2025 IN

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.....OF 2025
(ARISING OUT OF SPECIAL LEAVE PETITION (C) No. 20343 of 2022)

THE GENERAL MANAGER (P)
CANARA BANK ...APPELLANT(S)

VERSUS

GANGANARASIMHAIAH ...RESPONDENT(S)

J U D G M E N T

VIJAY BISHNOI, J.

Leave granted.

2. This appeal has been preferred by the Appellant challenging the Judgment dated 12.08.2022 passed in Writ Petition No. 1857 of 2020 (L-RES) by the High Court of Karnataka. The Division Bench of the High Court, thereby affirmed the Award passed by the Central Government Industrial Tribunal, Labour Court

(*hereinafter referred to as* ***"Tribunal"***) in C.R. No. 138/2007 dated 25.09.2019, by setting aside the punishment of compulsory retirement imposed upon the Respondent and directed his reinstatement into the original post with continuity of service without back wages.

BRIEF FACTS

3. The facts, in brief, are that the Respondent joined the service of the Appellant-Bank as a daily wage Sub-Staff on 17.10.1990. Subsequently, his service was confirmed as Duftery-cum-Cash Peon as Sub-Staff Leader on 18.07.1992. The Respondent was thereafter posted at V.G. Doddi branch from 11.11.1997 till 01.08.2004. Thereafter, he was posted at Bommasandra branch on 02.08.2004.

4. The then manager, Shri H.N. Ramesh of V.G. Doddi branch submitted an investigation report on 06.08.2004 alleging serious irregularities at the branch office, V.G. Doddi branch when the Respondent and other staff members were posted there.

5. A preliminary enquiry was conducted into the said irregularities and the Respondent, in the said enquiry, on 24.07.2004 admitted that certain loans were advanced to his wife which were availed by coercing the manager and without obtaining any sanction from the Controlling Officer. The Respondent also accepted that he made unauthorized entries in the bank accounts of one Shri Ramakrishnaiah and his father, Shri Kambaiah, thereby tampering with the official records.

6. The Respondent was then put under suspension on 19.08.2004 because of contemplation to initiate the disciplinary proceeding, and thereafter a chargesheet dated 28.04.2005 was issued to the Respondent in respect of the charges. The chargesheet is reproduced herein below for easy reference:-

> *"…* *CHARGE*
> *You were working at our V.G. Doddi branch from 11.11.1997 to 01.00.2004 prior to your joining Bommasandra Branch on 02.08.2004 and you were placed under suspension on 19.08.2004.*
>
> *Serious discrepancies in the Advances Portfolio of our V.G. Doddi branch was observed and an investigation conducted into the matter has brought to fore the following irregularities/ fraudulent acts on your part;*
>
> *FGC 1/2000 for Rs. 25000/- for Rs. 25,000/- to Shri Kambaiah on 03.04.2000;*
>
> *On 03.04.2000 FGC 1/2000 for Rs. 25,000 has been granted to Shri. Kambaiah S/o Shri Rangaiah, Nayakanapalya, Magadi Taluk who is your father.*

On 01.03.2000, Shri R. R. Hoover , the then Manager had allowed a TOD for Rs. 10000/- in the SB Account No. 519 of Shri. Kambaiah. Again on 24.03.2000, you had requested for a further finance of Rs. 25,000/- in your father's account informing the Mnagaer that your father would be visiting the branch for executing the loan papers. At your behest Shri. R. R. Hoover had prepared the debit and credit slips far by debiting FGC account and crediting SB account No. 519 of Shri. Kambaiah. The slips for granting FGC loan was prepared without even preparing the loan papers as Shri. Kambaiah had not personally visited the branch for executing loan papers.

You have posted the credit slips in SB 519 of Shri. Kambaiah and withdrawn Rs. 15000/- from his SB account on the same day i.e. on 24.03.2000. In order to set right the unauthorised debit in FGC loan of your father, you have on the next day i.e. on 25.03.2000 unauthorisedly debited SB account 1550 of Shri. Ramakrishnaiah without the knowledge of the Manager and without, preparing any slips for debiting the account and without showing any corresponding. Credit. You have debited the amount in the 1edger sheet only and not made any entry in the subsidiary sheet.

You have brought this unauthorised, transaction to Manager's knowledge only on 31.03.2000. Subsequently Shri R. R. Hoover passed the slips on that day by debiting SB 1550 of Shri Ramakrishnaiah. M and crediting FGC subsidiary, without slips. By doing so, the entry pertaining - to FGC loan granted in the absence of Shri Kambaiah on 24.03.2000 was reversed and the unauthorised debit in SB 1550 of Shri Rsmakrishnaiah remained outstanding. Subsequently to set right the transaction of unauthorized debit in SB 1550 and crediting FGC head, Shri R. R. Hoover had hurriedly sanctioned a loan FGC 1/2000 for Rs.25000/- to Shri Kambaiah on 03.04.2000 by duly obtaining loan papers and crediting the proceeds to SB 1550 of Shri Ramakrishnaiah thus re-crediting the unauthorised debit. You have posted the debit slip pertaining to the transaction. You have knowingly made the unauthorised entries in your father's and Shri. Ramakrishnaiah's accounts for your personal gains.

