

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

LPA No. 233/2025

Reserved on: 16.04.2026

Pronounced on: 14.05.2026

Uploaded on: 14.05.2026

Whether the operative part or full
judgment is pronounced: *Full*

**1. Jammu and Kashmir Bank Ltd
Through its Chairman, Corporate
Headquarter, M.A. Road, Srinagar.**

**2. President Supervision and Controlling
Division (S&C) J&K Bank, Corporate,
Headquarter, Srinagar.**

...Petitioner(s)/Appellant(s)

**3. Disciplinary Authority, J&K Bank
Corporate Headquarter, Srinagar.**

**4. Executive Manager, S&C, J&K Bank
Corporate Headquarters, Srinagar.**

Through: Mr. Shafqat Nazir, Adv. with
Ms Heena Baqal, Adv.

Vs.

**Naseer Ahmad Sheikh
S/o Sheikh Ghulam Ahmad
R/o Sheikh ul Alam Colony, Nowgam,
District Srinagar**

...Respondent(s)

Through: Mr. Shuja-ul-Haq, Adv.

CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE

HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

J U D G M E N T

Per Sanjeev Kumar: J

1. This intra-court appeal by the Jammu & Kashmir Bank Ltd, is directed against an order and judgement dated 24th of July 2025 passed by the learned Single Judge of this court in WP (C) No. 2887/2022 titled Naseer Ahmed Sheikh vs. J&K Bank Ltd. & Ors, whereby the court has allowed the writ petition filed by the respondent to throw challenge to an order dated 1st of April 2022.

2. Before we advert to the grounds of challenge urged by learned counsel appearing for the appellants, we deem it proper to narrate few facts as are relevant to the controversy raised in this appeal.

3. The respondent has retired on superannuation from the appellant-Bank as Branch Head. He was placed under suspension by the appellant-Bank on 17th March 2021 in contemplation of an enquiry into various acts of omission and commission alleged to have been committed by him during his tenure as Branch Head, Branch Office Barzulla and Branch Office Rangreth.

4. With a view to investigate the allegations, the appellant-Bank conducted a preliminary enquiry which culminated into the issuance of a formal charge sheet to the respondent on 21st May 2021. This was the charge sheet pertaining to his misconduct allegedly committed by him while working as Branch Head of Branch Office, Rangreth.

5. It seems that during the course of enquiry, some serious acts of grave omission and commission attributable to the appellant during his tenure as Branch Head at Branch Office Barzulla, Srinagar, also came to light. Consequently, another charge sheet dated 28th June 2021, was also issued by the Bank to the respondent.

6. After receiving reply to the charge sheet, the disciplinary authority having found the same unsatisfactory ordered a disciplinary/departmental enquiry into the charges and appointed Mr. Hayat Mohammad Rather as Enquiry Officer vide order dated 22nd June 2021. The second enquiry in respect of Branch Office, Barzulla was handed over to Mr. Gulzar Ahmad who was appointed as Enquiry Officer by the disciplinary authority vide order dated 9th August 2021. While the departmental enquiries were going on, the respondent attained the age of superannuation on 30th June 2021. Notwithstanding the superannuation of respondent, two enquiries, initiated while he was in service, proceeded, in which the appellant-Bank claims to have afforded full opportunity to the respondent to defend. On conclusion of the enquiries, the Enquiry Officer submitted their respective enquiry reports on 07.09.2021 and 20.09.2021 to the disciplinary authority. In the said reports, all imputations against the respondent stood proved except imputation No. 4 of Article I of the charge sheet dated 28th of June 2021. The disciplinary authority upon consideration clubbed both sets of charges

and the finding returned by the Enquiry Officers for the purpose of issuance of a composite show cause notice. Consequently, vide letter dated 20th of November 2021, said composite show cause notice was served upon the respondent to elicit his reply to the proposed penalty. The respondent not only filed his reply thereto but also sought a personal hearing which was granted to him by the disciplinary authority on 4th of January 2022.

7. The disciplinary authority, after considering the written submissions and oral arguments advanced by the Presenting Officer, reply of the respondent, material on record including the enquiry reports, passed a reasoned/speaking order dated 1st of April 2022 whereby respondent was dismissed from service of the bank. The dismissal order was made operative from the date of his superannuation, i.e., 30th of June 2021. However, the period of suspension of respondent from 17th of March 2021 till 30th of June 2021 was not reckoned for any service or retiral benefits except for payment of subsistence allowance already drawn by the respondent. The Bank also reserved its right to initiate criminal proceedings against the respondent for breach of trust, misfeasance and for recovery of his outstanding liabilities towards the bank.

