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IN THE HIGH COURT AT CALCUTTA

(CONSTITUTIONAL WRIT JURISDICTION)

APPELLATE SIDE

Present :

The Hon'ble Justice Partha Sarathi Chatterjee

WPA 11856 of 2016

Prasanta Biswas

Vs.

State Bank of India & Ors.

For the petitioner	: Mr. Sardar Amjad Ali, Sr. Adv., Mr. Arun Kr. Das, Mr. Samir Kr. Ghosh.
For the Bank	: Mr. S K Sinha, Ms. Sanchita Dey Pal Chaudhury, Mr. S Pal Chaudhury, Ms. S Adak, Ms. Tithi Paul, Ms. Baishali Saha.
Heard on	: 28.09.2026
Judgment on	**: 20.11.2026**

Partha Sarathi Chatterjee, J.:-

Prologue:

1. By way of the present writ petition, the petitioner, a former Customer Assistant of the respondent State Bank of India (hereinafter referred to as "the Bank"), has

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called in question the enquiry report dated 19th August, 2015, the final order dated 5th December, 2015, passed by the Disciplinary Authority (for short, "DA"), whereby the petitioner was visited with the penalty of removal from service without disqualification for future employment, and the order dated 17th March, 2016, passed by the Appellate Authority (for short, "AA"), affirming the said penalty. The petitioner has, inter alia, prayed for issuance of a writ in the nature of mandamus commanding the concerned respondents to reinstate him in service, together with all consequential benefits, including full back wages and wages for the period during which he remained under suspension.

Petitioner's case:

2. Sans unnecessary details, the facts emerging from the averments in the writ petition and the documents annexed thereto are that the petitioner was serving as a Customer Assistant at the Bank's Bally Durgapur Branch until 2013. On 2nd September, 2013, while discharging his duties at the cash counter, a sum of Rs.1,000/- was inadvertently debited twice from the account of one Manoj Kumar Chauhan, a customer of the Bank. The petitioner claims that he verbally brought the discrepancy to the notice of the Branch Manager, being the respondent no. 7, and subsequently deposited Rs.1,000/- in cash into the customer's account on 13th September, 2013. The customer, by a letter dated 14th January, 2014, acknowledged receipt of the said amount.

3. By a letter dated 16th September, 2013, the respondent no. 7 called upon the petitioner to explain the incident of double debit, particularly his failure to report the occurrence to any supervising official or credit the excess amount to the

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Branch Sundry Deposit Account. Subsequently, by a reminder dated 6th December, 2013, the respondent no. 7 alleged that the petitioner had failed to respond to the earlier communications dated 5th September, 2013 and 16th September, 2013, and had also convened a meeting on 5th December, 2013, thereby disrupting the smooth functioning of the branch.

4. The petitioner, however, contends that he had verbally explained the factual position to the respondent no. 7, pointing out that only the first debit transaction had been effected under his user ID, whereas the second was carried out under the user ID of the Presenting Officer. He further maintained that, upon coming to know of the discrepancy, he ensured that the customer was compensated without undue delay. In the meantime, by a memorandum dated 15th January, 2014, the petitioner was transferred to the Chandanpur Branch.

5. Subsequently, by a communication dated 17th September, 2014, the respondent no. 5 called upon the petitioner to explain several alleged irregularities said to have occurred at the Bally Durgapur Branch between 2nd September, 2013 and 15th January, 2014. In his reply dated 27th September, 2014, the petitioner contended that no financial loss had been occasioned to the Bank, that any errors, if committed, had been rectified and that no customer had raised any grievance. The petitioner alleges that, without duly considering his explanation, the respondent no. 5, by an order dated 7th January, 2015, placed him under suspension in terms of Paragraph 12(B) of the Memorandum of Settlement (for short, MoS) .

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6. Thereafter, by a charge-sheet dated 23rd April, 2015, the petitioner was informed that he was prima facie found to have committed acts of major misconduct under Clause 7(c) of the MoS and was called upon to submit his reply to the articles of charge within seven days of receipt thereof.