Shri. Chennavenkataiah, P.T.E. of the branch had extracted the balancings of Rs. 3,00,196/- before the debit of Rs.25,000/- on 25.03.2000 i9n the SB balancing book. You have deliberately made alterations in the balancing book and altered the amount of Rs, 2,75,196/- to tally the balancing book. You have also made alterations in SB Control Register and the closing balance

in the ledger subsidiary to tally the books which amounts to tempering and falsification of Bank's records.

To conceal this unauthorizid debit in SB 1550 of Shri. Ramakrishnaiah you have deliberately left out the debit and credit entry while updating his pass book. You have admitted having deliberately left out these entries in the pass book.

Shri. Ramakrishnaiah had nothing to do with this transaction and Manager has granted the loan for accommodation purpose at your instance and as you had pressurized him in granting the said loan.

Shri. R. R. Hoover, Manager had allowed TODs in SB Account 2450 of Smt. Suwarmamma who is your wife, on 8 occasions during the period from 16.4.99 to 23.5.2000 totalling to Rs. 55,857/-. Apart from this, she was granted with DPN RT 22/09 for Rs. 20000/-, DPN RT 31/99 for Rs. 25,000/-, ALS 15/03 for Rs. 25000/-. Further loans have been granted to Shri. Kambaiah, your father, under ALS 10/02 for Rs. 25000/- and ALGL 98/03 for Rs. 25000/- for which concurrence of controlling office were not been taken.

You have unauthorissdiy made debits in the SB Account 1550 for raising funds for personal gain. You have coerced the Manager for sanctioning loans to your family members for personal gains. You have tempered the Bank records by making alterations in the balancing book, key register and SB subsidiary sheets to keep the books tallied by fraudulent means on account of unauthorized debits.

Our Staff Section (Officers), Circle Office, Bangalore, vide their letter No- BLC/SSO/7023/EP dated 04.10.2004, has called for your explanation into, the matter. The reply submitted by you vide your letter dated 02.11.2004 is neither convincing nor satisfactory.

You have by your above actions failed to discharge your duties with utmost integrity, honesty, devotion and diligence and thus cant ravened the provisions of Chapter XI, Regulation 2(A), (i) of Canara Bank Service Code and committed a "Gross Misconduct"...."

7. On 07.06.2005, the Disciplinary Authority appointed an Enquiry Officer and a Presenting Officer. The Enquiry Officer

after conclusion of the enquiry submitted a report on 09.01.2006, concluding that all the charges levelled against the Respondent stands proved.

8. The copy of the Enquiry Report was supplied and in response to that the Respondent submitted his submissions alleging that the enquiry was not fair as two relevant witnesses were not examined.

9. The Disciplinary Authority issued "Show Cause Notice" dated 10.03.2006 to the Respondent proposing the punishment of compulsory retirement. The Respondent was also afforded personal hearing by the Disciplinary Authority. Finally on 15.03.2006, while agreeing with the findings of the Enquiry Officer, the Disciplinary Authority imposed the punishment of compulsory retirement upon the Respondent.

10. Being aggrieved, the Respondent preferred an appeal before the Appellate Authority which rejected the appeal preferred by the Respondent *vide* Order dated 22.11.2006.

11. Further, pursuant to the dispute raised by the Respondent before the Central Government, the Central Government made a reference to the Tribunal, the terms of the reference read as follows:

> *"Whether the punishment of the compulsory retirement imposed on Shri Ganganarasimahaiah by the management of Canara Bank is legal and justified? If not, to what relief the workmen is entitled?"*

12. The Tribunal framed a preliminary issue as to whether the domestic enquiry held against the Respondent is fair and proper or not? On behalf of the Respondent, following contentions were raised:

- Some key witnesses have not been examined and certain relevant documents were not furnished to him;
- Sufficient opportunity was not provided to examine the departmental witnesses; and
- The enquiry proceedings were not conducted in the Kannada language but in English language which was inconvenient to the Respondent and his defence representative to effectively put forward the defence.

The Tribunal after dealing with the above contentions of the Respondent and also considering the stand of the Appellant-Bank *vide* Order dated 17.05.2013 had concluded that the

enquiry was fair. The operative portion of the order dated 17.05.2013, passed by the Tribunal is reproduced herein under:-

> *"....Thus, I find no to say that fair and proper opportunity was denied to the CSE or his defence Representative to put forward their case. In the result while arriving at conclusion of answering this issue in the affirmative holding that the Domestic Enquiry held against the I Party by the II party is fair and proper, I pass the following Order:*
>
> *ORDER*
>
> *The Preliminary issue is answered in the Affirmative holding that the Domestic Enquiry held against the I Party by the II party is fair and proper..."*

It is to be noticed that the said order passed by the Tribunal dated 17.05.2013 has not been challenged by the Respondent and has thus, attained finality.

13. The Tribunal *vide* order dated 25.09.2019, had passed the Final Award and answered the reference in favour of the Respondent and directed the Appellant to reinstate the workman into his original post with continuity of service without back wages.

14. The Appellant thereafter preferred the impugned Writ Petition No. 1857 of 2020 (L-RES) before the High Court challenging the Final Award dated 25.09.2019 passed by the Tribunal.

15. The High Court *vide* the impugned Order dated 12.08.2022 dismissed the Writ Petition and upheld the Award passed by the Tribunal.