8. Feeling aggrieved of his order of dismissal, the respondent preferred an appeal before the Appellate Authority of the Bank, which upon consideration was dismissed vide order dated 9th of November 2022. Having found no favour from the Appellate Authority, the respondent filed WP (C) No. 2887/2022 before the Writ Court seeking inter alia the following reliefs.

- i. By issuance of writ, order or direction one in the nature of certiorari, the order dated 01.04.2022 read with order dated 09.11.2022 issued by respondent-Bank whereby the petitioner has been dismissed from the services of Bank with effect from 30.06.2021 i.e. the date on which the petitioner retired from the service of the Bank on superannuation be quashed.
- ii. By issuance of writ, order or direction one in the nature of mandamus, the respondents be

commanded to release all pensionary benefits and other post retiral benefits in favour of the petitioner.

9. The writ petition filed by the respondent was contested by the appellants, who after filing a short affidavit also submitted detailed counter affidavit, meeting each and every allegation made by the respondent in his writ petition. The respondent also filed his rejoinder to controvert the stand of the appellant-Bank.

10. The Writ Court, having considered the rival contentions and perused the material on record, came to the conclusion that the charges framed against the respondent were not sufficiently proved and that as per Rule 337 (C) of OSM-2000, an employee is expected to discharge his duties and exercise the powers vested in him by applying his own independent judgement, except in cases where he acts under directions of his superior officer, in which cases, he is required to obtain directions in writing, wherever practical, and if not immediately possible, to obtain written confirmation of such directions at the earliest opportunity. The Writ Court also found on facts that the TODs, five in number were sanctioned by the respondent under verbal instructions of the Vice President (Central Kashmir) who had previously also approved such TODs in the same account earlier. The Writ Court, therefore, held that sanctioning of TODs in favour of various loanees without seeking prior approval of the competent authority was no infraction of any rule and regulation and, therefore, respondent could not have been charged for such acts. The court also took note of the fact that as regards another set of TODs, petitioner had applied for post-facto sanction to the Zonal Office (ZOK Central) on 11th of September 2019, but did not receive any response therefrom. The Enquiry Officer though took up the matter with the Zonal Office to verify as to whether it had received any proposal for post-facto sanction of TODs and had obtained a reply from one Azad Ahmed Banday, the Senior Executive (Advances) denying receipt of such proposals, yet gave no opportunity to the respondent for cross-examination of Mr. Banday. On these grounds and few others, the Writ Court found that the respondent had not been provided an adequate opportunity of being heard and, therefore, the enquiries culminating into the

order of dismissal were vitiated in law. This is how the Writ Court allowed the writ petition filed by the respondent and quashed the order of dismissal of the respondent in terms of its judgement which is impugned in this appeal.

11. The impugned judgement is challenged by the appellant-Bank *inter alia* on the following grounds.

- (1) That the Writ Court has failed to appreciate that the constitutional courts do not sit in appeal over the enquiries conducted by the Enquiry Officers in so far as the merits of the allegations are concerned and that the scope of judicial review in respect of departmental enquiries is limited only to ascertaining whether the enquiry has been conducted in a fair, reasonable and non-arbitrary manner. Ignoring the settled legal position, the Writ Court ventured into testing the enquiries on merits and came to the conclusions different from the one arrived at by the Enquiry Officers on the basis of evaluation of evidence collected during such enquiries.
- (2) That the Writ Court erred in understanding and interpreting Rule 337 (C) of the Officers Service Manual-2000 to conclude that respondent had sanctioned several TODs under verbal instructions from his seniors, and that was permissible under the rule. The Writ Court did not appreciate that Rule 337 (C) provided protection only to an employee who had acted under the direction of his superior and had promptly obtained written confirmation of such directions at the earliest possible opportunity. The Writ Court also did not appreciate that respondent, being a Branch Manager, was under an obligation to perform his duties in strict compliance of the rules, regulations, circular instructions, and the business practices of

the Bank, and that respondent extended unauthorized TODs, thereby exposing the Bank to serious financial losses.

