Airports Authority Of India vs Pradip Kumar Banerjee on 4 February, 2025

Bench: Vikram Nath, Sanjay Karol

2025 INSC 149 REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 8414 OF 2017

AIRPORTS AUTHORITY OF INDIA .…APPELLANT(S)

VERSUS

PRADIP KUMAR BANERJEE ….RESPONDENT(S)

JUDGMENT

Mehta, J.

1. Heard.

2. The instant appeal by special leave preferred by the appellant1 takes exception to the judgment dated 1st March, 2012 passed by the Division Bench of the High Court of Calcutta2 in an intra-court writ appeal3, whereby the Division Bench allowed the appeal filed by the respondent and set aside the order passed by the learned Single Judge.

1 Hereinafter referred to as the "appellant-Authority". 2 Hereinafter referred to as the "High Court". 3 Tender of Mandamus Appeal (MAT) No. 1311 of 2011. The learned Single Judge vide order4 dated 29th June, 2011, upheld the punishment of dismissal from service imposed upon the respondent by the Disciplinary Authority and subsequently confirmed by the sub-committee while acting as the Appellate Authority.

Brief Facts:-

> 3. The respondent, while working with the appellant-Authority as an Assistant Engineer (Civil), was arrested along with a co-

employee, who was working as a Junior Engineer in the appellant- Authority, for the offences punishable under Sections 7, 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act,

19885 and Section 34 of the Indian Penal Code, 1860, on the allegations of demanding and accepting illegal gratification from the representative of a contractor. Pursuant to the aforesaid arrest, both of them were suspended and a CBI Case6 was registered against them. The learned Special Judge, CBI Court, Alipore 7, vide order dated 10th December, 1999, found the respondent guilty for the above-mentioned offences. On the contrary, the co- 5 For short "PC Act".

7 For short "CBI Court".

accused(Junior Engineer) was acquitted by the CBI Court. Aggrieved by his conviction, the respondent preferred a criminal appeal8 before the High Court.

4. While the criminal appeal was pending before the High Court, the Disciplinary Authority, vide order dated 13th July, 2000, dispensed with the enquiry and ordered dismissal of the respondent from service relying on the CBI Court's order. Aggrieved by his dismissal, the respondent filed an appeal before the Appellate Authority, which came to be rejected. Thereupon, the respondent preferred a writ petition9 before the High Court challenging the order of dismissal. The same was disposed of by the High Court vide order dated 5th February, 2001, with a direction that if the respondent is acquitted in the pending criminal appeal, then it would be open for him to make an appropriate representation before the appellant-Authority to reconsider the dismissal order, which would, in turn, be decided in accordance with law.

5. Vide judgment dated 16th July, 2004, the criminal appeal preferred by the respondent was ultimately allowed by the High 8 Criminal Appeal No. 393 of 1999.

Court, and his conviction and sentence was set aside. Based on his acquittal, the respondent filed a representation before the appellant-Authority seeking reinstatement in service, in terms of the order dated 5th February, 2001 passed by the High Court in W.P. No. 22034(W) of 2000. However, the appellant-Authority rejected the respondent's representation. Aggrieved, the respondent filed a writ petition10, which came to be disposed of by the High Court vide order dated 22nd December, 2004, directing the Chairman of appellant-Authority to reconsider the grievances of the respondent by granting him an opportunity of hearing.

6. In compliance with the order dated 22nd December, 2004, the Chairman of the appellant-Authority heard the respondent and vide order dated 24th March, 2005, directed that a fresh disciplinary proceeding for major penalty of dismissal from service should be initiated against the respondent under the Airport Authority of India Employees (CDA) Regulations, 2003. The Chairman was of the opinion that the High Court had set aside the conviction of the respondent by giving him the benefit of doubt and hence, it was not an honourable acquittal. The Chairman, therefore, set aside the respondent's order of dismissal dated 13th July, 2000 and placed him under deemed suspension with effect from the said date. Aggrieved, the respondent preferred another writ petition11 and prayed to set aside the aforesaid order passed by the Chairman and to restrain the appellant-Authority from initiating fresh disciplinary proceedings against him. During the pendency of this writ petition, a memorandum of charge dated 7th September, 2005 was issued by the Disciplinary Authority proposing to hold an enquiry against the respondent. The High Court allowed

the writ petition vide order dated 23rd February, 2007, whereby it quashed and set aside the order of suspension as well as the memorandum of charge, and directed the appellant- Authority to reinstate the respondent.