7. The charge-sheet comprised six articles of charge, the substance whereof may be briefly delineated as follows:

> Charge No. 1 alleged that the petitioner had failed to furnish any reply to the communication dated 16th September, 2013, calling for his explanation, as well as the subsequent reminder dated 6th December, 2013.
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> Charge No. 2 pertained to the alleged double debit of Rs.1,000/- against a single withdrawal slip, although cash to the extent of only Rs.1,000/- had been disbursed to the customer. It was alleged that the petitioner refunded the excess amount only upon the customer raising a complaint on 13th September, 2013, without either crediting the same to the Sundry Deposit Account or effecting the refund on the very same day.
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> Charge No. 3 related to an alleged unauthorised transaction dated 14th September, 2013, whereby the petitioner debited a sum of Rs.7,000/- from the account of his father, Shri Gobinda Chandra Biswas, and credited the said amount to two other accounts without obtaining debit confirmation or an authority letter. It was, however, alleged that the transaction had also been permitted by the Accountant, Shri Manas Kumar Choudhuri, and that debit confirmation was subsequently obtained from one of the joint account holders.
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> Charge No. 4 alleged that, on 26th September, 2013, the petitioner had disbursed a sum of Rs.6,000/- against a withdrawal slip drawn on the account of Smt. Suchitra Mondal without verifying the signature appearing thereon with her specimen signature recorded in the Bank's records.

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> Charge No. 5 concerned an alleged unauthorised debit of Rs.60,000/- effected on 23rd April, 2013, from the account of a customer, Shri Goutam Roy, and the subsequent credit of the said amount to his father's account and two accounts maintained by the petitioner himself, without obtaining the requisite debit confirmation or authority letter.
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> Charge No. 6 alleged that, on 10th January, 2014, Smt. Geeta Gupta had deposited a sum of Rs.6,000/- at the petitioner's counter, which was neither credited to her account nor transferred to the Sundry Deposit Account. It was further alleged that, only after the customer lodged a complaint on 16th January, 2014, the petitioner, with the assistance of his brother, deposited a sum of Rs.6,750/- into her account.

8. The petitioner specifically contends that the charge-sheet did not contain any distinct articles of charge, list of documents or list of witnesses, and that the allegations levelled against him were vague. He further submits that Clause 7(c) of the MoS treats neglect of work or negligence in the discharge of duties as minor misconduct. According to the petitioner, therefore, although the charge-sheet was framed in respect of minor misconduct, he was subjected to an enquiry for major misconduct and ultimately penalised on that basis.

9. Prior to submitting his reply to the charge-sheet, the petitioner, by communications dated 2nd May, 2015 and 14th May, 2015, requested the respondent no. 7 to furnish certain documents which, according to him, were necessary for submitting an effective reply to the charges levelled against him. However, the said requests did not yield any response.

10. By his reply dated 15th May, 2015, the petitioner furnished his explanation in respect of the charges levelled against him. With regard to Charge No. 2, he

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stated that the customer had been compensated immediately upon the discrepancy coming to his notice. As regards the meeting held on 5th December, 2013, he explained that the same was merely a condolence meeting convened in memory of a deceased colleague after 5 p.m., upon completion of the cash-related work of the branch.

11. In respect of Charge No. 3, the petitioner stated that the debit had been effected against a duly executed voucher bearing his father's signature, which had subsequently gone missing. He further explained that, on the following day, the missing voucher was substituted by a debit confirmation voucher signed by his mother, who was one of the joint account holders.

12. With regard to Charge No. 4, the petitioner explained that the account holder, accompanied by her father, both of whom were known to him, had approached the counter in haste on account of a medical exigency. He accordingly effected the payment in good faith. He further stated that the account holder subsequently acknowledged receipt of the amount and that the customer had also informed the Bank that no mistake had been committed by any of its staff members.

13. In answer to Charge No. 5, the petitioner stated that the transaction had been undertaken on the telephonic instructions of his elder brother, who had also forwarded an authority letter. He explained that, owing to the ill health of his parents, he had inadvertently omitted to annex the said letter. He further asserted that his brother subsequently confirmed the instructions in writing.

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14. As regards Charge No. 6, the petitioner explained that the deposit voucher had been returned on account of an incorrect amount being mentioned therein, although the Bank's stamp had inadvertently been affixed to the same. He further stated that, acting upon the direction of the respondent no. 5, he deposited a sum of Rs.6,750/- on 16th January, 2014, although the respondent no. 5 accepted the depositor's claim of Rs.6,507/- on the following day.