- (3) That the Writ Court erred in taking the view that the punishment imposed by the appellant-Bank on the respondent was not commensurate with the lapse/misconduct attributed to respondent. The court dismissed the order of dismissal without leaving it open to the appellant-Bank to impose a different or a lesser punishment upon the respondent for his proved misconduct as an officer of the Bank.
- (4) That the Writ Court also failed to appreciate that in the absence of any specific allegations of malafides against the Enquiry Officers, there was no warrant to interfere with the findings of fact returned by the Enquiry Officers on the basis of evidence that was before them.
- (5) That the Writ Court has also erroneously held that the respondent was denied a fair opportunity, in that, despite a specific demand made by him, respondent was not provided with certain documents. The court did not appreciate that the demand for certain documents and information was made by the respondent after the conclusion of the enquiry and not during the course of the enquiry.

12. *Per contra*, learned counsel appearing for respondent supports the judgement impugned on the elaborate reasoning given by the Writ Court. He would argue that the sanctioning of TODs was as per the practice of the Bank. He would submit that the TODs were sanctioned in favour of various beneficiaries under the oral instructions of the superiors, and even a post-facto sanction was sought in writing immediately after disbursement of the TODs. He would, therefore, submit that the Writ Court has rightly appreciated the entire controversy and concluded that the allegations

attributed to the respondent were not proved and, in any case, did not amount to any misconduct warranting the extreme penalty of dismissal from service.

13. Mr. Shuja-ul-Haq, learned counsel for respondent would place a strong reliance on 337(C) of OSM-2000 to substantiate his arguments. He would also argue that the order of dismissal could not have been passed by the appellant-Bank after the superannuation of the respondent. He would argue that only an employee who is in service can be dismissed, and not an employee who has been superannuated. The existence of master-servant relationship, he argues, is a condition precedent for ordering the dismissal.

14. Having heard learned counsel for the parties and perused the material on record, following questions arise for determination:

1. Whether an employee against whom a disciplinary enquiry is initiated while he was in service can be dismissed from service by passing an order after his superannuation. What is the true scope of interference by the Constitutional Court into the departmental/disciplinary proceedings and the nature of punishment imposed pursuant thereto.
2. Whether the enquiry proceedings conducted by the appellant-Bank against the respondent were vitiated in law, and whether the order of dismissal suffers from any perversity or is otherwise disproportionate to the misconduct proved.

Question No. 1.

15. In so far as the question whether an employee against whom a disciplinary enquiry is initiated while he was in service can be dismissed from service by passing an order after his superannuation is concerned, the legal position is well settled. If the extant service rules/regulations permit continuance of disciplinary proceedings initiated against an officer/employee before he had attained the age of superannuation, those can be continued and taken to its logical end even after he had attained the age of superannuation. In this regard, it would be worthwhile to advert to Rule 259 of the Officers' Service Manual-2000 which for facility of reference is set out below:

“259. The officer against whom disciplinary proceedings have been initiated will cease to be in services on the date of superannuation but the disciplinary proceedings will continue as if he was in service until the proceedings are concluded and final order is passed in respect thereof.

The concerned officer will not receive any pay and/or allowance after the date of superannuation including subsistence allowance. He/She will also not be entitled for the payment of retirement benefits till the proceedings are completed and final order passed thereon. On conclusion of the disciplinary proceedings against an Officer after the date of his superannuation, the Bank may impose on him any of the penalties as provided in **Rule 372 of J&K Bank Officers Recruitment, Discipline, conduct and Appeal Rules 2000**. The Bank can make recoveries from his terminal benefits in the event the Officer is found guilty of having caused monetary loss to the Bank. Provided that a fresh show cause notice is issued to the superannuated employee calling upon him as to why his retirement benefits should not be forfeited/reduced in view of the charges proved against him in disciplinary proceedings. Before making such an order the Officer concerned shall also be offered an opportunity of being heard. Further any reduction in the pension of the Officer (whether permanently or for a specific period) fully or partially shall be ordered in accordance with the provisions of Pension Regulations in force at that time.”

16. The disciplinary authority has powers to impose penalty of dismissal/major penalty upon the delinquent employee even after his superannuation, provided the disciplinary proceedings were initiated while such employee was in service. It is thus trite that if disciplinary proceedings under the relevant rules of service have been initiated against a delinquent employee before he ceased to be in service, then by the operation of or by virtue of any of the rules or regulations, the disciplinary proceedings may continue and be brought to the logical conclusion as if the officer was in service. Such deemed continuation in service shall only be for the purposes of continuance and conclusion of the disciplinary proceedings.

