Chairman-Cum-M.D., T.N.C.S. Corpn. ... vs K. Meerabai on 23 January, 2006

Equivalent citations: AIR 2006 SUPREME COURT 3522, 2006 (2) SCC 255, 2006 AIR SCW 701, 2006 (2) AIR JHAR R 139, (2006) 40 ALLINDCAS 516 (SC), 2006 (40) ALLINDCAS 516, (2006) 1 CTC 348 (SC), 2006 (2) SERVLJ 158 SC, 2006 (1) CTC 348, 2006 (3) SRJ 312, 2006 (1) SCALE 546, 2006 LAB LR 268, 2006 (1) UPLBEC 798, (2006) 1 MAD LJ 166, (2006) 1 UPLBEC 798, (2006) 2 MAD LW 532, (2006) 2 CAL HN 124, (2006) 1 SCT 460, (2006) 2 SCJ 403, (2006) 1 SUPREME 360, (2006) 1 SCALE 546, (2006) 108 FACLR 940, (2006) 1 LABLJ 826, (2006) 1 LAB LN 516, (2006) 86 DRJ 505

Author: Ar. Lakshmanan

Bench: H.K. Sema, Ar. Lakshmanan

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           CASE NO.:
Appeal (civil)  623 of 2005

PETITIONER:
Chairman-cum-M.D., T.N.C.S. Corpn. Ltd. and  Ors.

RESPONDENT:
K. Meerabai

DATE OF JUDGMENT: 23/01/2006

BENCH:
H.K. Sema & Dr. AR. Lakshmanan

JUDGMENT:
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J U D G M E N T Dr. AR. Lakshmanan, J.

The present appeal was preferred against the final judgment and order dated 19.04.2004 passed by the High Court of Judicature at Madras passed in Writ Appeal No. 2592 of 2001 dismissing the same.

Factual Background:

The factual background, filtering out unnecessary details, is as follows:-

The Tamil Nadu Civil Supplies Corporation Limited (in short the "Corporation") is constituted to fulfil its chief objective of distributing essential commodities among

the weaker sections of the population of the State of Tamil Nadu and has opened a number of godowns throughout the State to achieve the said objective. The respondent-herein - K. Meerabai was appointed as a Bill Clerk on 30.11.1974 in the service of the Corporation and was promoted to the post of Junior Assistant on 31.12.1980. The respondent was posted as Junior Assistant in the Godown situated at Mint Street, Chennai on 05.01.1981 which post she held till 28.01.1983 when she was suspended vide order dated 28.01.1983 pending initiation of disciplinary proceedings against her and the other members of the Mint Godown staff in respect of mis-appropriation of the Corporation's stock and money in the sum of Rs.9,86,980.56 committed by her in collusion with the other members of the staff through fraudulent practices such as deliberate omission to bring into account the stocks received by them, showing bogus issues in the records, falsification of accounts, submission of defective accounts, tampering of records, manipulation of accounts and records etc. In 1983, a criminal complaint was filed by the Senior Regional Manager of the Corporation in the Court of Additional Chief Metropolitan Magistrate, Egmore, Chennai against the respondent herein and other members of the staff of the Mint Godown for offences under Sections 409 and 477A I.P.C. The said case was registered as crime case No. 14 of 1983 in calendar case No. 5964 to 5967 of 1983.

Vide charge memo dated 16.02.1984, the Disciplinary authority levelled against the respondent herein as well as against four other members of the Staff of the Mint Godown, the following charges:-

CHARGES:

(I) That as staff of the Mint (Godown) has failed to maintain the prescribed records for the issue of stocks from the Godown and neglected his primary duty.

(ii) That he/she neglected his/her primary duty as the staff of the Mint Godown and issued the stocks from the Godown in a highly irresponsible and objectionable manner to the ADS, Mint without insisting for the proper acknowledgement from persons responsible and thus indulged in the fraudulent practices and swindled the corporation money in connivance with the ADS staff.