SUBMISSIONS OF THE PARTIES

16. The learned counsel for the Appellant argued that the Tribunal while exercising jurisdiction under Section 11A of the Industrial Disputes Act had exceeded its jurisdiction and acted as a Court of Appeal. It is contented that, though, the Tribunal *vide* order dated 17.05.2013 had held that the Disciplinary Enquiry against the Respondent was fair and proper, had re-appreciated the evidence and had interfered with the punishment order illegally.

17. The learned counsel has argued that the finding of the Tribunal, to the effect that the management did not produce any evidentiary material to prove the charges against the Respondent is perverse and bad in law. It is contended that as many as 19 documents were produced during the course of enquiry and the Enquiry Officer as well as the Disciplinary Authority has dealt extensively with those documents despite

the fact that during the preliminary enquiry, the Respondent had admitted his guilt. Learned Counsel has further argued that the copies of the documents relied upon by the Appellant were supplied to the Respondent and he was granted sufficient opportunity to cross-examine the witnesses. In such circumstances, the Tribunal had grossly erred in interfering with the punishment order passed by the Disciplinary Authority and the High Court had also erred in affirming the order passed by the Tribunal. Learned Counsel has further argued that the Tribunal as well as the High Court were impressed only by the fact that the Appellant had failed to prove that the Respondent was the author of the entries whereby some irregular/illegal transactions were carried out in the bank/loan accounts of one Shri Ramakrishnaiah, the father of the Respondent, Shri Kambaiah and other customers of the banks. It is further contended that the Tribunal despite observing that it is highly possible that at the instance of the Respondent, the manager committed the irregularities as alleged in the chargesheet and also observing that the Respondent was the beneficiary of the

misconduct/loan sanction has illegally interfered with the punishment order. It is argued that it is a settled position of law that strict rules of evidence do not apply to the disciplinary proceedings and the findings of the Disciplinary Authority are to be tested on the principle of preponderance of probabilities.

18. Learned counsel for the Appellant has further argued that the Tribunal has erred in observing that the punishment of compulsory retirement on the Respondent is too harsh and disproportionate, despite holding that he was benefitted on account of misconduct/irregular loan sanction. The Tribunal has also wrongly observed that if the Respondent is reinstated into service, then only he will get the retiral benefits. It is contended that the Respondent being compulsorily retired from this service would otherwise also be entitled to retiral benefits because it is not a case of dismissal from the service. It is further submitted that the other staff working at the relevant time in the V.G. Doddi branch, namely, Shri R.R. Hoover and Shri N. Govinda Raju were also subjected to disciplinary proceedings and since the charges have been

proved against them, punishment of compulsory retirement had also been imposed upon them. Their challenge to the punishment was rejected by the Appellate and Reviewing Authority and thereafter, they have not made any further challenge before any of the Authority and therefore, the punishment inflicted upon them became final.

19. Learned Counsel for the Appellant has further argued that the customers put their trust in the banks and deposit their money with the belief that their money would be safe in the banks. In such a condition, if an employee of the bank indulges in malpractices or irregularities in maintaining the accounts of the customers, then the faith of the general public would erode in the banking system. It is contended that the Respondent was found indulged in making unauthorized transactions in the bank account of strangers and was also involved in making irregular transactions in the accounts of his father and his wife and therefore, it is not desirable that such employee would remain in the banking system. The irregularities committed by the Respondent resulted in loss of confidence of the employer and in such

circumstances the Respondent had rightly been compulsorily retired.

20. In support of the above submissions, the learned counsel for the Appellant has relied upon the judgements passed by this Court in ***Deputy General Manager (Appellate Authority) And Others vs. Ajai Kumar Srivastava*** reported in **(2021) 2 SCC 612**, ***Standard Chartered Bank vs. R.C. Srivastava*** reported in **(2021) 19 SCC 281** and ***Indian Overseas Bank and Others vs. Om Prakash Lal Srivastava*** reported in **(2022) 3 SCC 803**.

21. *Per contra*, the learned counsel appearing for the Respondent has opposed the appeal and has argued that the High Court had not committed any illegality in passing the impugned order because the Appellant did not produce any evidence to prove that the unauthorized entries and tampering of the records were done by the Respondent. The learned counsel for the Respondent further argued that the Enquiry Officer also failed to examine two material witnesses, namely Shri Ramakrishnaiah and Shri R.R. Hoover and the Enquiry

Officer did not obtain an expert opinion to verify whether the disputed entries were made in the handwriting of the Respondent.

22. The learned counsel for the Respondent also contends that the statement of admission of guilt by the Respondent, that are relied upon by the Appellant, were involuntary as they were taken under threat and coercion. It is asserted that the Respondent has only studied till 7th standard and it is difficult to comprehend that he, not being an educated person, had made the entries in the bank accounts of his father or that of any other customers. It is contended that as a matter of fact, the whole irregularities in the loan/bank accounts of father of the Respondent and the other customers were done by the then manager of the bank and the Respondent has been falsely implicated.

23. It is further contended that the Appellant-bank has failed to produce any evidence which suggests that the Respondent was directly involved in the alleged misconduct, therefore, the Tribunal has rightly held that the punishment of compulsory

retirement imposed upon the Respondent is too harsh and disproportionate.

