on record which

otherwise is not permissible as held by this Court in a catena of decisions. 7.3 Recently in the case of Nand Kishore Prasad (Supra) after considering other decisions of this Court on judicial review and the power of the High Court in a departmental enquiry and interference with the findings recorded in the departmental enquiry, it is observed and held that the High Court is not a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant. It is further observed and held that the High Court is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. It is further observed that if there is some evidence, that the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition under Article 226 of the Constitution of India to review/reappreciate the evidence and to arrive at an independent finding on the evidence. In paragraphs 9 to 14, this Court had considered other decisions on the power of the High Court on judicial review on the decisions taken by the Disciplinary Authority as under:

> "9. In State of A.P. v. S. Sree Rama Rao [State of A.P. v. S. Sree Rama Rao, AIR 1963 SC 1723] , a three□Judge Bench of this Court has held that the High Court is not a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant. It is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. The Court held as under : (AIR pp. 1726□27, para 7) "7. ... The High Court is not constituted in a proceeding under Article 226 of the Constitution a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant : it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence."
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> 10. In B.C. Chaturvedi v. Union of India [B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749 :
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> 1996 SCC (L&S) 80] , again a three□Judge Bench of this Court has held that power of 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 eyes of the court. The court/tribunal in its power of judicial review does not act as an appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. It was held as under : (SCC pp. 759□60, paras 12□13) "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 the 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 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.

13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has co□extensive power to reappreciate 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 [Union of India v. H.C. Goel, (1964) 4 SCR 718 : AIR 1964 SC 364] , 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."

11. In High Court of Bombay v. Shashikant S. Patil [High Court of Bombay v. Shashikant S. Patil, (2000) 1 SCC 416 : 2000 SCC (L&S) 144] , this Court held that interference with the decision of departmental authorities is permitted if such authority had held proceedings in violation of the principles of natural justice or in violation of statutory regulations prescribing the mode of such enquiry while exercising jurisdiction under Article 226 of the Constitution. It was held as under :

(SCC p. 423, para 16) "16. The Division Bench [Shashikant S. Patil v. High Court of Bombay, 1998 SCC OnLine Bom 97 : (2000) 1 LLN 160] of the High Court seems to have approached the case as though it was an appeal against the order of the administrative/disciplinary authority of the High Court. Interference with the

decision of departmental authorities can be permitted, while exercising jurisdiction under Article 226 of the Constitution if such authority had held proceedings in violation of the principles of natural justice or in violation of statutory regulations prescribing the mode of such enquiry or if the decision of the authority is vitiated by considerations extraneous to the evidence and merits of the case, or if the conclusion made by the authority, on the very face of it, is wholly arbitrary or capricious that no reasonable person could have arrived at such a conclusion, or grounds very similar to the above. But we cannot overlook that the departmental authority (in this case the Disciplinary Committee of the High Court) is the sole judge of the facts, if the enquiry has been properly conducted. The settled legal position is that if there is some legal evidence on which the findings can be based, then adequacy or even reliability of that evidence is not a matter for canvassing before the High Court in a writ petition filed under Article 226 of the Constitution."

12. In State Bank of Bikaner & Jaipur v. Nemi Chand Nalwaya [State Bank of Bikaner & Jaipur v. Nemi Chand Nalwaya, (2011) 4 SCC 584 : (2011) 1 SCC (L&S) 721] , this Court held that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be ground for interfering with the findings in departmental enquiries. The Court held as under : (SCC pp. 587□88, paras 7 & 10) "7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations. (Vide B.C. Chaturvedi v. Union of India [B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749 :

1996 SCC (L&S) 80] , Union of India v. G. Ganayutham [Union of India v. G. Ganayutham, (1997) 7 SCC 463 : 1997 SCC (L&S) 1806] and Bank of India v. Degala Suryanarayana [Bank of India v. Degala Suryanarayana, (1999) 5 SCC 762 : 1999 SCC (L&S) 1036] , High Court of Bombay v. Shashikant S. Patil [High Court of Bombay v. Shashikant S. Patil, (2000) 1 SCC 416 :

2000 SCC (L&S) 144] .) ***

> 10. The fact that the criminal court subsequently acquitted the respondent by giving him the benefit of doubt, will not in any way render a completed disciplinary proceeding invalid nor affect the validity of the finding of guilt or consequential punishment. The standard of proof required in criminal proceedings being different from the standard of proof required in departmental enquiries, the same charges and evidence may lead to different results in the two proceedings, that is, finding of guilt in departmental proceedings and an acquittal by giving benefit of doubt in the criminal proceedings.

This is more so when the departmental proceedings are more proximate to the incident, in point of time, when compared to the criminal proceedings. The findings by the criminal court will have no effect on previously concluded domestic enquiry. An employee who allows the findings in the enquiry and the punishment by the disciplinary authority to attain finality by non□challenge, cannot after several years, challenge the decision on the ground that subsequently, the criminal court has acquitted him."

13. In another judgment reported as Union of India v. P. Gunasekaran [Union of India v. P. Gunasekaran, (2015) 2 SCC 610 : (2015) 1 SCC (L&S) 554] , this Court held that while reappreciating evidence the High Court cannot act as an appellate authority in the disciplinary proceedings. The Court held the parameters as to when the High Court shall not interfere in the disciplinary proceedings : (SCC p. 617, para 13) "13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

> (i) reappreciate the evidence;
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> (ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;
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> (iii) go into the adequacy of the evidence;
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> (iv) go into the reliability of the evidence;
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> (v) interfere, if there be some legal evidence on which findings can be based.
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> (vi) correct the error of fact however grave it may appear to be;
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> (vii) go into the proportionality of punishment unless it shocks its conscience."