15. Notwithstanding the explanation furnished by the petitioner, a departmental enquiry was instituted by an order dated 28th May, 2015. Subsequently, by a corrigendum dated 26th June, 2015, three out of the six charges were modified. The petitioner contends that the list of documents and the list of witnesses were furnished to him for the first time on 10th July, 2015, by which time the enquiry had already commenced, thereby depriving him of a reasonable opportunity to prepare his defence. He further submits that the arrangement made for inspection of the documents at the Chandanpur Branch was of little assistance to him, particularly when the alleged irregularities had occurred at the Bally Durgapur Branch.

16. Having pleaded not guilty to the charges, the petitioner participated in the departmental enquiry. On 25th July, 2015, the respondent no. 7, who was examined as the Prosecution Witness (for short, “PW”), was examined in the enquiry. According to the petitioner, none of the documents relied upon in support of the charges was duly proved through the said witness in accordance with law. He further contends that, during his cross-examination, the PW admitted that no financial loss had been occasioned to the Bank. Thereafter, on

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30th July, 2015, the petitioner appealed for a compassionate consideration of his case, drawing attention to the illness of his father. Subsequently, on 17th August, 2015, his Defence Counsel submitted a written brief in support of his defence.

17. By his report dated 19th August, 2015, the Enquiry Officer (for short, "EO") held five of the six charges to have been proved, Charge No. 3 being the sole exception. The petitioner alleges that, while dealing with Charge No. 1, the EO relied solely upon the deposition of the prosecution witness (PW), without considering his explanation; in respect of Charge No. 2, he disregarded documents favourable to the petitioner and accepted the PW's testimony without proper scrutiny; while considering Charge No. 4, he glossed over the concerned customer's statement absolving the Bank's staff of any wrongdoing; and, in relation to Charge No. 5, rejected the defence document merely because it had been obtained subsequently.

18. The petitioner further assails the enquiry report as self-contradictory and substantially a reproduction of the written brief submitted by the Presenting Officer, allegedly reflecting a predetermined approach in favour of the prosecution witness (PW). He contends that the EO failed to consider the PW's admission that his work was prompt and satisfactory and that he had acted in accordance with the Bank's instructions, while placing undue reliance on the PW's observation that recurring errors could not be treated as compensatory. The petitioner thereafter submitted his representation against the enquiry report on 23rd September, 2015.

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19. By a notice dated 11th November, 2015, the respondent no. 4 called upon the petitioner to show cause why the penalty of removal from service without disqualification for future employment, as contemplated under Clause 6(b) of the MoS, should not be imposed, with the period of suspension being treated as 'Not on Duty'. The petitioner replied to the said notice on 17th November, 2015, whereupon the respondent no. 4, by a final order dated 5th December, 2015, imposed the penalty of removal from service. The petitioner assails the order as laconic and devoid of cogent reasons, contending that the DA failed to disclose the basis for accepting the findings of the EO. He further points out that the order proceeds on the premise that the alleged irregularities had caused financial loss and tarnished the Bank's image, although no charge of financial loss had been framed against him and, according to him, even the PW's deposition did not support such a finding. The petitioner also questions the change in the disciplinary authority, contending that although the proceeding was initiated by the respondent no. 5, it was ultimately concluded by the respondent no. 4 owing to a purported bifurcation of administrative responsibilities, thereby disrupting the continuity of the decision-making process and reflecting non-application of mind.

20. The appeal preferred by the petitioner on 18th January, 2016, came to be dismissed by the respondent no. 3 by an order dated 17th March, 2016, inter alia, holding that the petitioner had failed to put forth anything that could extenuate the charges levelled against him and that the punishment imposed was commensurate with the gravity of the charges. The petitioner assails the appellate

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order on the ground that the same merely reproduces the charges levelled against him and the defence advanced in response thereto, without disclosing any reasons in support of the conclusions arrived at by the Appellate Authority.

21. The petitioner further contends that the report of the EO, the order of the Disciplinary Authority and the appellate order are perverse, being based on inadmissible and irrelevant materials while disregarding relevant evidence, and are otherwise founded on conjectures and surmises. He submits that the Bank suffered no financial loss and no customer attributed any such loss to him. It is also contended that the aforesaid orders are non-speaking and that the breach of natural justice at the disciplinary stage could not have been cured by the Appellate Authority. According to the petitioner, the charges relate, at best, to procedural irregularities and do not warrant the extreme penalty of removal from service, which is grossly disproportionate. He lastly alleges that the authorities acted vindictively towards him throughout the disciplinary proceedings.