7. The appellant-Authority challenged this order by filing an intra-court appeal12, which was allowed by the Division Bench vide order dated 6th August, 2007, holding that it was imperative for the appellant-Authority to hold a departmental enquiry and, thus, the appellant-Authority was fully justified in issuing a fresh chargesheet against the respondent, since his acquittal was based 12 Tender of Mandamus Appeal No. 1840 of 2007.

on the benefit of doubt on account of insufficient evidence rather than being an honourable one.

8. Aggrieved by the order dated 6th August, 2007, the respondent filed a special leave petition13 before this Court, which came to be dismissed vide order dated 29th February, 2008, with a direction that the disciplinary proceedings pending against the respondent be expedited.

9. Subsequently, the Enquiry Officer conducted the enquiry and submitted an enquiry report, observing therein that the respondent had shown negligence in the performance of his duties, exhibited a lack of integrity, and acted in a manner unbecoming of an employee of the appellant-Authority. The Enquiry Officer's report also concluded that the respondent had demanded a bribe of Rs.6000/- from the contractor who paid Rs. 3000/- as the first instalment, and the remaining sum of Rs. 3000/- as the second instalment.

10. The Disciplinary Authority accepted the enquiry report and imposed a major penalty of dismissal from service on the respondent. Aggrieved, the respondent filed an intra-departmental 13 Special Leave Petition (Civil) No. 496 of 2008. appeal before the Chairman, which was rejected vide order dated 3rd August, 2009. In the aforesaid circumstances, the respondent instituted another writ petition14, asserting that the Chairman, in his capacity as the Appellate Authority, was not competent to take a decision as against the appellant, as he had also acted as the Disciplinary Authority in the past proceedings. The High Court, vide order dated 26th October, 2009, allowed the writ petition and issued directions to the appellant-Authority to form a sub- committee from amongst the Board Members to act as the Appellate Authority and decide the appeal preferred by the respondent.

11. Accordingly, in terms of the order dated 26th October, 2009, a sub-committee was constituted which considered the appeal preferred by the respondent and affirmed the decision taken by the Disciplinary Authority concluding that there was no merit in the Departmental Appeal filed by the delinquent employee(respondent herein). Aggrieved by the order of sub-committee, the respondent filed a writ petition15 before the High Court, which came to be dismissed by learned Single Judge vide order dated 29th June, 2011. Aggrieved, the respondent preferred an intra-court writ appeal16, which was allowed by the Division Bench vide judgment dated 1st March, 2012 which is subjected to challenge by the appellant-Authority in this appeal by special leave.

12. While entertaining the SLP, this Court had granted a stay on the impugned judgment of the High Court vide order dated 16th March, 2012.

Submission on behalf of the appellant-Authority:-

13. Shri KM Nataraj, learned ASG appearing on behalf of the appellant-Authority, submitted that the Division Bench of the High Court failed to appreciate the law with respect to appreciation of evidence and the standard of proof required for proving the charges against a delinquent employee in a departmental enquiry. He urged that the standard of proof required to bring home the charge in a disciplinary enquiry is entirely different from that required in a criminal proceeding. In a criminal proceeding, the prosecution is required to prove the guilt of the accused beyond reasonable doubt, whereas, in a departmental enquiry, the standard of proof is that of preponderance of probabilities. He further urged that 16 Tender of Mandamus(MAT) Appeal No. 1311 of 2011. there are no strict rules of evidence that govern the departmental proceedings and thus, a major penalty can be imposed on the delinquent employee merely on a finding recorded on the basis of preponderance of probabilities.

14. Learned counsel urged that in the instant case, the acquittal of the respondent in the criminal appeal17 decided by the High Court was not an honourable and that of complete exoneration, i.e., one based on the finding of innocence, rather it was based on benefit of doubt and insufficient evidence. The High Court also reiterated the same in its judgment and order dated 6th August 2007 passed in MAT No. 1840 of 2007, preferred by the appellant- Authority. Further, a Special Leave Petition18 filed against the said order by the respondent, was also dismissed by this Court vide its order dated 29th February, 2008.

15. Learned counsel contended that the High Court grossly erred and acted in contravention of the limitations governing the exercise of the writ jurisdiction while re-appreciating the evidence and by delving into the evidentiary value of the report of the Enquiry Officer. He submitted that in an intra-court writ appeal, the High 17 Supra note 8.