17. It is not disputed by the learned counsel appearing for the respondents that the regulations of the Officers Service Manual permit continuation of the disciplinary proceedings if initiated while the delinquent bank officer was in service and such disciplinary proceedings could be taken to logical conclusion which may include imposition of penalty of dismissal. For the purposes of continuation of the proceedings, such employee shall be deemed to be in service. This legal position was elaborately discussed and reiterated by the Hon’ble Supreme Court in a recent case of **Virinder Pal Singh vs. Punjab and Sind Bank 2026 INSC 266**. While interpreting the similar

regulations of the **Punjab and Sind Bank**, the Hon'ble Supreme Court came to the conclusions which are set out in para 36 of the judgment which reads as under:

“36. On a survey of the decisions cited and discussed above, in our view, what is settled is that if the extant service Rules/Regulations permit continuance of the disciplinary proceedings, initiated against an officer/employee before he had attained the age of superannuation, those can be continued and brought to its logical conclusion even after he had attained the age of superannuation. And where, pursuant to such proceedings, the ultimate penalty imposed is of dismissal, there may be no technical difficulty in its implementation as it may result in forfeiture of pension and other retiral dues. Therefore, in such an event, the question of entitlement to pensionary benefits may not arise. However, where the punishment imposed is such which may, instead of forfeiture of pension in its entirety, result in mere reduction or adjustment of pension, or recovery from post retiral dues, the Court may have to consider whether such punishment is implementable or not, post-retirement.”

18. So far as true scope of interference by the Constitutional Court in disciplinary proceedings is concerned, the issue is no longer res-integra. There is long line of precedents laying down the parameters to be borne in mind while examining the disciplinary proceedings in the exercise of extraordinary writ jurisdiction. It is trite law that the courts do not act as an appellate court and re-assess the evidence led in a disciplinary enquiry nor do they interfere on the ground that, on evaluation of material on record, another view was also possible.

19. Once it is demonstrated that the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy or sufficiency of evidence or of its reliable nature or its credibility shall not be a ground for interfering with the findings in the departmental enquiry. It is only where the enquiry is found to be based on no evidence or where it clearly suffers from perversity, it may invite the intervention of the court. Recently, the Hon'ble Supreme Court had the occasion to re-survey the case law on the point in the case of **State of Rajasthan and Ors Vs. Bhupendra Singh** (Civil Appeal Nos. 8546-8549 of 2024) decided on 8th August 2024. The Hon'ble Supreme Court having considered its earlier judgments in the

case of **State of Andhra Pradesh vs. Sree Rama Rao** AIR 1963 SC 1723, a 3-Judge Bench Judgment, titled **State Bank of India vs. Ram Lal Bhaskar** (2011) 10 SCC 249, **State of Andhra Pradesh vs. Chitra Venkata Rao** (1975) 2 SCC 557 and many others came to the conclusion that power of judicial review is not directed against the decision, but is confined to the decision making process.

20. The courts do not sit in judgment on merits of the decision of the disciplinary authority. So, it is absolutely not open to the High Court to re-appreciate and re-appraise the evidence led before the enquiry officer and examine the findings recorded by the enquiry officer as a Court of Appeal and reach its own conclusions. The decision of the disciplinary authority cannot be lightly interfered with unless it is found totally illogical or suffers from procedural impropriety or shocks to the conscience of the Court, in the sense, that it is in defiance of logic or moral standards. At this stage, we wish to set out para 7 of a Three Judge Bench Judgment in the case of **Sree Rama Rao** (supra) which reads thus.

“7. There is no warrant for the view expressed by the High Court that in considering whether a public officer is guilty of the misconduct charged against him, the rule followed in criminal trials that an offence is not established unless proved by evidence beyond reasonable doubt to the satisfaction of the Court, must be applied, and if that rule be not applied, the High Court in a petition under Article 226 of the Constitution is competent to declare the order of the authorities holding a departmental enquiry invalid. 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. The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner

inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or; where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution.”

Question No. 2.

21. With a view to finding out as to whether the enquiry proceedings conducted by the appellant-bank were vitiated in law and that whether the order of dismissal suffers from any perversity or is otherwise disproportionate to the misconduct proved, we went through the entire enquiry record.