Respondents' case:

22. In the affidavit-in-opposition filed on behalf of the respondents, it is contended that, while posted as a Customer Assistant at the Bally Durgapur Branch, the petitioner had indulged in serious irregularities, resorted to fraudulent practices, wilfully disregarded the instructions issued by his superiors and misappropriated depositors' money for his personal gain. It is further contended that, in the course of the investigation as well as the disciplinary proceedings, the petitioner had admitted to having committed such acts.

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23. It is stated therein that the petitioner had deliberately refrained from furnishing any reply to the letters calling upon him to explain his conduct. It is further alleged that the second debit entry in the customer's account, which forms the subject matter of Charge No. 2, was effected by the petitioner and that the amount so withdrawn was misappropriated for his personal gain and refunded only after the customer had lodged a complaint.

24. In respect of Charge No. 4, it is contended that the petitioner had effected payment without verifying the signature of the account holder with the specimen signature available in the Core Banking System and that any subsequent signature could not have the effect of validating or regularising the payment already made.

25. As regards Charge No. 5, it is alleged that the petitioner had prepared all the vouchers without obtaining the signature of the account holder and that neither a telephonic instruction nor a subsequent letter of confirmation could validate the transfers so effected.In respect of Charge No. 6, it is contended that the amount was credited to the customer's account only after the customer had lodged a complaint with the Bank.

26. It is the specific case of the respondents that the petitioner had admitted to the charges levelled against him in his replies to the show-cause notices, the charge-sheet and the enquiry report, as well as in his written brief and memorandum of appeal. It is further contended that, in any event, the charges stood independently established on the basis of the documentary and oral evidence

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adduced during the course of the enquiry. The respondents, however, fairly acknowledge that Charge No. 3 could not be established in the enquiry proceedings.

27. The respondents contend that the reference to Clause 7(c) of the MoS was an inadvertent incorporation in place of Clause 5(j), as the charge-sheet had unequivocally characterised the alleged acts as constituting 'major misconduct'. It is further submitted that the entire disciplinary proceeding, including the second show-cause notice and the orders passed by the Disciplinary Authority and the Appellate Authority, proceeded on that basis. The respondents also contend that the petitioner never questioned such classification during the disciplinary proceeding and cannot, therefore, raise the issue for the first time in the present writ petition.

28. As regards the conduct of the enquiry, the respondents contend that the petitioner was duly furnished with the list of documents and witnesses, along with certified copies of the prosecution documents, and was afforded inspection thereof on 14th May, 2015 and 14th July, 2015. It is further submitted that the petitioner pleaded not guilty, all prosecution documents were duly produced, proved and admitted, and the inadvertent addressing of a letter to his last posted branch occasioned no prejudice. The respondents further contend that, irrespective of any actual financial loss to the Bank, the acts complained of tarnished its public image and reputation, and that the petitioner arranged for refund of the amounts only after the irregularities were detected.

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29. The respondents contend that the petitioner was duly furnished with the list of documents and witnesses, along with certified copies of the prosecution documents, and was afforded inspection thereof on 14th May, 2015 and 14th July, 2015. It is further submitted that the petitioner pleaded not guilty, all prosecution documents were duly produced, proved and admitted, and the inadvertent addressing of a letter to his last posted branch occasioned no prejudice. The respondents further contend that, irrespective of any actual financial loss, the acts complained of tarnished the Bank's public image and reputation, and that the petitioner arranged for refund of the amounts only after the irregularities came to light.

30. The respondents contend that the Enquiry Officer duly considered the petitioner's explanation and the materials on record, and that the enquiry report is neither self-contradictory nor a mere reproduction of the Presenting Officer's written brief. It is further submitted that the subsequent letter issued by the customer absolving the Bank's staff of liability could not exonerate the petitioner of the misconduct established. The respondents also assert that the Disciplinary Authority duly applied its mind to the charge-sheet, the petitioner's replies, the enquiry report and his response thereto, and afforded him an opportunity of hearing before passing a reasoned and speaking order, which was not required to reiterate the findings of the Enquiry Officer.

31. The respondents further contend that the change in the incumbent holding the office of the Disciplinary Authority neither disrupted the continuity of the proceedings nor occasioned any prejudice to the petitioner, as the entire record

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was available to the successor incumbent. It is lastly submitted that proof of actual financial loss to the Bank was not necessary to establish the misconduct and that the punishment imposed was commensurate with the gravity of the charges proved.