18 Supra note 13.

Court cannot delve into a detailed re-evaluation of evidence and, more significantly, there must exist an issue of law that calls for interference in the appellate jurisdiction. Once the learned Single Judge while exercising the writ jurisdiction concluded that the Enquiry Officer had conducted the enquiry as per the procedure prescribed by law by granting an opportunity of hearing to the respondent, it was not permissible for the Division Bench exercising the intra-court appellate jurisdiction to disturb or interfere with the order passed by the learned Single Judge by re- appreciating the facts and evidence.

16. He further submitted that the High Court was wholly unjustified in arriving at the finding of bias against the Disciplinary Authority, when the said Disciplinary Authority did not, in fact, acted as the Appellate Authority in view of the order dated 26th October, 2009 passed by the High Court in the earlier round of litigation. Pursuant to this order, a special sub-committee was constituted to hear

the appeal preferred by the respondent, and the appeal was not heard individually by the Chairman of the appellant-Authority who had previously acted as the Disciplinary Authority.

17. He further submitted that the High Court erred in holding that while considering the charges levelled against the respondent, the Enquiry Officer ought to have relied upon the findings of the criminal Court with respect to the evidence of PW-2, i.e., DN Biswas (Trap Laying Officer) and PW-3, i.e., MK Bagchi (Executive Engineer). He urged that there is no legal bar against the Enquiry Officer to arrive at a finding different from that of the criminal Court even though the factual allegations, witnesses and documents in both the proceedings may be common.

18. Learned counsel further urged that the Division Bench fell in grave error in concluding that the proceedings before the Disciplinary Authority were vitiated due to the non-examination of the complainant from whom the respondent accepted the illegal gratification. He submitted that PW-2, i.e., DN Biswas (Trap Laying Officer), was examined before the Enquiry Officer, and his testimony was sufficient to prove the charges of bribery levelled against the respondent.

19. He further contended that the Division Bench relied upon the judgment of G.M. Tank v. State of Gujarat19 to hold that the 19 (2006) 5 SCC 446.

findings recorded in the judgment of the Criminal Appellate Court would be binding on the Disciplinary Authority. The observations in the impugned judgment as referred to by the learned counsel are reproduced hereinbelow: -

> “Going through the available records and specially scrutinising the enquiry report, we find that the Enquiry Officer mainly relying on the evidence of P.W.2 held the appellant guilty of the charges ignoring the judicial findings of the Criminal Court. The Enquiry Officer furthermore, did not properly appreciate the evidence adduced by P.W.3. It appears from the evidence on record that P.W. 3 instructed the appellant to withhold a sum of Rs. 2000/- from the first running bill of the Contractor due to slow progress of work. Therefore, it cannot be said that the appellant herein was responsible for non-payment of the bills of the Contractor in time. The conduct of the Contractor should also be taken into consideration specially when we find that the Superior Authority like P.W. 3 was compelled to issue instruction for withholding of the running bill of the said Contractor. In any event, the Enquiry Officer cannot overreach the judicial findings in respect of P.W.2. The Enquiry Officer relied on the evidence of P.W.2 (D. N. Biswas) for the purpose of holding the appellant guilty of the charges, not remembering that the evidence of P.W. 2 has not been accepted by the Criminal Court. In the case of G.M. Tank vs. State of Gujarat & Ors. (supra), Hon'ble Supreme Court observed that the findings of the Judicial Authority should prevail upon the findings of the Disciplinary Authority on any particular issue. In the instant case, the Enquiry Officer did not adhere to the aforesaid principle as specifically laid down by the Hon'ble Supreme Court in the case of G.M. Tank (supra).” Learned Counsel submitted that the issue regarding the applicability of the judgment delivered by this Court in G.M. Tank (supra) to the case at hand was no longer res

integra because in the earlier round of litigation, the Division Bench had already concluded that G.M. Tank's case would not be applicable in the facts and circumstances of the present case.