14. On the other hand the learned counsel for the respondent relies upon the judgment reported as Allahabad Bank v. Krishna Narayan Tewari [Allahabad Bank v. Krishna Narayan Tewari, (2017) 2 SCC 308 : (2017) 1 SCC (L&S) 335] , wherein this Court held that if the disciplinary authority records a finding that is not supported by any evidence whatsoever or a finding which is unreasonably arrived at, the writ court could interfere with the finding of the disciplinary proceedings. We do not find that even on touchstone of that test, the Tribunal or the High Court

could interfere with the findings recorded by the disciplinary authority. It is not the case of no evidence or that the findings are perverse. The finding that the respondent is guilty of misconduct has been interfered with only on the ground that there are discrepancies in the evidence of the Department. The discrepancies in the evidence will not make it a case of no evidence. The inquiry officer has appreciated the evidence and returned a finding that the respondent is guilty of misconduct." That thereafter this Court has observed and held in paragraph 7, 8 and 15 as under:

> "7. The disciplinary authority has taken into consideration the evidence led before the IO to return a finding that the charges levelled against the respondent stand proved.
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> 8. We find that the interference in the order of punishment by the Tribunal as affirmed by the High Court suffers from patent error. The power of judicial review is confined to the decision□making process. The power of judicial review conferred on the constitutional court or on the Tribunal is not that of an appellate authority.
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> 15. The disciplinary authority agreed with the findings of the enquiry officer and had passed an order of punishment. An appeal before the State Government was also dismissed. Once the evidence has been accepted by the departmental authority, in exercise of power of judicial review, the Tribunal or the High Court could not interfere with the findings of facts recorded by reappreciating evidence as if the courts are the appellate authority. We may notice that the said judgment has not noticed the larger Bench judgments in S. Sree Rama Rao [State of A.P. v. S. Sree Rama Rao, AIR 1963 SC 1723] and B.C. Chaturvedi [B.C. Chaturvedi v. Union of India, (1995) 6 SCC 749 : 1996 SCC (L&S) 80] as mentioned above. Therefore, the orders passed by the Tribunal and the High Court suffer from patent illegality and thus cannot be sustained in law."
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> 8. Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand, we are of the opinion that the High Court has committed a grave error in interfering with the order passed by the disciplinary authority dismissing the respondent – delinquent officer from service.

The High Court has erred in reappreciating the entire evidence on record and thereafter interfering with the findings of fact recorded by the Enquiry Officer and accepted by the disciplinary authority. By interfering with the findings recorded by the Enquiry Officer which as such were on appreciation of evidence on record, the order passed by the High Court suffers from patent illegality. From the findings recorded by the Enquiry Officer recorded hereinabove, it cannot be said that there was no evidence at all which may reasonably support the conclusion that the Delinquent officer is guilty of the charge.

9. Now so far as the submission on behalf of the respondent – delinquent officer that as he has been acquitted in a criminal court and therefore, he cannot be held guilty in a disciplinary proceeding is

concerned, the aforesaid has no substance. From the judgment and order passed by the criminal court it appears that he has been given the benefit of doubt. Even otherwise the standard of proof which is required in a criminal case and that of the disciplinary proceedings is different. The fact that the criminal court acquitted the respondent by giving him the benefit of doubt, will not in any way render a completed disciplinary proceeding invalid nor affect the validity of the finding of guilt or consequential punishment. As held by this Court in a catena of decisions the standard of proof required in criminal proceedings being different from the standard of proof required in departmental enquiries, the same charges and evidence may lead to different results in the two proceedings, that is, finding of guilt in departmental proceedings and an acquittal by giving benefit of doubt in the criminal proceedings

10. Now the next question which is posed for consideration is whether in the facts and circumstances of the case the appointing authority was justified in dismissing the delinquent officer from service is concerned looking to the seriousness of the charge proved of misappropriating the sum of Rs.10 lakhs and not depositing the same with the Bank, it cannot be said that the order of dismissal can be said to be disproportionate to the charge and misconduct held to be proved. At this stage even the modus operandi adopted by the delinquent officer also deserves the consideration. As per the evidence on record, he went along with the false and fabricated document dated 06.08.1996 along with another person and he introduced that person as a new cashier and he ensured that the voucher was not signed by him but singed by the other person who was introduced by him as a new cashier. Therefore, he saw to it that there is no evidence on record that he actually received the money. This shows the criminal mind/conduct on the part of the delinquent officer. Therefore, in the facts and circumstances of the case it cannot be said that the disciplinary authority/competent authority/management had committed any error in dismissing the respondent – delinquent officer from service.

11. In view of the above and for the reasons stated above, the impugned judgment and order passed by the Division Bench of the High Court dismissing the appeal and not interfering with the judgment and order passed by the learned Single Judge which interfered with the order of punishment imposed by the Disciplinary Authority dismissing the respondent – delinquent officer from service and the judgment and order passed by the learned Single Judge are hereby quashed and set aside.

The order passed by the Management dismissing the respondent – delinquent officer on proved charge and misconduct is hereby restored.

Present Appeal is accordingly Allowed. In the facts and circumstances of the case, there shall be no order as to costs.

.....J. (M. R. SHAH) .....J. (B.V. NAGARATHNA) New Delhi, May 20, 2022.