Contents of the affidavit-in-reply filed by the petitioner:

32. In the affidavit-in-reply, the petitioner contends that the respondents have failed to specifically traverse several material allegations in the writ petition, particularly those relating to the inordinate delay in issuing the charge-sheet on stale charges, absence of properly framed articles of charge and requisite lists of documents and witnesses, and non-compliance with Clauses 1 and 12(c) of the MoS. It is further submitted that the respondents have failed to demonstrate that the orders passed by the Disciplinary Authority and the Appellate Authority are reasoned and speaking orders. The petitioner also relies upon the affidavit-in-opposition to contend that no financial loss was occasioned to the Bank.

33. The petitioner denies having admitted to any of the charges and contends that the Bank has failed to identify any specific admission or demonstrate how the charges stood established. As regards the alleged inadvertent error in referring to Clause 7(c) instead of Clause 5(j), it is submitted that the error was never rectified and Clause 5(j) was never invoked during the disciplinary proceedings. The petitioner further contends that, despite the charges having been framed as constituting minor misconduct, he was proceeded against under the provisions governing major misconduct, in violation of his fundamental right to be dealt with strictly in accordance with the charges levelled against him and the

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guarantees under Articles 14 and 16 of the Constitution. It is lastly submitted that such a fundamental right cannot be treated as having been waived.

Submissions:

34. Mr. Ali, learned Senior Advocate, advanced arguments on behalf of the petitioner. As crystallised, his principal contention is that the charge-sheet issued in the instant case specifically indicated that disciplinary proceedings were contemplated against the petitioner for alleged violation of Clause 7(c) of the MoS, which, according to him, prescribes a minor penalty for such misconduct. Clause 7(c) of the MoS treats neglect of work or negligence in the discharge of duties as minor misconduct. It is, therefore, contended that although the charge-sheet proceeded on the basis of an allegation constituting minor misconduct, the entire disciplinary proceeding was conducted with a view to imposing a major penalty, and the petitioner was ultimately visited with such major penalty. According to Mr. Ali, such a course of action was impermissible and rendered the disciplinary action vulnerable to interference.

35. He further contended that the charge-sheet was not accompanied by a list of documents or a list of witnesses. According to him, the omission was not a mere procedural irregularity but a fundamental infirmity which vitiated the disciplinary proceeding from its inception. He also submitted that, despite a specific written request made by the petitioner for furnishing certain relevant documents, the disciplinary authority failed to accede to such request, thereby

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depriving the petitioner of a reasonable and effective opportunity to defend himself. It was further argued that both the EO and the DA acted mechanically, without due application of mind, and failed to examine whether the alleged misconduct had occasioned any financial loss to the Bank. He asserted that punishment is also disproportionate.

36. On the factual aspect, Mr. Ali submitted that immediately upon detection of the doubtful debit, the petitioner deposited the amount in question and thereby made good the alleged deficiency. He further contended that the petitioner had furnished satisfactory explanations and justifications in respect of the alleged anomalies in certain transactions as well as the charges levelled against him, but the same were not duly considered by the authorities concerned. According to him, the defence taken by the petitioner, both during the disciplinary proceeding and in the pleadings before this Court, was glossed over, and the findings recorded by the Enquiry Officer and accepted by the Disciplinary Authority were, therefore, vitiated by non-application of mind. He further submitted that the answering respondents, in their affidavit-in-opposition, had resorted to mere evasive denials without specifically controverting the material averments made by the petitioner in the writ petition.

37. In rebuttal, Mr. Sinha, learned Advocate appearing on behalf of the Bank, advanced oral submissions and also tendered written notes of arguments. He contended that, while posted at the Bally Durgapur Branch during the year 2013-14, the petitioner had committed serious irregularities which constituted major misconduct. He further submitted that, in his reply addressed to the Regional

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Manager, the petitioner had admitted substantially all the irregularities attributed to him and had either refunded or made arrangements for refund of the amounts misappropriated by him. According to Mr. Sinha, such subsequent restitution of the misappropriated amounts did not absolve the petitioner of the misconduct committed by him.