20. Learned counsel relied upon the observations made by the Division Bench of the High Court in MAT No. 1840 of 2007 decided on 6th August, 2007 and urged that the Division Bench while rendering the impugned judgment has impliedly overruled pertinent findings recorded by the Coordinate Bench in the earlier round of litigation which stood affirmed by this Court vide judgment dated 29th February, 2008. The relevant observations from the judgment dated 6th August, 2007 read as under:-

> "Likewise, the criminal proceedings were initiated against the appellant for the alleged charges punishable under the provisions of the PC Act on the same set of facts and evidence. It was submitted that the departmental proceedings and the criminal case are based on identical and similar (verbatim) set of facts and evidence. The appellant has been honourably acquitted by the competent court on the same set of facts, evidence and witness and, therefore, the dismissal order based on the same set of facts and evidence on the departmental side is liable to be set aside in the interest of justice. "Such is not a situation in the present case. In our opinion the present is not a case of no evidence; it is a case of not sufficient evidence. There is a clear distinction between the two situations. Therefore, in our opinion, the observations in G.M. Tank's case (supra) would not be applicable in the facts and circumstances of the present case. In this case, before concluding that it is necessary to hold a departmental enquiry, the Disciplinary Authority has also considered the observations made by the Appeal Court to the effect that due to non-mentioning of arrangement to keep the flush door open in the pre-trap memo, it could hardly be accepted that such arrangement was made for keeping the door partly open. The Disciplinary Authority was certainly aware of the entire reasoning of the Appellate Court. The Disciplinary Authority was aware of the conclusion of the Appellate Court that "hardly, I find any material to place reliance on such evidence so as to hold that really some sort of shady transaction as has been alleged from the side of prosecution was going on between the petitioner and P.W.-1." The Disciplinary Authority also notices that, in conclusion it is observed by the Court of Appeal that the present case casts "serious doubt" on the allegation. On a very close scrutiny of the entire matter the Disciplinary Authority has concluded that it would not amount to an honourable acquittal. We are inclined to accept the reasons of the Disciplinary Authority, as we are also of the opinion that this acquittal can hardly be equated with the declaration of innocence of the respondent. In view of the above, we hold that the appellants are justified in issuing a charge-sheet to the respondent." (emphasis supplied) On these grounds, learned counsel for the appellant implored the Court to accept the appeal, set aside the impugned judgment, and restore the judgment of the learned Single Bench and the penalty of dismissal from service as awarded to the respondent by the Departmental Authorities.

Submission on behalf of the respondent-employee:-

21. Per contra, learned counsel for the respondent vehemently and fervently opposed the submissions advanced by the counsel for the appellant-Authority and contended that the original complainant was neither the contractor nor an authorised person of the contractor. He submitted that the original complainant had claimed himself to be the authorised representative of the contractor company, however, he had neither produced any authorisation nor provided any proof of identity showing that he was under the employment of the contractor.

22. Learned counsel drew this Court's attention to the specific finding in the impugned judgment with regard to the statement of PW-3, i.e., MK Bagchi, then working as Executive Engineer in the appellant-Authority, wherein he admitted in his cross-examination that the respondent had no role to play in preparing the bills and the direction to withhold the payment of Rs. 2000/- from the first running bill was given by PW-3 himself. He urged that the respondent was an Assistant Engineer who had no role to play in the preparation of bills and therefore, there was no possibility of the respondent demanding any bribe for the preparation of bills.

23. Learned counsel further submitted that the respondent could not have been made to undergo disciplinary enquiry proceedings on the very same charges which were the subject matter of the criminal proceedings because in the criminal case, the High Court had ultimately granted acquittal to the appellant vide judgment dated 16th July, 2004 and hence, the Disciplinary Authority was under an obligation to treat the findings of fact on same issues, recorded by the High Court in its criminal appellate jurisdiction, at a higher pedestal while considering the enquiry report submitted by the Enquiry Officer.

He concluded his submissions by urging that the non- examination of the complainant, i.e., the respondent in the enquiry proceedings is fatal to the case of the appellant-Authority and hence, the Division Bench was wholly justified in interfering with the order of the Single Judge by setting aside the orders passed by the Disciplinary Authority and further confirmed by the Appellate Authority. On these grounds, learned counsel for the respondent contended that the impugned judgment is unassailable in facts as well as in law and implored the Court to dismiss the appeal. Discussion and Conclusion: -

24. We have given our thoughtful consideration to the submissions advanced at bar and have gone through the material placed before us.