(iii) That he/she failed to safeguard the Corporation stock and property and acted in an irresponsible manner by having direct collusion with the ADS Mint staff and swallowed the Corporation accounts and money for their personal benefits.

(iv) That he/she proved himself to be an irresponsible, unreliable and untrustworthy employee of the Corporation.

Meanwhile, on 17.02.1984, the respondent had moved the High Court by filing writ petition No. 1337 of 1984 to quash the order of suspension dated 28.01.1983. She also moved W.M.P. No. 2084

of 1984 praying for stay of the operation of the order of suspension. By order dated 17.02.1984, the learned single Judge of the High Court restored the service of the respondent herein with payment of full salary subject to deduction of the subsistence allowance already paid to her.

Meanwhile, Departmental Enquiry was instituted against the respondent herein in respect of the aforementioned four charges. After a full-fledged enquiry in which the respondent fully participated, the Enquiry Officer, vide his Enquiry Report dated 11.06.1991, recorded his conclusions based on the evidence on record holding (1) that charge No.1 is not proved; (2) that charge No.2 is partly proved; (3) that charge No.3 is not proved and (4) that charge No.4 is partly proved. On 14.06.1991, the Disciplinary Authority issued a show-cause notice to the respondent as well as to other 11 charged officers. They were called upon to submit their explanations as to the findings contained in the Enquiry Report which was also enclosed with the show-cause notice. The Disciplinary Authority, vide his order dated 28.11.1991, dismissed the respondent herein from service with immediate effect without prejudice to the recovery proceedings to be initiated against her, while further directing that the period of suspension with effect from 01.02.1983 till the date of the order of dismissal would be treated as a period of suspension. On 11.12.1991, the High Court disposed of the writ petition No. 1337 of 1984 and quashed the order of suspension. Being aggrieved by the order of dismissal dated 28.11.1991, the respondent preferred a Departmental Appeal to the Joint Managing Director, the Appellate Authority. Vide common show-cause notice dated 27.01.1992, the Disciplinary Authority intimated the official proposal to recover the loss suffered by the Corporation on account of the malpractices of the charged officers proportionately at 5% of the total value of the loss with interest, while calling upon the charged officers including the respondent herein to show-cause within 15 days from the receipt of the notice why the said amount should not be recovered from the charged officers. Meanwhile, the respondent moved the High Court by preferring writ petition No.15554 of 1992 praying for the issuance of a Writ of Mandamus, directing the second appellant herein to pay to the respondent-writ petitioner salary and other benefits due to her for the period from 01.01.1983 (date of suspension) to 28.11.1991 (date of dismissal). Vide order dated 13.11.1992, the High Court disposed of the writ petition by directing the Corporation to consider the representation of the respondent dated 22.01.1992 on merits and pass orders according to law thereon within a period of 3 months from that date. In compliance with the directions contained in the High Court's order disposing of the respondent's writ petition No. 1337 of 1984, the Disciplinary Authority ordered that the period of suspension of the respondent with effect from 01.02.1983 till 28.11.1991 be treated as the period of duty, while further ordering payment to the respondent of the arrears of salary etc. after adjustment of the subsistence allowance already paid to her during the period of her suspension. Vide order dated 21.09.1993, the Disciplinary Authority passed an order directing recovery from the respondent the proportionate amount of the principal loss in the sum of Rs.34,436.85 without any interest, while categorically holding that the respondent's responsibility in receipt of mis-appropriation could not at all be brushed aside and that her explanation was found not acceptable. On 05.10.1993, the respondent again moved the High Court by preferring writ petition No. 18502 of 1993 praying for quashing the order of dismissal dated 28.11.1991. The Appellate Aauthority, vide his order dated 16.06.1994, dismissed the respondent's appeal after exhaustively dealing with her submissions in the light of the documentary evidence on record. Being aggrieved by the Appellate Order, dismissing her Departmental Appeal, the respondent moved the High Court by preferring writ petition No.14652 of 1994 challenging the correctness of the