38. Mr. Sinha contended that paragraph 2 of the charge-sheet specifically referred to the allegations as constituting 'Major Misconduct' under the MoS. According to him, the reference to Clause 7(c) of the MoS, instead of the applicable Clause 5(j), was an inadvertent error. He asserted that all the six acts of misconduct enumerated in the charge-sheet constituted major misconduct and that the disciplinary enquiry was conducted throughout in accordance with the procedure prescribed for dealing with major misconduct under the MoS, and not minor misconduct. He further submitted that the petitioner had never raised any objection in this regard at any stage of the disciplinary proceeding and had sought to raise the issue for the first time in the present writ petition.Mr. Sinha relied upon the decisions of the Hon'ble Supreme Court in *P.K. Palanisami v. N. Arumugham & Anr.*, reported in (2009) 9 SCC 173, and *Union of India v. S.C. Parashar*, reported in (2006) 3 SCC 167 and contended that a mere reference to an incorrect provision of law would not, by itself, vitiate the entire proceeding.

39. Placing reliance upon the decisions, reported in (1995) 6 SCC 749 (B.C. Chaturvedi vs. Union of India & Ors.) and (2015) 2 SCC 610 (Union of India vs. P. Gunasekaran), Mr. Sinha submitted that the scope of judicial review in disciplinary matters is confined to examining the decision-making process and

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does not extend to the decision itself. He argued that a writ court cannot reappreciate the evidence adduced during the enquiry or sit in appeal over the findings recorded by the Enquiry Officer and accepted by the Disciplinary Authority.

40. He contended that, in the present case, there was no defect in the decision-making process. According to him, before commencement of the enquiry, the petitioner was supplied with the lists of documents and witnesses and was afforded, along with his Defence Representative, an opportunity to inspect the relevant documents. The petitioner submitted his reply to the charge-sheet, participated in the enquiry, cross-examined the prosecution witnesses and thereafter submitted his response to the enquiry report. He was also given an opportunity of hearing before imposition of the proposed penalty. Aggrieved by the order of punishment, the petitioner preferred a statutory appeal, which was duly considered and disposed of by a reasoned order. Mr. Sinha, therefore, submitted that the petitioner was afforded adequate opportunity at every stage of the disciplinary proceedings and that no procedural irregularity or breach of the principles of natural justice could be attributed to the authorities concerned.

41. He contended that the petitioner had failed to demonstrate that any alleged deficiency in the decision-making process had caused him prejudice or deprived him of an effective opportunity to defend himself.He argued that mere allegation that there was or were irregularity in decision-making process would not be suffice, delinquent employee is to demonstrate that he has been prejudiced thereby. To lend support to such contention, he relied upon the decisions,

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reported in (1996) 3 SCC 364 (State Bank of Patiala & Ors. vs. S.K. Sharma), (2011) 2 SCC 316 (State Bank of India & Ors. vs. Bidyut Kumar Mitra & Ors.) and one unreported decision by a coordinate Bench of this Court in WP 33329 (W) of 2014 (Shiv Pujan Gwalia vs. State Bank of India & Ors.).

42. He cited a decision, reported in (2005) 7 SCC 597 (National Fertilizers Ltd. and Anr. vs. P.K. Khanna)and 2012 (2) CHN (Cal) 541 (Golam Jilani vs. State Bank of India) and submitted that the disciplinary authority need not to assign reason while concurring with the enquiry report and the DA is to record reason when he opts to disagree with the findings of the enquiry officer. He argued that a defence that bank has not suffered any financial loss is not available to a bank employee in a disciplinary proceeding initiated against him and in support of such contention, he relied upon the decisions, reported in (2005) 7 SCC 435 (State Bank of India &Anr. vs. Bela Bagchi & Ors.) & (2006) 2 SCC 255 (TNCS Corpn. Ltd & Ors. Vs. K. Meerabai.).

Analysis and Conclusion:

43. Therefore, having heard the learned Advocates appearing for the respective parties and upon perusal of the materials on record, the principal issues which fall for consideration are whether the disciplinary proceeding stood vitiated on account of the alleged procedural irregularities, whether the findings returned by the Enquiry Officer suffer from any perversity or lack of evidence, and whether the penalty imposed upon the petitioner warrants interference in exercise of the writ jurisdiction of this Court.