25. The respondent was subjected to disciplinary proceedings on the charge of accepting illegal gratification during the course of discharge of his official duties. In view of the conviction and sentence awarded by the CBI Court vide judgment dated 10th December, 1999, the enquiry was dispensed with and the respondent was dismissed from service vide order dated 13th July, 2000. Aggrieved, a criminal appeal was preferred by the respondent which came to be accepted by the High Court, vide judgment dated 16th July, 2004, and the respondent was acquitted of the charges levelled against him by giving him the benefit of doubt. Thereafter, the respondent availed of the remedy given to him in the earlier round of litigation, i.e., to revive the challenge to the order of

dismissal by filing a representation with the appellant- Authority. The Appellate Authority gave an opportunity of personal hearing to the respondent and vide order dated 24th March, 2005, the order of dismissal dated 13th July, 2000 was set aside, however, the respondent was placed under deemed suspension with effect from 13th July, 2000. Aggrieved, the respondent filed a writ petition20 before the High Court, assailing the order dated 24th March, 2005, and seeking a direction to restrain the Authority from initiating fresh departmental proceedings and quash the memorandum of charge dated 7th September, 2005 issued against him. The said writ petition came to be allowed by the learned Single Judge vide order dated 23rd February, 2007. 20 Supra note 11.

26. The appellant-Authority preferred a writ appeal21 against the aforesaid order of the learned Single Judge which came to be allowed by the Division Bench vide order dated 6th August, 2007 with the following pertinent findings: -

> (i) That the decision taken by the appellant-Authority to initiate departmental proceedings against the respondent is unassailable;
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> (ii) The finding of the learned Single Judge, that in case the appellant-Authority is permitted to hold enquiry into the charges, it would be giving an opportunity to the employer to sit in appeal over the findings recorded by the High Court in criminal appeal22 decided vide judgment dated 16th July, 2004, was erroneous;
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> (iii) The two proceedings, i.e., the criminal trial and domestic enquiry, in which the same evidence is to be evaluated, is distinct from each other. Therefore, even if the Enquiry Officer comes to a different conclusion, it would not be a 21 Supra note 12.
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> 22 Supra note 8.

reflection on the findings given by a Judge in a criminal trial, be that a trial Court or the High Court as a Court of Appeal;

(iv) Many witnesses have consistently narrated about the confession made by the respondent before the CBI at the time of the raid itself. The Enquiry Officer would have to assess the evidentiary value of the evidence given by the witnesses examined in their enquiry proceedings. This evidence may be inadmissible in a criminal trial, but the strict rules of evidence do not apply to the departmental proceedings. Department witnesses, including PW-1, i.e., Mr. S.K. Dasgupta (Assistant Commissioner of Police, Economic Offences Wing and Detective Department) and PW-4, i.e., Mr. Pijush Ghata (Chance Witness) has categorically stated that the respondent had taken money from the decoy;

(v) The Division Bench relied upon the judgment in Commissioner of Police, New Delhi v. Narender Singh23 to hold that even a confession made by the employee could 23 (2006) 4 SCC 265.

be admitted in evidence, in departmental inquiries and observed:-

> "In view of the aforesaid statement of law it becomes obvious that the Enquiry Officer would be entitled to take into consideration the confession made by the petitioner before the CBI. Even though, the same was not relied upon by the Criminal Court in view of Sections 25 and 26 of the Indian Evidence Act, 1872 and Section 162 of the Criminal Procedure Code, 1973. This bar is not applicable in departmental proceedings. Therefore, the Enquiry Officer would be entitled to take into consideration the evidentiary value of the confession made by the respondent.
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> The other instance that seems to have weighed with the Appellate Court is that there is no mention in the pre-raid memo with regard to the arrangement having been made for the door being kept open. Again the evidence on this may not have been sufficient to say that the fact has been proved beyond reasonable doubt in a criminal trial, but the Enquiry Officer would have to look at the evidence on the basis of preponderance of probabilities. P.W.-12, the leader of the CBI Trap-party, has categorically stated "that he made an arrangement to keep the door of the chamber of Accused No.1 partly opened so that one can see inside the chamber from the outside." The statement of P.W.1 is corroborated by the statements of P.W.2 and P.W.3 who stated in their evidence that they witnessed the transaction of bribe from outside the chamber as the door of the chamber was partly opened. He found that the evidence given by the leader of the Trap-party is corroborated by the contents of Post-Trap Memorandum (Ext.4). In this Memorandum it is categorically stated that P.W.-12 made arrangement to keep the door of the chamber partly open. The Trial Court after assessing entire evidence came to the conclusion that the prosecution has been able to prove the case beyond reasonable doubt. From the above it would become apparent that this cannot be said to be a case of no evidence. It cannot be said that even if the entire evidence is accepted as true, it would still lead to the conclusion that the respondent No.1 was innocent of having committed any crime. We, therefore, hold that initiation of the departmental proceedings against the respondent No.1 cannot be said to be vitiated or without jurisdiction." (emphasis supplied)
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> (vii) The Division Bench also held that the ratio of this Court's judgment in G.M. Tank (supra) would not apply to the case at hand.