aforementioned order. In the meanwhile, the Chief Judicial Magistrate, Egmore, Chennai acquitted the respondent herein of the charges under Sections 409 and 477A I.P.C. on 27.09.2000. Both the writ petitions filed by the respondent herein (writ petition No. 18502 of 1993 challenging the order of dismissal and writ petition No. 14652 of 1994 challenging the Appellate Authority's Order dismissing her Departmental Appeal) came up before the learned single Judge of the High Court. The learned single Judge allowed the writ petition No. 18502 of 1993 and quashed the order of dismissal dated 28.11.1991 directing her reinstatement with all consequential benefits, while also allowing the writ petition No. 14652 of 1994 quashing the Appellate Authority's Order dismissing the respondent's Departmental Appeal. Being aggrieved by the aforesaid judgment of the learned single Judge, the appellant preferred writ appeal No. 2592 of 2001 on 07.06.2001 challenging the same insofar as it related to writ petition No. 18502 of 1993. Vide order dated 25.01.2002, the Division Bench granted interim stay of the operation of the order of reinstatement dated 27.04.2001 of the learned single Judge. By order dated 19.04.2004, the Division Bench dismissed the writ appeal No. 2592 of 2001 upholding the judgment and order dated 27.04.2001 of the learned single Judge. Being aggrieved, the appellant preferred the above civil appeal arising out of special leave petition No. 16214 of 2004. This Court granted leave on 17.01.2005 and ordered payment of monthly salary at the rate of last pay drawn by the respondent at the time of her suspension and that the payment shall be made from 01.02.2005.

We heard Mr. Ambrish Kumar, learned counsel for the appellants and Mr. V.J. Francis, learned counsel for the respondent. Lenghty arguments were advanced by learned counsel for the appellants and elaborate submissions were made by way of reply by Mr. V.J. Francis, learned counsel for the respondent.

Mr. Ambrish Kumar, learned counsel for the appellants, made elaborate submissions questioning the correctness of the judgment of the High Court and took us through the enquiry report submitted by the enquiry officer, order of the Disciplinary Authority, order of the Appellate Authority and of the High Court and submitted that the orders passed by the High Court is ex facie illegal and that both the learned single Judge and Judges of the Division Bench were of the erroneous impression that both the criminal proceedings and the departmental enquiry were based upon identical set of facts and that both the Disciplinary Authority while passing the order of dismissal and the Appellate Authority while dismissing the respondent's departmental appeal assigned no reasons whatsoever in support of their conclusion. He relied on Lalit Popli vs. Canara Bank and Others 2003 (3) SCC 583, Ajit Kumar Nag vs. General Manager (PJ), Indian Oil Corpn. Ltd., Haldia and Others, 2005(7) SCC 764, B.C. Chaturvedi vs. Union of India, (1995) 6 SCC 749.

According to Mr. V.J. Francis, learned counsel for the respondent, the enquiry officer found charge Nos. 2 & 4 have been partly proved against the respondent without giving proper reasons and supported by evidence and, therefore, the enquiry report cannot be relied upon. He cited Anil Kumar vs. Presiding Officer and Others, 1985 (3) SCC 378. It was further contended that the disciplinary authority has passed the dismissal order without giving a hearing to the delinquent employee/respondent and without specifically disagreeing with the enquiry report. Before the dismissal order, the disciplinary authority has not properly considered the explanation given by the employee/respondent or without hearing the employee-respondent. He relied on Punjab National

Bank & Ors. Vs. Kunj Behari Misra etc.,1998 (7) SCC 84.

It was further submitted that the appellate authority has also not given any hearing to the employee/respondent and confirmed the order of dismissal without application of mind, but by reproducing the order of the disciplinary authority. Messrs. Mahabir Prasad Santosh Kumar vs. State of U.P. and Ors.,1970 (1) SCC 764 was relied on for this point.

It was further submitted that the case of the respondent/employee was that she issued the maida from the stock in the godown after getting permission from the Assistant Manager concerned and there was contemporaneous accounting of the same in the sales register and in the stock register of the Amudham departmental store and, therefore, she cannot be held responsible for the loss whatsoever.