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44. There cannot be any quarrel in accepting the proposition that the scope of judicial review in disciplinary matters is ordinarily confined to examining the decision-making process and does not extend to the merits of the decision itself. However, where the decision is found to be perverse, irrational or grossly disproportionate, the same would fall within the permissible ambit of judicial review. Although a writ court cannot sit in appeal over the decision of the Disciplinary Authority or undertake a reappraisal of the evidence adduced during the enquiry, it is nevertheless entitled to examine the materials on record to ascertain whether the finding recorded is based on no evidence or is otherwise perverse. The requirement of fair play, however, permeates all administrative, judicial and quasi-judicial functions, including disciplinary proceedings. An authority exercising quasi-judicial powers is required to act fairly, impartially and without any preconceived notion or bias. Where the Court finds that the authority has acted arbitrarily, with a closed mind, or in disregard of the principles of natural justice or the applicable statutory rules, interference in exercise of the power of judicial review would be warranted. The aforesaid principles have been reiterated in the decisions of B.C. Chaturvedi (supra) and P.Gunasekaran (Supra).

45. Bearing the aforesaid principles in mind, it is necessary to examine whether there is any flaw in decision-making process and also to address the issues raised by the petitioner.

46. In the present case, the petitioner has also raised the issue of delay in initiation of the disciplinary proceeding. Such delay, by itself, does not render the proceeding

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unsustainable. The question is whether, having regard to the facts and circumstances of the case, the delay was unreasonable and occasioned any prejudice to the petitioner in defending himself. In the present case, the incident of double debit occurred on 2nd September, 2013, in respect whereof the petitioner was called upon to furnish his explanation on 5th September, 2013 and again on 16th September, 2013. He was thereafter asked, on 17th September, 2014, to explain certain anomalies in transactions covering the period from 2nd September, 2013 to 15th January, 2014. The petitioner was placed under suspension on 7th January, 2015, and the charge-sheet followed on 23rd April, 2015. Having regard to the sequence of events, it cannot be said that the Bank proceeded against the petitioner on the basis of stale charges. Moreover, the petitioner has not been able to demonstrate how the interval between the alleged misconduct and issuance of the charge-sheet prejudiced his defence, particularly when the allegations relate to identifiable banking transactions and the relevant records were available for examination.

47. The petitioner has laid considerable emphasis on the reference to Clause 7(c) of the MoS in the charge-sheet, contending that the said clause deals with minor misconduct and that the Bank could not have proceeded against him for major misconduct by subsequently invoking Clause 5(j). The Bank, on the other hand, maintains that the reference to Clause 7(c) was an inadvertent error and that the allegations set out in the charge-sheet were intended to constitute major misconduct within the meaning of Clause 5(j) of the MoS. It is further contended that the petitioner never raised any objection in this regard during the

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disciplinary proceedings and has taken this point for the first time in the present writ petition. Relying upon the decisions cited earlier, the Bank submits that a mere reference to an incorrect provision would not, by itself, vitiate the disciplinary proceedings, particularly when the enquiry was conducted throughout in accordance with the procedure prescribed for major misconduct.

48. This issue cannot be decided merely by looking at the clause number referred to in the charge-sheet. What is material is the substance of the allegations, the nature of the misconduct attributed to the petitioner and whether he was made sufficiently aware of the charges he was required to meet. In the present case, the charge-sheet expressly described the alleged acts as major misconduct and set out the individual transactions, their respective dates, the amounts involved and the manner in which the petitioner was alleged to have acted. The petitioner also furnished detailed explanations to the charges and participated in the enquiry. On a reading of the charge-sheet as a whole, it is evident that the petitioner was made aware of the allegations constituting major misconduct and was afforded an opportunity to defend himself. The enquiry was also conducted in accordance with the procedure prescribed for major misconduct. In such circumstances, the mere erroneous reference to Clause 7(c), instead of Clause 5(j) of the MoS, would not, by itself, vitiate the disciplinary proceeding, particularly when the petitioner has failed to demonstrate that such error occasioned any real prejudice to his defence.

49. The grievance relating to non-furnishing of documents also requires consideration in the context of the opportunity actually afforded to the petitioner.

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The respondents maintain that the petitioner was supplied with the list of documents and witnesses, together with certified copies of the documents relied upon by the prosecution, and was afforded inspection of the relevant records on two occasions. The petitioner has not demonstrated with sufficient particularity which particular document, essential for establishing his defence, was withheld from him or how its non-furnishing materially impaired his defence. A mere assertion that certain documents were not supplied, without establishing the relevance thereof and the prejudice occasioned by such omission, would not be sufficient to invalidate an otherwise properly conducted enquiry.