The said judgment of the Division Bench has been affirmed by this Court with the dismissal of the special leave petition24 filed by the respondent. Hence, these findings recorded by the Division Bench of the High Court in the earlier round of litigation have attained finality inter se amongst the parties.

27. The Division Bench, in the impugned judgment, while allowing the writ appeal25 filed by respondent, virtually overturned these pertinent findings recorded in the judgment dated 6th August, 2007 rendered by the Division Bench in the earlier round of litigation, despite such judgment having attained finality. Hence, on this count alone, the impugned judgment dated 1st March, 2012, is unsustainable in the eyes of law.

28. Further, we are unable to sustain the finding of the Division Bench that the non-examination of the complainant is fatal to the case of the appellant-Authority. It is well settled principle of law that even in a criminal case pertaining to demand and acceptance 24 Supra note 13.

25 Tender of Mandamus Appeal No. 1311 of 2011.

of illegal gratification, the courts are empowered to record conviction, where the decoy turns hostile, and the prosecution case is based purely on the evidence of the Trap Laying Officer and the trap witnesses. In this regard, we are benefited by the judgment of this Court in Bhanuprasad Hariprasad Dave v. State of Gujarat,26 wherein it was held thus:

> "7. . . . It is now well settled by a series of decisions of this Court that while in the case of evidence of an accomplice, no conviction can be based on his evidence unless it is corroborated in material particulars but as regards the evidence of a partisan witness it is open to a court to convict an accused person solely on the basis of that evidence, if it is satisfied that that evidence is reliable. . . ."
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> 29. In the case at hand, the subject matter concerns a domestic enquiry, where the strict rules of evidence prohibiting admissibility of confessional statements recorded by the police officials do not apply. Likewise, non-examination of the decoy cannot be treated to be fatal in the domestic enquiry where other evidence indicts the delinquent officer. As has been held by this Court in the case of Narender Singh(supra), even a confession of the delinquent employee recorded by the Trap Laying Officer during the criminal investigation can be relied upon by the Disciplinary Authority.

26 1968 SCC OnLine SC 81.

30. It is pertinent to note that the Trap Laying officer i.e., DN Biswas was examined during the course of disciplinary proceedings as PW-2, and he supported the case of the appellant- Authority to the hilt. The evidence of PW-2 was substantially corroborated by the other departmental witnesses including PW-1, i.e., Mr. S.K. Dasgupta (Assistant Commissioner of Police, Economic Offences Wing and Detective Department) and PW-3, i.e., Mr. M.K. Bagchi (Executive Engineer). Thus, the Division Bench clearly erred in holding that non-examination of the complainant was fatal to the disciplinary proceedings conducted by the appellant-Authority.

31. The Division Bench in the impugned judgment, further observed that the Disciplinary Authority and the Appellate Authority did not consider the representation of the respondent and acted without application of mind while imposing the penalty of dismissal from service against the respondent. On a perusal of the orders passed by the Disciplinary Authority and the Appellate Authority, we find that the representation submitted by the respondent has been duly adverted to and objectively considered by both the authorities and the same were found to be devoid of substance.

32. It is trite law that in disciplinary proceedings, it is not necessary for the Disciplinary Authority to deal with each and every ground raised by the delinquent officer in the representation against the proposed penalty and detailed reasons are not required to be recorded in the order imposing punishment if he accepts the findings recorded by the Enquiry Officer. Our view stands fortified by the decision of this Court in Boloram Bordoloi v. Lakhimi Gaolia Bank27, wherein it was held:-

> "11. . . . Further, it is well settled that if the disciplinary authority accepts the findings recorded by the enquiry officer and passes an order, no detailed reasons are required to be recorded in the order imposing punishment. The punishment is imposed based on the findings recorded in the enquiry report, as such, no further elaborate reasons are required to be given by the disciplinary authority. . . ."