24. We have heard the arguments advanced by both the parties and pursued the material on record.

ANALYSIS AND CONCLUSION

25. The allegation against the Respondent is that when he was posted as Sub-staff at the V.G. Doddi branch of the Appellant-bank, he had committed certain irregularities. Pursuant to the same, the Respondent was suspended on 19.08.2004 and thereafter a charge sheet was served upon him on 28.04.2005. The Enquiry Officer submitted his report concluding that the charges levelled against the Respondent had been proved and as such he is guilty of misconduct. The copy of the enquiry report was supplied to the Respondent, and his explanation was sought wherein he had furnished his explanation. The Disciplinary Authority after providing an opportunity of personal hearing and considering his defence had concurred with the enquiry report and *vide* Order dated

15.03.2006 had imposed the penalty of compulsory retirement upon the Respondent. The order passed by the Disciplinary Authority imposing the punishment of compulsory retirement is reproduced hereunder:

> *"I have perused the Chargesheet, the Enquiry Proceedings, relevant documents, findings of the Enquiring Officer and submissions of the CSE.*
>
> *Sri Ganganarasimhaih was working at our V.G. Doddi Branch from 11.11.97 to 01.08.2004 prior to his joining Bommasandra branch on 02.08.04 and he was placed under suspension with effect from 19.08.04.*
>
> *Serious discrepancies in the Advances Portfolio of V.G. Doddi Branch was observed and an Investigation conduced in the matter brought to the more certain irregularities/ fraudulent activities on his part.*
>
> *The charges are morefully enumerated in the above referred Chargesheot which shall be read as part and parcel of this order.*
>
> *Upon an enquiry, Sri Ganganarasimhaiah was found 'guilty' of the charges in the EO's findings which was served upon him and the CSE vide his letter dated 28.01.06 has made his submissions.*
>
> *On perusal of the records, I observe the following:*
>
> *During the course of the enquiry 19 documents were introduced as Management Exhibits and two witnesses were examined. On behalf of the defence/ CSE one document was introduced and no witnesses were produced.*
>
> *Sri H N Ramesh, Manager and the Investigating Officer was examined as MW-1. He has identified documents MEx - 1 to MEx - 16. MEx - 1, the contents of which were confirmed by MW1 reveals as follows:*
>
> *On 03.05.2000, FGC Rs.25,000/- was granted to Sri Kambaiah, father of the Chargesheeted Employee. The debit slip was prepared for FGC 1/2000 and credit slip was prepared for SB 1550 of Sri Ramakrishnaiah. In SB 1550, ledgersheet, there is a debit of Rs.25,000/- to FGC 1/2000 on*

25.03.2000 and a credit of Rs.25,000/- is made on 03.04.2000 by FGC. These ledger entries are in the handwriting of CSE. There are no "corresponding debit and credit slips in the slip bundle of 25.03.2000. In the slip bundle of 31.03.2000, there is a debit slip for Rs.25,000/- debiting SB 1550 of Sri Ramakrishnaiah with the narration towards FGC 1/2000 and a Credit Slip for the equal amount for the credit of FGC 1/2000. The debit slip bears the ledger folio no 78.12 with initials of CSE and the slip was released by Sri Robert R. Hoover, Manager. The balancing of SB ledger was extracted by Sri Channavenkataiah, PTE. The total balancing has been altered to Rs.275196/- and the balancing tallied. The alterations in the SB balancing book are admittedly in the handwriting of CSE. The SB key register is also in the handwriting of the CSE. The final total is altered by using white fluid and initialled by CSE. The CSE has admitted debiting the account of Sri Ramakrishnaiah without Manager's knowledge On 31.03.2000. Sri Robert R. Hoover, Manager, came to know of the debit to SB account No 1550 on 25.03.2000 for Rs.25,000/-and alteration in SB key register and in SB Balancing book. CSE pleaded for mercy and as such the Manager had not written to CO. Sri Robert R. Hoover to set right the above transaction made transfer slips on 31.03.2000 debiting SB 1550 and crediting FGC head. The CSE has written passbook of SB 1550 deliberately omitting the above two entries and CSE has admitted this in writing. **[Emphasis Supplied]**

The CSE admitted in his statement dt 24.07.2004 that he got SB 2450 opened in the name of Smt Suwarnamma, wife of CSE on 19.12.1997. She is not working and not doing any busyness but she goes to tailoring training class. He had taken the TODs in this account and repaid the same. The CSE has posted the relevant slips in his own handwriting. **[Emphasis Supplied]**

The CSE has admitted having availed DPNRT 22/98 for Rs.20,000/-, DPNRT 31/99 for Rs.25,000/-and ALS 15/2003 for Rs.25,000/-in his wife's name. The CSE has admitted for having posted the slips of FGC 1/2000 in SB ledger sheet of SB 519 & SB 1550. That there is no relationship between SB 1550 of Sri Ramakrishnaiah and FGC 1/2000 of his father. The fact of debiting SB 1550 with Rs.25,000/- was not informed to Sri Ramakrishnaiah. The CSE also admitted that Sri Ramakrishnaiah is deprived of his own amount from 25.03.20010 & 03.04.2000. The CSE in his statement dated 28.07.2004 has admitted for having entered the pass book No

1550 deliberately leaving out the details pertaining to FGC 1/2000. The CSE has admitted having made entries in SB ledger sheet No 549518 of SB 2959 which pertains to Mr George Joseph.

It is brought on record through MEx-4 that Sri Robert R. Hoover, at the instance of CSE allowed TOD of Rs.10,000/- in the account of Sri Kambaiah SB 519. To clear TOD he has prepared debit slip of FGC 1/2000. However CSE debited SB account 1550. Sri Robert R. Hoover also informed that CSE altered the figures in SB Balancing and SB control register.