50. The petitioner's objection to the change in the incumbent Disciplinary Authority also does not merit acceptance in the absence of any material demonstrating that the successor authority failed to consider the records of the disciplinary proceeding or that such change occasioned any prejudice to the petitioner.

51. As noticed earlier, the petitioner has also assailed the orders passed by the DA and the AA as cryptic and non-speaking. It is not necessary for the Disciplinary Authority to reproduce the entire enquiry report while imposing the penalty. What is required is that the order should reflect due application of mind to the findings of the Enquiry Officer and the representation submitted by the delinquent employee. The same principle applies to the appellate order, which must indicate consideration of the grounds urged in the appeal. Upon perusal of both the order of punishment and the appellate order, I find no sufficient ground to accept the petitioner's contention that the authorities failed to apply their mind or passed non-speaking orders.

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52. In the present case, it is also significant that the Enquiry Officer found five out of the six charges to have been established. Charge No. 3, which could not be established, has not been treated as proved. Such an approach, in my view, does not indicate that the Enquiry Officer proceeded mechanically to accept every allegation levelled against the petitioner. Rather, the fact that one of the charges was held not established demonstrates that the allegations were considered separately on the basis of the materials available in the enquiry. The petitioner has not been able to demonstrate that the findings returned in respect of the remaining charges are wholly unsupported by evidence or are such that no reasonable person could have arrived at the same.

53. In the present case, it is necessary to bear in mind the nature of the allegations levelled against the petitioner. A perusal of the six charges would reveal that they do not relate to any isolated act of inadvertence or an occasional lapse in the discharge of official duties. Taken cumulatively, the charges concern repeated instances of unauthorised handling of customers' accounts, effecting debit entries without requisite authority, disbursing money without proper verification of the account holder's signature and failure to credit a customer's deposit until a complaint was lodged with the Bank. If established, such acts strike at the very foundation of the trust and confidence reposed in a bank employee entrusted with the handling of customers' money. There is, therefore, a clear distinction between an isolated procedural lapse and repeated irregularities involving the handling of customers' funds, which cannot be glossed over as mere negligence.

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54. The contention that subsequent refund of the amounts and the letters issued by the concerned customers absolve the petitioner of the alleged misconduct is equally unpersuasive. A bank employee is expected to adhere to the prescribed procedures at the time of undertaking financial transactions, and subsequent conduct of the customers cannot dilute that obligation. What is material is whether the petitioner had acted in accordance with the established norms when the transactions were effected. Subsequent refund or regularisation of an irregular transaction may make good the financial loss, but it does not, by itself, erase the misconduct already committed.

55. The petitioner's repeated reliance on the absence of financial loss to the Bank is misplaced. The obligation of a bank employee to maintain integrity and adhere to prescribed norms does not depend upon whether the Bank has ultimately suffered any monetary loss. The safeguards governing the operation of customers' accounts are intended to protect not only the Bank's interests but also the money entrusted to it by its customers. A subsequent refund or adjustment cannot retrospectively legitimise an unauthorised transaction. The real test is whether the petitioner discharged his duties with the degree of integrity, care and diligence expected of an employee entrusted with the handling of customers' money.

56. Coming to the question of proportionality, the nature and gravity of the misconduct established against the petitioner cannot be lost sight of. The penalty imposed must bear a reasonable relationship to the gravity of the misconduct proved. In the present case, the charges are not confined to an isolated instance

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of negligence or inadvertence but relate to several transactions involving customers' accounts and their money, in which the petitioner failed to observe the prescribed safeguards. The cumulative effect of such acts assumes significance in assessing the gravity of the misconduct. Having regard to the nature and extent of the irregularities established, the penalty of removal from service cannot be said to be shockingly disproportionate merely because the amounts were subsequently refunded or the Bank ultimately suffered no financial loss.

57. In view of the discussions made hereinabove and having regard to the principles laid down in the decisions referred to in the foregoing paragraphs, I find no sufficient ground to hold that the disciplinary proceeding, the enquiry report or the orders passed by the Disciplinary Authority and the Appellate Authority warrant interference in exercise of the extraordinary writ jurisdiction of this Court.

58. For the reasons aforesaid, this Court is not inclined to accept the challenge thrown by the petitioner to the disciplinary proceeding or the penalty imposed upon him. The writ petition, being devoid of merit, accordingly stands dismissed. There shall be no order as to costs.

(Partha Sarathi Chatterjee, J.)

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