It was further contended that actually 12 employees were involved in this case and admittedly some of the employees who were also placed under suspension along with the respondent were reinstated. No specific reasons have been given by the appellant-Corporation why she was discriminated.

The loss alleged to have caused, initially was Rs.9,86,980.56 but later on the actual value of the loss assessed was Rs.6,88,737.12 and it was proposed to recover from the respondent Rs.34,436.85 being 5% of the total loss.

The respondent employee has been in service from 30.11.1974 to 28.01.1983 and during this time this is the only known allegation against the respondent employee and there was no such allegation earlier. Therefore, he requested this Court to mould the prayer and grant appropriate relief.

It was submitted that the case being case of procedural irregularity which cannot be termed as negligence and 11 other employees were also involved and some of them having been reinstated, the punishment given to the respondent is excessive. Moreover, criminal proceedings were also initiated against the respondent and that ended in acquittal, on merits, and that became final. Concluding his arguments, Mr. Francis submitted both the learned single Judge as well as the Division Bench of the High Court were, therefore, right on the totality of the circumstances, in taking the view that the order passed by the disciplinary authority as well as the appellate authority suffers from serious infirmity and, therefore, the impugned judgment does not call for any interference by this Court and that, therefore, the respondent is fit to be reinstated with consequential benefits.

Both the learned counsel invited our attention to the relevant pleadings, annexures filed along with the appeal and also of the rulings of this Court. The following questions of law arise for consideration and adjudication by this Court:-

> 1) Whether the High Court has gravely erred in law in holding that the acquittal of the respondent herein by the Court of C.J.M., Chennai ought to have been taken into consideration by the disciplinary authority, while dismissing the respondent from service vide order dated 28.11.1991;

2) Whether the High Court has not gravely erred in law by ignoring to appreciate that the punishment of dismissal of the respondent from service was the most appropriate punishment in the peculiar facts and circumstances of the case, based on independent appreciation of evidence on record as well as the categorical findings recorded by the enquiry officer in perfect accordance with the requirements of the rules applicable to the disciplinary proceedings in the appellant-Corporation;

3) Whether the High Court has not gravely erred in law vitiating thereby the ends of justice by erroneously interfering with the punishment as awarded by the disciplinary authority and later confirmed by the appellate authority in the teeth of a plethora of judicial pronouncements of this Court defining and delimiting the scope of interference by the High Court with the punishment awarded to a guilty employee by disciplinary authority;

4) Whether the High Court has gravely erred in interfering with the punishment awarded to the respondent who was found in the departmental enquiry guilty of misappropriation and other heinous malpractices causing thereby enormous loss in stock and cash to the Corporation, an institution primarily concerned with distribution of the essential commodities among the weaker sections of the population of the State of Tamil Nadu.

We have perused the common judgment of the learned single Judge and also of the Division Bench. What seems to have weighed predominantly with the learned single Judge was 1) acquittal of the respondent by the Court of C.J.M. Chennai; 2) an erroneous impression that both the criminal proceedings and the departmental enquiry were based upon identical set of facts; 3) an erroneous impression that both the disciplinary authority, while passing the order of dismissal and the appellate authority, while dismissing the respondent's departmental appeal assigned no reasons whatsoever in support of their conclusions.

We are unable to countenance the view and impression taken by the learned single Judge. In our view, the single Judge has mis-directed herself in reaching the erroneous conclusion that both the criminal case in the Court of C.J.M. and the departmental enquiry were based on identical facts and charges. She has lost sight of the fact that the criminal case instituted against the respondent in the Court of C.J.M. was in respect of the offences under Section 409 IPC (Criminal breach of trust) and falsification of accounts punishable under Section 477A IPC whereas the respondent herein was charged in the departmental enquiry for her failure to maintain prescribed records for issue of a stock and for swindling the Corporation in collusion with the other members of the staff through mis-appropriation of stock and cash of the Corporation thereby causing huge loss to the Corporation to the tune of more than Rs. 9.00 lacs.