[Emphasis Supplied]

It is brought on record through MEx -7, 8, 13 and MEx -15 that debit entry of Rs.25,000/- made on 25.03.2000 in SB 1550 ledger sheet is not appearing in SB subsidiary sheet of the day. SB pass book No 1550 does not show the debit entry of Rs.25,000/-of 25.03.2000 and credit entry of Rs.25000/- of 03.04.2000 which were made In the ledger sheet of SB 1550. SB daily control register of 31.03.2000 debit entry pertaining to ledger no 2 is altered from Rs.68/- to 25068/- and the number of slips from 1 to 2. But the total number of slip is retained as 8 even though it comes to 9. The closing balance for the ledger no 2 and the grand total is also altered. The CSE in his statement dated 24.07.2004 has admitted for having made the alterations.

It is also brought on record though the deposition of MW 1 basing on MEx 16 that TODs were allowed in the SB account No 2450 of Smt Suvamamma, W/o Chargesheeted Employee on 16.04.99, 05.10.99, 11.10.99, 23.10.99, 08.11.99, 01.03.2000 and 03.04.2000.

MW 2 Sri Channavenkataiah PTE had extracted the balancing in SB Ledger No as at 31.03.2000, he has confirmed that the balance extracted by him in SB 1550 was Rs.300196/- where as the altered figure was Rs.275196/-the balancing was not tailed and the alterations in the balance was not made by him and he had only extracted the grand total in a rough 3heet since it was not tallied.

There were no operations in the SB A/c No 519 during 1998 and 1999. A TOD was allowed on 01.03.2000 to an inoperative account, which is not a routine action of the Branch Manager. Sri Kambaiah is the father of CSE and hence, tho TOD allowed can be Justified for no other purpose than the coersion of the CSE. TOD was outstanding for more than 15 days and was

adjusted by posting an entry of Rs.25,000/- on 24.03.2000, as narration "FGC 1/2000". The entry Wall posted by CSE, though the entry was illegible by the Manager. The FGC 1/2000 was granted on 03.04.2000, and the CSE who posted the slips on 24.03.2000, cannot claim ignorance and the CSE had sufficient know 1 edge and knowingly he had posted the slips with the connivance of the Manager.

MW 1 stated that the CSE has approached the Manageron 01.03.2000 and pressurized him for a TOD of Rs. 10,000/- in his father's account, which acoount, which he had permitted to be cleared within 7 days. On 24.03.2000, the CSE has again approached the Manager for a further finance of Rs.25,000/- and coerced him to prepare the debit & credit slip for Rs.25,000/- each to FGC and SB account stating that his father would come to the branch on that day for executing the loan papers. Sri Kambaiah did not turn up and the amount was withdrawn and subsequently on 25.03.2000 debited Rs.25,000/- to SB account 1550 of Sri Ramakrishnaiah, without the knowledge of the Manager. There is no corresponding debit or credit slip in the slip bundles. On 31.03.2000, there is a debit slip for Rs.25,000/- to SB 1550 of Sri Ramakrishnaiah which bears the ledger folio no 7812, with initials of the CSE.

It is on record that the TOD dt 01.03.2000, was allowed by the Manager at the coercion of the CSE, and the debit entries dated 25.03.2000 and 31.03.2000, were made by the Chargesheeted Employee fraudulently and the defence argument that the entries have been authenticated is not true. On the other and the previous Manager advantage of Manager and benef it hand all evidences show that both the CSE colluded and the CSE had taken undue made fraudulent entries to gain pecuniary.

The Submission of the defence that TOD dt 01.03.2000 and granting FGC 1/2000 on 03.04.2000 are made under normal course of business, is not true. The evidences, show involvement of the CSE and Sri Robert R. Hoover, had obliged the Chargesheeted Employee on account of coercion. Further as per MEx- 1, and MEx -13 & 14, the SB control dt 24.03.2000, 25.03.2000 & 31.03.2000 are in the handwritings of CSE. As per MEx - 8, the CSE had debited Rs.25,000/-to SB 1550 on 25.03.2000 in the ledger account only and not made entry in the Subsidiary (MEx- 14) and SB control register (MEx-13). If the entry in MEx -8 was authenticated as claimed by Defence Representative the 3ame should have reflected in MEx- 13 and 14.

The debit entry dt 31.03.2000, of Rs.25,000/- was made by the CSE in the SB Ledger 2 Subsidiary, i.e., MEx- 14, In his own handwriting and no entry was made in the SB 1550 Ledger sheet.

After taking the balancing by MW 2, the balance in the SB control register, MEx 13 was altered in the handwriting of the CSE, which is visible to the naked eye and also the balancing extract. DEx-1 was also altered in the handwriting of the CSE and by putting the initial by the CSE. **[Emphasis Supplied]**

As per deposition of MW 1 there more two initials in MEx -13 and DEx -1 and one could be of the Supervisor. But it is true that, one initial is of the CSE and another initial is of the Manager who has colluded with the CSE and had admitted during Investigation that all-these entries were madeat the request of the CSE to accommodate him with funds.