22. From perusal of the entire enquiry record, we could find that all legal statutory and procedural requirements have been followed by the appellant-bank. Clear and unequivocal charges were framed in the twin enquiries, those were initiated against the respondent and he was provided an adequate opportunity to defend himself. It, therefore, cannot be the case of the respondent that the inquiries conducted by the enquiry officers are in violation of principles of natural justice. There is ample documentary evidence produced by the Bank before the enquiry officer to substantiate the charges.

23. As a matter of fact, the respondent has not disputed his acts and omissions of disbursing huge loans beyond his authority to various borrowers without ensuring their repayment. The defence of post-facto approval sought by him has been rightly rejected by the enquiry officer after having got the confirmation from the concerned office that no such request for post-facto approvals were ever received from the respondent. The plea of the respondent which has, to a great extent, weighed with the learned Single Judge that the respondent was not afforded an opportunity to cross-examine

one Azad Ahmed Banday, Senior Executive, (Advances Department) and, therefore, the principle of natural justice were violated, is without any substance and deserves to be noticed for rejection only.

24. Needless to say that Mr. Azad Ahmed Banday was never examined by the enquiry officer. The enquiry officer had only addressed an email to the Zonal Office of the Bank which was responded to by the then Senior Executive, (Advances Department) namely Azad Ahmed Banday, who only confirmed that his office had not received any post-facto sanction of the proposals claimably submitted by the respondent after disbursement of TODs beyond his authorization. The response to the email was only an official document issued by the Zonal Office on the basis of available record.

25. Since Mr. Azad Ahmed Banday did not enter the witness box, as such, there was no question of allowing respondent to cross-examine him. Otherwise also, there is no request ever made by the respondent to summon either the record from the Zonal Office or Mr. Azad Ahmed Banday for examination.

26. In the face of the fact that petitioner never dispute the grant of TODs to various customers of the Bank beyond his authorization, there was hardly any necessity to go into this aspect of the matter. It was the defense of the respondent before the enquiry officer that with regard to the proposals for grant of TODs beyond his authorization, the respondent had sought post-facto sanction from the Zonal Office. The onus was, thus, on the respondent to prove that he had actually sought post-facto approvals of his proposals by leading some documentary evidence.

27. From the enquiry record, it clearly transpires that there is enough irrebuttable documentary evidence on record which goes on to show that the respondent indulged in indiscriminate allowing of overdrafts without sanction from the competent authority. The TODs were granted by the respondent without verifying the credit worthiness of the borrowers, as a result whereof, several TOD accounts turned NPA causing huge financial loss to the Bank. He continued this practice at both the branches i.e., Branch Barzulla and Branch Rangreth where he served as Branch Head. There is no allegation by the respondent that the enquiry officers who conducted the disciplinary proceedings against him were either biased or were in any

manner inimical to him. He also does not complain of any lack of opportunity provided to him to defend himself in the enquiries.

28. From the record, it clearly transpires that elaborate enquiry providing every opportunity to the respondent to defend was conducted as per the regulations of the Bank.

29. Needless to say that a bank officer holds a position of trust as he deals with public funds. Sanction of loan beyond one's power or not ensuring end-use of the loan amounts to financial irregularity which exposes the bank to financial risk. The penal action on proof of such a charge cannot be questioned merely because no loss is suffered by the Bank. This is so observed by the Hon'ble Supreme Court in the case of **Virinder Pal Singh** (supra). Para 19 and 20 are relevant and quite apposite to the case in hand and, therefore, are set out below:

“19. Besides, a bank officer holds a position of trust as he deals with public funds. Sanction of loan beyond one's power, or not ensuring end-use of the loan, amounts to financial irregularity which exposes the Bank to financial risk. Therefore, penal action on proof of such a charge cannot be questioned merely because no loss is suffered by the Bank.

20. Moreover, where an employee of a Bank handles money of depositors /customers/investors, it is **Disciplinary Authority-Cum-Regional Manager and others v. Nikunja Bihari Patnaik, (1996) 9 SCC 69** most essential for him to be cautious and not reckless in discharge of his duties because he deals with the money for and on behalf of his employer. Every such employee/officer is, therefore, required to take all possible steps to protect the interests of his employer. He must, therefore, discharge his duties with utmost sense of integrity, honesty, devotion and diligence and must ensure that he does nothing, which is unbecoming of an employee/officer. Although good conduct and discipline is expected from every employee/officer of an institution, but it is required more when the institution deals with money of customers/depositors/investors. Any dereliction in discharge of duties by such an employee or officer, whether by way of negligence/casualness, or with deliberate intention, constitutes misconduct.”