Similarly, the learned single Judge was patently misconceived in reaching the conclusion that the acquittal of the respondent by the Court of C.J.M. clinched issue before the departmental enquiry, while losing sight of the well settled law that the scope of criminal proceedings in the Court of criminal law and the scope of disciplinary proceedings in a departmental enquiry are quite distinct

and exclusive and independent.

The learned single Judge has also failed to appreciate that the standard of proof required in the criminal proceedings and the departmental disciplinary actions are not the same.

We have perused the order of dismissal dated 28.11.1991 passed by the disciplinary authority and the order of the appellate authority dated 16.06.1994 upholding the order of dismissal with dispassionate judicial mind. In our opinion, both the orders aforementioned are exhaustive in details, impeccable on facts and armed with irrefutable reasons in support of the conclusions.

The learned Judges of the Division Bench who dismissed the writ appeal filed by the Corporation upheld the patently erroneous judgment of the learned single Judge virtually on all those grounds and reasons which had appealed to the learned single Judge. While passing the impugned judgment, the learned Judges have lost sight of the following:-

> (i) The scope of the Criminal Proceedings in a Criminal Code and the scope of disciplinary proceedings in a departmental enquiry are quite distinct, exclusive and independent of each other;
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> (ii) The Criminal Proceedings in the Court of the Chief Judicial Magistrate and Disciplinary Proceedings were on totally different sets of facts and charges;
>
> (iii) The order of dismissal dated 28.11.1991 (Annexure P-5) passed by the Disciplinary Authority and the order dated 16.6.1994 of the Appellate Authority, dismissing the respondent's Departmental Appeal are exhaustive orders, incorporating the statement of the correct and relevant facts of the case and impeccable conclusions based on dispassionate appreciation of the evidence on record and supported by legally irrefutable reasons.

In our opinion, both the learned single Judge and the learned appellate Judges of the High Court failed to consider and appreciate dispassionately and judicially the Corporation's most emphatically pronounced plea that it would be virtually impossible for them to reinstate the respondent who was found in the departmental enquiry guilty of mis-appropriation and other malpractices causing thereby enormous loss in stock and cash to the Corporation, an institution primarily concerned with the distribution of essential commodities among the weaker sections of the population of the State of Tamil Nadu whose dismissal from service has been upheld by the appellate authority vide its very detailed, well-considered and well-reasoned verdict and in whose integrity, honesty and trustworthiness the Corporation have lost their faith completely and absolutely.

We shall now advert to the rulings cited by Mr. Ambrish Kumar, learned counsel for the appellants, in support of his submission:-

> 1) Lalit Popli vs. Canara Bank and Others, (2003) 3 SCC 583 While considering the nature of proof required in a departmental enquiry on the scope of judicial review of

the High Court under Article 226, this Court held as follows:-

"It is fairly well settled that the approach and objective in criminal proceedings and the disciplinary proceedings are altogether distinct and different. In the disciplinary proceedings the preliminary question is whether the employee is guilty of such conduct as would merit action against him, whereas in criminal proceedings the question is whether the offences registered against him are established and if established what sentence should be imposed upon him. The standard of proof, the mode of enquiry and the rules governing the enquiry and trial are conceptually different. (State of Rajasthan v. B.K. Meena and Ors. (1996) 6 SCC 417). In case of disciplinary enquiry the technical rules of evidence have no application. The doctrine of "proof beyond doubt" has no application. Preponderance of probabilities and some material on record are necessary to arrive at the conclusion whether or not the delinquent has committed misconduct. While exercising jurisdiction under Article 226 of the Constitution the High Court does not act as an appellate authority. Its jurisdiction is circumscribed by limits of judicial review to correct errors of law or procedural errors leading to manifest injustice or violation of principles of natural justice. Judicial review is not akin to adjudication of the case on merits as an Appellate Authority.

In B. C. Chaturvedi v. Union of India and Ors. (1995 (6) SCC 749) the scope of judicial review was indicated by stating that review by the Court is of decision making process and where the findings of the disciplinary authority are based on some evidence, the Court or the Tribunal cannot re-appreciate the evidence and substitute its own finding.