The charge of unauthorised debits in SB 1550 & the alteration in SB control register and SB Balancing book- is not disproved / rebutted by the defence. Though entries of closing balance on 31.03.2000 and balancing on 31.03.2000 appears to be authenticated, the earlier entries of 24.03.2000, 25.03.2000 & 31.03.2000 and the FGC 1/2000 sanction on 03.04.2000 are all indicating that the alterations on 31.03.2.000 were made to coverup all the unauthorisded entries made by the CSE, for his, personal gains.

It is brought 25.03.2000 and Ledger sheet 1550. During branch on 28 03.04.2000, are on record that the debit entry of Rs.25,000/- on credit entry ofRs.25,000/- on 03.04.2000, made in SB of SB 1550, are not shown in the pass book of SB. It is brought on record that the debit entry of Rs. 25,000/- on 25.03.2000 and credit entry of Rs. 25,000/- on 03.04.2000, made in SB ledger sheet of SB 1550, are not shown in the pass book of SB 1550. During Investigation, Sri Ramakrishnaiah, was called at the branch on 28.07.2004 & who reported that the entries of 25.03.2000 & not belonging to him. MWl in his Investigation report has stated that the CSE had written the pass book in his own handwriting. The CSE had admitted during the Investigation for having written the pass book of SB 1550 of Sri Ramakrishnaiah by deliberately omitting the above two entries. Sri Ramakrishnaiah has stated vide MEx -9 that he had not demanded any FGC Loan either on 25.03.2000 or on 03.04.2000 and he never availed any loans from the Bank.

[Emphasis Supplied]

It is brought on record that the debit and credit entry of Rs.26,000/-on 13.10.99, were not made in the pass book i.e., MEx -.15. But as can be seen that, the branch had debited Rs.100/-on 31.03.2000 towards processing charges in respect of GL 168/99 sanctioned on 13.10.99. However in the case of debit entry dt 25.03.2000;- the same war. not entered in the SB Subsidiary on 25.03.2000, and in the case of credit entry dt 03.04.2000, the loan FGC 1/00 was not sanctioned in the name of Sri Ramakrishnaiah. As the CSE was knowing tho substantial credit of Rs.298937/- to the SB account 1550, on 24.03.2000 and hence he had debited Rs.25,000/- to the account without the knowledge of the Manager. The defence has tried to bring on record that the entries dt 13.10.99 was not reflected in the pass book & accordingly, the entries dt 25.03.2000 L 03.04.2000 were also not reflected in the pass book and the defence tried to bring that the action of the CSE was not deliberate. However, as analysed above, the omitting of entries dt 25.03.2000 & 03.04.2000 are deliberate and the account holder i.e., Sri Ramakrishnaiah, had never made any objection/ complaint about the entries dt 13.10.99, 31.03.00 in respect of GL 168/99 vide MEx- 9, and Sri Ramakrishnaiah had nothing to do with the transactions dt 25.03.2000 and 03.04.2000.

[Emphasis Supplied]

The CSE in his statement dt 24.07.04 had admitted that, he has got opened SB account 2450 in the name of his wife Smt Suwarnamma, who is neither working any where nor doing any business, but she was attending tailoring training class. On "8" occasions TODs were taken by him in the said account & repaid. The CSE had also admitted for having availed loan DPN(RT) 22/98 for Rs. 20,000/- DPN (RT) 31/99 for for Rs.25,000/- and ALS 15/2003 for Rs. 72570007- in the name of his wife. It is charged that, the concurrence of the controlling office was not taken for the above TODs/Loans. **[Emphasis Supplied]**

The defence has argued that the CSE is not responsible for non obtention of concurrence from Circle Office. The guidelines issued by the Bank with regard to obtention of concurrence from controlling office for the loans/ advances granted to close relatives of the employees are applicable to all the employees of the bank. Though it is the responsibility of the Branch Manager to obtain concurrence the from the controlling office, before granting loans to close relatives of the employees, the concerned employee has also to take interest /initiative in this regard and

to see that the Manager has obtained the concurrence or not, for the best interest of himself.

In this case, the defence has made an allegation that the management has made right allegation on a wrong employee. The defence ha3 not produced any evidence to show that, the CSE had also took initiative to remind the manager to obtain concurrence as a responsible employee of the Bank. When the CSE had took initiative in availing various facilities in the name of his wife, he should have shown the same interest to get the concurrence from the controlling office.

The evidence on record show that the CSE has unauthorised1y made debits in the SB account 1550, for raising funds for persona) gain. He had has coerced the Manager for sanctioning of loana to his family members for personal gains. He has tampered the Bank records, by making alterations in the SB control register, SB subsidiary sheets and SB Balancing book to keep the book tallied by fraudulent means on account of unauthorised debits.

The CSE had availed loans/ TODs in tho-name of his wife, for which he has not initiated any steps for obtaining concurrence from controlling off ice.

I observe that all the contention of the CSE are covered by the Enquiring Officer in his findings dated 09.01.2006 and the CSE hats not brought any valid grounds for review of the findings of the EO - which merit consideration. Hence, while agreeing with the findings of the Enquiring Officer and for the reasons stated above. I hold the CSE guilty of the charges as enumerated in this order and I order accordingly.

A copy of this order shall be communicated to Sri Gangrasimhaiah
Place: CO, Bangalore
Date: 15.03.2006

Sd/-
DEPUTY GENERAL MANAGER
DISCIPLINARY AUTHORITY

"CANARA BANK
Ref: BLC:DAC:4421:E-37:2006

DISCIPLINARY AUTHORITY

CIRCLE OFFICE BANGALORE

PROCEEDINGS OF THE DEPUTY GENERAL MANAGER

Sub: In the natter of alleged misconduct on the part of Sri Gangrasimhaiah (61633), Sub-Staff(U/s), Canara Bank, Bomnasandra Branch.