30. The respondent being a responsible officer of the Bank was found guilty of indulging in reckless lending and accommodated the parties beyond his delegated powers in utter disregard to circular instructions issued by the

bank from time to time. He allowed the TOD facilities without any sanction of the competent authority, and as a sequel thereto, several accounts turned NPA within short span of time. Besides, before allowing the TODs, respondent did not bother to obtain sanction from the competent authority nor did he seek post-facto confirmation of his unauthorized actions. It was also found established that respondent was habitual of granting TOD facilities without obtaining any sanction from competent authority. This he did in both the branches where he worked as Head of the Branch.

31. With regard to his acts and omissions committed by him in the twin branches of the Bank, two separate enquiries were instituted which were conducted by the respective enquiry officers in full regard to the rules and regulations of the bank and observing the principles of natural justice.

32. The enquiry reports were elaborately considered by the disciplinary authority. Not only respondent was put on show cause notice, but he was also given a personal hearing. The disciplinary authority passed a detailed order giving its reasons for taking the extreme action against the respondent, i.e., his dismissal from services of the bank with effect from the date he attained the age of superannuation.

33. In a nutshell, we may say with a sense of certainty that from perusal of entire record in backdrop of submissions made by the learned counsel for the respondent, we could find no perversity in the findings returned by the enquiry officers nor did we find any procedural irregularity committed by the disciplinary authority in disposing of the disciplinary proceedings initiated against the respondent.

34. Regard being had to the limited scope of interference with the disciplinary proceedings explained hereinabove, we are not inclined to accept the contention of the learned counsel for the respondent that the enquiry proceedings were vitiated in law and, therefore, the order of dismissal passed by the Bank is not sustainable.

35. Last, but not the least, we would like to deal with Rule 337-(c) of OSM-2000 which for ready reference is reproduced hereunder:-

“337-c. No employee shall, in the performance of his official duties or in the exercise of powers conferred on him, act otherwise than in his best judgment except when

he is acting under the direction of his official superior; and shall where he is acting under such direction, obtain the directions in writing wherever practicable and where it is not practicable to obtain the direction in writing he shall obtain written confirmation of the direction as soon thereafter as possible”.

36. The rule has not been correctly appreciated by the learned Single Judge. From a careful reading of the rule reproduced above, it is evident that what is conceded in favour of an employee in this rule is that in the performance of his official duties or in the exercise of power conferred on him, he shall not act otherwise than in his best judgment except when he is acting under the directions of his official superiors. Rule further provides that where such employee is acting under the directions of his seniors, he shall obtain the directions in writing wherever practical and where it is not practicable to obtain the written directions, he shall obtain a written confirmation of his action as soon as possible. The rule deals with a situation where an employee is acting under the directions of his superiors. Ordinarily, such employee should insist for written directions. However, where it is not practicable to obtain the directions in writing immediately, he would obtain written confirmation of the directions as soon as thereafter possible. Rule does not permit an employee to act otherwise than in his best judgment nor does it permit the employee to act beyond his authority.

37. It is true that in the instant case, the respondent claimed that he had allowed various TODs under the verbal directions of the Vice President (Central), but there is nothing brought on record by him to show that immediately on complying the said direction, he sought written confirmation of such directions. His plea that he sought post-facto approval of the grant of TODs beyond his capacity also could not be proved by him during the course of enquiry rather the Zonal Office confirmed on the basis of records that it had not received any such proposal for post-facto approval. Be that as it is, the fact remains that the enquiry officers have returned finding on the basis of oral and documentary evidence produced before them and we cannot sit in judgment over the said findings of facts more particularly when the same have not been shown to be perverse or based on no evidence.

38. Viewed from any angle, neither the inquiries conducted by the enquiry officer nor the order passed by the disciplinary authority and the appellate authority can be found fault with.

39. For all these reasons, we find merit in this appeal, the same is accordingly **allowed**. The impugned judgment dated 24th July 2025 passed by the Writ Court is set-aside and the writ petition dismissed.

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR:
14.05.2026
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