As observed in R. S. Saini v. State of Punjab and Ors. (1999 (8) SCC 90) in paragraphs 16 and 17 the scope of interference is rather limited and has to be exercised within the circumscribed limits."

2) In B.C. Chaturvedi vs. Union of India, (1995) 6 SCC 749, it was observed at page 762 para 18 as under:

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

support thereof."

3) In Ajit Kumar Nag vs. General Manager (PJ), Indian Oil Corpn. Ltd., Haldia and Others, (2005) 7 SCC 764 (Three Judges Bench). Thakker, J. speaking for the Bench held as under:

> "11. As far as acquittal of the appellant by a criminal court is concerned, in our opinion, the said order does not preclude the Corporation from taking an action if it is otherwise permissible. In our judgment, the law is fairly well settled. Acquittal by a criminal court would not debar an employer from exercising power in accordance with the Rules and Regulations in force. The two proceedings, criminal and departmental, are entirely different. They operate in different fields and have different objectives. Whereas the object of criminal trial is to inflict appropriate punishment on the offender, the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with the service rules. In a criminal trial, incriminating statement made by the accused in certain circumstances or before certain officers is totally inadmissible in evidence. Such strict rules of evidence and procedure would not apply to departmental proceedings. The degree of proof which is necessary to order a conviction is different from the degree of proof necessary to record the commission of delinquency. The rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law, burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of the accused "beyond reasonable doubt", he cannot be convicted by a Court of law. In a departmental enquiry, on the other hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of "preponderance of probability". Acquittal of the appellant by a Judicial Magistrate, therefore, does not ipso facto absolve him from the liability under the disciplinary jurisdiction of the Corporation. We are, therefore, unable to uphold the contention of the appellant that since he was acquitted by a criminal Court, the impugned order dismissing him from service deserves to be quashed and set aside."

We shall now advert to the rulings cited by Mr. V.J. Francis, learned counsel for the respondent, in support of his submission:-

> 1) Messrs. Mahabir Prasad Santosh Kumar vs. State of U.P. and Ors., 1970 (1) SCC 764 was cited that the executive authority while exercising quasi judicial functions should give reasons for their conclusion.
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> 2) Anil Kumar vs. Presiding Officer and Others, (1985) 3 SCC 378 and
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> 3) Punjab National Bank & Ors. Vs. Kunj Behari Misra etc., (1998) 7 SCC 84. The first judgment was cited by Mr. Francis for the proposition that in a quasi judicial enquiry, a reasoned report of the enquiry is essential. The second judgment was cited for the proposition that disciplinary enquiry against respondents declared to be vitiated on account of non-observance of the principles of natural justice.

This contention has no merits. A perusal of the enquiry officer's report in which the respondent has fully participated and the order of the disciplinary authority and of the appellate authority would go to show that the order passed by them are very detailed, well-considered and well-reasoned verdict. The conclusion arrived at by the disciplinary authority and the appellate authority are exhaustive in nature incorporating the correct and relevant facts of the case and conclusion based on the appreciation of the evidence on record and supported by legally irrefutable reasons.

4) State of Karnataka vs. Amajappa and Others (2003) 9 SCC 468 The other contentions made by Mr. Francis are in respect of procedural irregularity which, according to him, cannot be termed to be negligence on the part of the respondent. We have already held both the disciplinary authority and the appellate authority has given ample reasons for arriving at their conclusions. This Court has held in a catena of decisions that interference is not permissible unless the orders passed by the quasi judicial authorities is clearly unreasonable or perverse or manifestly illegal or grossly unjust.