Ref: 1. Chargesheet No. BLC:DAC:3038:E-37:CH-25/2005 dated 28.04.2005.
2. Suspension Proceedings No. BLC:SSW:10813:EP:E.37:2004 dated 18.08.2004.

WHEREAS, departmental proceedings were initiated against the subject employee by serving on him the above referred Chargesheat;

WHEREAS, an Enquiring Officer was appointed by the Disciplinary Authority to conduct an enquiry into the- above referred Chargesheet;

WHEREAS, the Enquiring Officer after conducting an enquiry submitted his findings holding the employee "Guilty" of the charges levelled against him as enumerated in his findings;

WHEREAS, a copy of the findings was forwarded to the Chargesheeted Employee vide letter No. BLCs -DACs 31:2006 dated 09.01.2006 and the Chargesheeted Employee has made his submissions on the findings vide his letter dated 28.01.2006;

WHEREAS, after analyzing the findings of the Enquiring Officer, the submissions made by the chargesheeted employee on the findings of Enquiring Officer and other connected records, the Disciplinary Authority concurred with the findings of the Enquiring Officer;

WHEREAS, after taking into consideration the gravity of misconduct, circumstances of the case, the punishment of "Compulsory Retirement" Was proposed to be imposed on the Chargesheeted Employee and a personal hearing in this -regard was given by the Disciplinary Authority on 15.03 .2006;

REF: NO. BLC:DAC:4421:E-37:2005 DATED 15.05.2006
NOW THEREFORE, taking into consideration the submissions made by the Chargesheeted Employee during the personal hearing, the gravity of the misconduct, connected records, the circumstances of the case, agreeing with the findings of the Enquiring Officer and holding the Chargesheeted Employee

"guilty' of the charges as enumerated in the orders of the Disciplinary Authority, the punishment of

"COMPULSORY RETIREMENT"

as envisaged under Chapter XI, Regulation 4, Clause (b) of Canara Bank Service Code is hereby imposed on the subject employee.

The period of suspension shall not be reckoned for any purpose whatsoever and also the increment for the period of suspension shall not be released.

A copy of the order of the Disciplinary Authority is enclosed.

CIRCLE OFFICE BANGALORE
DATE :15.03.2006"

26. Thereafter, the Respondent had preferred an appeal before the Appellate Authority, i.e., General Manager of the Canara Bank and the Appellate Authority after considering the grounds taken in the said appeal had dismissed the said appeal *vide* Order dated 22.11.2006. The Order passed by the Appellate authority is as under:-

Perused the memorandum of appeal, proceedings of the enquiry, findings of the Enquiry Officer and other connected records.

Sri.Ganganarasimhaiah was given a personal hearing on 02/11/2006 at Head Office, Bangalore and his submissions were heard and recorded.

Shri. Ganganarasimhaiah was working at our V.G.Doddi branch from 11.11.1997 to 01.08.2004 prior to his joining Bommasandra branch on 02.08.2004 and he was placed under suspension on 19.08.2004.

Serious discrepancies in the Advances Portfolio of our V.G.Doddi branch was observed and an investigation conducted into the matter has revealed that Shri.Ganganarasimhaiah has unauthorisedly made debits in the SB Account 1550 for raising funds for personal gain. He has coerced the Manager for

sanctioning loans to his family members for personal gains. He has tampered the Bank records by making alterations in the balancing book, key register and SB subsidiary sheets to keep the books tallied by fraudulent means on account of unauthorised debits.

He has by his above actions failed to discharge his duties with utmost integrity, honesty, devotion and diligence. The charges are fully enumerated in the above referred chargesheet.

Upon enquiry, the Enquiry Officer submitted his findings holding the appellant guilty of the charges. Agreeing with the findings of the Enquiry Officer, the Disciplinary Authority has imposed the subject punishment.

Aggrieved by the imposition of -the above punishment, Sri. Ganganarasimhaiah has preferred the instant appeal which has been duly taken into consideration.

On a perusal of the records, I observe the following:

On 3/4/2000, an FGC loan ofRs.25000/- was granted to Sri.Kambaiah, who is reported to be father of the appellant. The debit slip was prepared for FGC 1/2000 and corresponding credit slip was prepared for SB 1550 of Sri.Ramakrishnaiah. It has been revealed that in SB 1550, ledger sheet, there was a debit of Rs.25000/- "To FGC 172000" on 25/3/2000, and a credit of Rs.25000/- is made on 3/4/2000 as "By FGC". All the ledger entries are made in the handwritings of appellant. There were no corresponding debit or credit slips in the slip bundle of 25/3/2000. In the slip bundle of 31/3/2000, there was a debit slip for Rs.25000/- debiting SB 1550, of Sri. Ramakrishnaiah, with the narration "towards FGC 1/2000" and a credit slip for the equal amount for the credit of FGC 1/2000. The debit slip bears the ledger folio No. 7812, with the initials of the appellant and the slip was released by Shri. R. R. Hoover. The balancing of SB ledger was extracted by Sri.Channavenkataiah, PTE of the branch. The total balancing has been altered to Rs.275196/- and balancing tallied. The relevant alterations in the SB balancing book are admittedly in the handwriting of the appellant, SB key register was also written in the handwriting of the appellant and the final total has been altered by applying white fluid and initialled by the appellar The appellant has admitted for having wrongly debited the account of Sri.Ramakrishnaiah without the knowledge of the Manager. The debit of SB account 1550 on 25/3/2000 for Rs.25000/- and alteration i.e. SB key register and SB balancing book came to the knowledge of Sri.Robert R Hoover on 31/3/2000. Sri.