33. All that is required on the part of the Disciplinary Authority is that it should examine the evidence in the disciplinary proceedings and arrive at a reasoned conclusion that the material placed on record during the course of enquiry establishes the guilt of the delinquent employee on the principle of preponderance of probabilities. This is precisely what was done by the Disciplinary 27 (2021) 3 SCC 806.

Authority and the Appellate Authority while dealing with the case of the respondent.

34. In our considered view, the Division Bench fell into grave error in substituting the standard of proof required in a criminal trial vis-a-vis the disciplinary enquiry conducted by the employer. It is a settled principle of law that the burden laid upon the prosecution in a criminal trial is to prove the case beyond reasonable doubt. However, in a disciplinary enquiry, the burden upon the department is limited and it is required to prove its case on the principle of preponderance of probabilities. In this regard, we are benefitted by the judgment of this Court in the Union of India v. Sardar Bahadur,28 wherein this Court held as follows: -

> "15. . . . A disciplinary proceeding is not a criminal trial. The standard proof required is that of preponderance of probability and not proof beyond reasonable doubt. If the inference that Nand Kumar was a person likely to have official dealings with the respondent was one which a reasonable person would draw from the proved facts of the case, the High Court cannot sit as a court of appeal over a decision based on it. Where there are some relevant materials which the authority has accepted and which materials may reasonably support the conclusion that the officer is guilty, it is not the function of the High Court exercising its jurisdiction under Article 226 to review the materials and to arrive at an independent finding on the materials. If the enquiry has been properly held the question of adequacy or reliability of the evidence cannot be canvassed before the High Court. . . ." 28 (1972) 4 SCC 618.

35. We find that the learned Single Judge, while dealing with the writ petition29 filed by the respondent against the orders passed by the Disciplinary Authority and the Appellate Authority, considered the entire factual matrix in detail and dismissed the writ petition preferred by the respondent vide a detailed and well-reasoned judgment dated 29th June, 2011.

36. The law relating to the exercise of intra-Court jurisdiction is crystallised by this Court in the case of Management of Narendra & Company Private Limited v. Workmen of Narendra & Company,30 wherein it was held as under:

> "5. Once the learned Single Judge having seen the records had come to the conclusion that the industry was not functioning after January 1995, there is no justification in entering a different finding without any further material before the Division Bench. The Appellate Bench ought to have noticed that the statement of MW 3 is itself part of the evidence before the Labour Court. Be that as it may, in an intra-court appeal, on a finding of fact, unless the Appellate Bench reaches a conclusion that the finding of the Single Bench is perverse, it shall not disturb the same. Merely because another view or a better view is possible, there should be no interference with or disturbance of the order passed by the Single Judge, unless both sides agree for a fairer approach on relief." (emphasis supplied) 29 Supra note 15.

30 (2016) 3 SCC 340.

37. The position is, thus, settled that in an intra-court writ appeal, the Appellate Court must restrain itself and the interference into the judgment passed by the learned Single Judge is permissible only if the judgment of the learned Single Judge is perverse or suffers from an error apparent in law. However, the Division Bench, in the present case, failed to record any such finding and rather, proceeded to delve into extensive re- appreciation of evidence to overturn the judgment of the learned Single Judge.

38. On going through the material on record, we are of the view that the Disciplinary Authority was fully justified in imposing the penalty of dismissal from service upon the respondent. The Appellate Authority too has duly applied its mind to the facts available on record while affirming the order of the Disciplinary Authority and rejecting the appeal filed by the respondent. These two orders have rightly been affirmed by the learned Single Judge of the High Court while dismissing the writ petition31 filed by the respondent. The judgment dated 29th June, 2011 rendered by the learned Single Judge is well-reasoned and unassailable. 31 Supra note 15.

39. In the wake of the above discussion, we hold that the Division Bench, while exercising the intra-court writ appellate jurisdiction clearly erred in interfering with the concurrent findings recorded by the Disciplinary Authority, the Appellate Authority as affirmed by the learned Single Judge.

40. As an upshot of the above discussion, we find that the impugned judgment dated 1st March, 2012 passed by the Division Bench of the High Court is unsustainable in the eyes of law. The same deserves to be and is hereby set aside.

41. The appeal is allowed accordingly. No order as to costs.

42. Pending application(s), if any, shall also stand disposed of.

.....J. (J.K. MAHESHWARI) .....J. (SANDEEP MEHTA) New Delhi;

February 04, 2025.