Mr. Francis also submitted that a sum of Rs.34,436.85 being 5% of the total loss of Rs.6,88,735/- is sought to be recovered from the respondent and that the present departmental proceedings is the only known allegation against the respondent and there was no such allegation earlier and, therefore, a lenient view should be taken by this Court and relief prayed for by both the parties can be suitably moulded by this Court. We are unable to agree with the above submission which, in our opinion, has no force. The scope of judicial review is very limited. Sympathy or generosity as a factor is impermissible. In our view, loss of confidence as the primary factor and not the amount of money mis-appropriated. In the instant case, respondent employee is found guilty of mis-appropriating the Corporation funds. There is nothing wrong in the Corporation losing confidence or faith in such an employee and awarding punishment of dismissal. In such cases, there is no place for generosity or mis-placed sympathy on the part of the judicial forums and interfering therefor with the quantum of punishment awarded by the disciplinary and appellate authority.

The other contention taken by Mr. Francis that criminal proceedings which were initiated against the respondent ended in acquittal, on merits, and that became final. A lenient view must be taken since the charges in both the cases are identically the same. We have already elaborately discussed about this point factually and also with reference to the judgments referred to supra and for the reasons recorded earlier, we reject this contention.

The order of dismissal passed by the disciplinary authority was based on dispassionate and independent examination and appreciation of the entirety of facts and evidence on record relating to the malpractices and mis-appropriation indulged in by the respondent in collusion with the other members of the staff causing thereby huge loss to the Corporation.

The scope of disciplinary proceedings and the scope of criminal proceedings in a Court of Criminal law are quite distinct, exclusive and independent of each other. The prosecution proceedings launched against the respondent herein were in respect of offences punishable under Sections 409 and 477-A I.P.C., whereas the Departmental Proceedings as initiated against her were in respect of the charges of misappropriation and other fraudulent practices such as deliberate omission to bring into accounts the stock received showing bogus issues in the records, falsification of accounts,

submission of defective accounts, tampering of records, manipulation of accounts and records etc. Thus, the respondent herein was proceeded against for quite different charges and on different sets of facts before the Court of Chief Judicial Magistrate, on the one hand, and before the Departmental Enquiry on the other.

The orders passed by the disciplinary authority as well as the appellate authority are not only impeccable on facts, tenable on law but also unambiguously supported by unassailable reasons in support of their conclusions. Thus the unchargeable acquisition by the learned single Judge and of the learned Judges of the appellate bench that the order of the disciplinary authority and of the appellate authority suffer from total non-application of mind is patently devoid of any substance of truth and law.

It was submitted that though departmental actions initiated against 11 employees and some of them were reinstated who were also involved in the same offence and, therefore, a direction should be issued to the appellant-Corporation to take the same view insofar as the respondent is concerned. We directed the learned counsel for the appellant to ascertain the correct position insofar as all the other 11 employees are concerned. Mr. Ambrish Kumar, learned counsel appearing for the appellants, on instructions from the Corporation, submitted a memorandum stating that out of 11 employees, 9 were dismissed from service including the respondent herein and 2 employees were not charge-sheeted.

In the instant case, the charged employee holds a position of trust where honesty and integrity are inbuilt requirements of functioning and, therefore, in our opinion, the matter should be dealt with firmly with firm hands and not leniently. In the instant case, the respondent deals with public money and engaged in financial transactions or acts in a fiduciary capacity and, therefore, highest degree of integrity and trustworthiness is must and unexceptionable. Judged in that background, the conclusion of the learned single Judge as affirmed by the Division Bench of the High Court do not appear to be proper. We have no hesitation to set aside the same and restore the order passed by the disciplinary authorities upholding the order of dismissal. The Civil Appeal stands allowed. The orders passed by the disciplinary authority and the appellate authority ordering dismissal is confirmed and the judgment passed by the learned single Judge in writ petition No. 14652 of 1994 as confirmed by the appellate Judges in writ appeal No. 19646 of 2001 dated 25.01.2002 are set aside. However, there will be no order as to costs.

During the pendency of this appeal, this court passed an order on 17.01.2005 directing the appellant-Corporation to pay to the respondent the monthly salary at the rate of last pay drawn by the respondent at the time of her suspension and that the payment shall be made from 01.02.2005. Since the payment has been ordered by this Court during the pendency of the appeal, we are not inclined to disturb the said order and, therefore, the monthly salary paid pursuant to the above order need not be recovered from the respondent.