Robert R Hoover has stated that the matter was not reported to Circle Office as the appellant had pleaded for mercy ... To- set right the above transactions, Sri. Robert R Hoover had made the transfer slips on 31/3/2000 by debiting the SB 1550 and crediting FGC head.l The appellant had Written the pass-book of SBT550 by deliberately omitting the above two entries, which he had admitted in writing.

The Appellant admitted in his statement dt. 24.07.2004 that he got SB 2450 opened in the name of Smt. Suwarnamma, wife of Appellant-on 19.12.1997. She is not working and not doing any business but she goes to tailoring training class. He had taken the TODs in this account and repaid the same. The Appellant has posted the relevant slips in his own handwriting. The Appellant has admitted-having availed DPNRT 22/98 for Rs.20,000/-, DPNRT 31/99 for Rs.25.000/-and ALS 15/2003 for Rs.25.000/- in his wife's name. The Appellant has admitted for having posted the slips of FGC 1/2000 in SB ledger sheet of SB 519 (of Sri Kambaiah, father of the appellant) & SB 1550 and that there is no relationship between SB 1550 of Sri Ramakrishnaiah and FGC 1/2000 of his father and the fact of debiting SB 1550 with Rs.25,000/- was not informed to Sri Ramakrishnaiah. The Appellant also admitted that Sri. Ramakrishnaiah is deprived of his own amount from 25.03.2000 to 03.04.2000. The Appellant in his statement dated 28.07.2004 has admitted for having entered the pass book No 1550 deliberately leaving out the details pertaining to FGC 1/2000. The Appellant has admitted for having made entries in SB ledger sheet No 549518 of SB 2959 which pertains to Mr George Joseph.

It is brought on record through MEx -4 that Sri Robert RHoover, at the instance of Appellant allowed TOD of Rs.10,000/- in the account of Sri Kambaiah SB 519. To clear TOD he has prepared debit slip of FGC 1/2000. However Appellant debited SB account 1550. Sri Robert R. Hoover also informed that Appellant altered the figures in SB Balancing and SB control register.

TOD was outstanding for more than 15 days and was adjusted by posting an entry of Rs.25,000/- on 24.03.2000, as narration "FGC 1/2000". The entry was posted by Appellant, though the entry was initialled by the Manager.

It has come on record that the Appellant has approached the Manager on 01.03.2000 and pressurised him for a TOD of Rs.10,000/-in his father's account, which he had permitted to be cleared within 7 days. On 24.03.2000/^ the Appellant has

again approached the Manager for further finance of Rs.25,000/- and coerced him to prepare the debit & credit slip for Rs.25,000/- each to FGC and SB account stating that, his father would come to the branch on that day for executing the loan papers. Sri. Kambaiah did not turn up and the amount was withdrawn and subsequently on 25.03.2000 debited Rs.25,000/- to SB account 1550 of Sri. Ramakrishnaiah, without the knowledge of the Manager. There is no corresponding debit or credit slip in the slip bundles. On 31.03.2000, there is a debit slip for Rs.25,000/- to SB 1550 of Sri. Ramakrishnaiah which bears the ledger folio no 7812, with initials of the Appellant.

All evidences show that both the Appellant and Sri R R Hoover the then Manager colluded and made fraudulent entries to gain pecuniary benefit. In view of the above, the contentions of the appellant has no merit.

The charges levelled against the Appellant are proved by oral/ documentary evidence. Merely because Shri.Ramakrishnaiah and Shri.R.R. Hoover were not examined in the enquiry, the same will not invalidate the evidence brought on record through MEx-4 and MEx-9 (the statements given by the above persons).

The Appellant himself has recorded the statements (i.e., MEx-2 and MEx-3) in his own handwriting and all his statements are addressed to Shri. H. N. Ramesh, Manager (Investigating Officer). The defence has also failed to introduce any evidence either Oral and documentary in the enquiry to prove their stand that the investigation in the matter was not conducted in a fair manner and the report is a fabricated one.

The guidelines issued by the Bank with regard to obtention of concurrence from controlling office for the loans/ advances granted to close relatives of the employees are applicable to all the employees of the bank. Though it is the responsibility of the Branch Manager to obtain the concurrence from the controlling office, before granting loans to close relatives of the employees, the concerned employee has also to take interest/ initiative in this regard and to see that the Manager has obtained the concurrence or not, for the best interest of himself.

The punishment imposed on Appellant commensurates with the gravity of the misconduct. The Appellant has not raised any valid grounds / contentions in his appeal which will merit reconsideration of the orders of the Disciplinary Authority. The appeal lacks merit. Hence, the appeal may be rejected.

In view of the foregoing, I do not find any reason to interfere either with the findings of the Enquiry Officer or with the orders of the Disciplinary Authority. Therefore, I confirm the punishment and the appeal shall stand rejected accordingly.

A copy of this order shall communicated to Sri Gangrasimhaiah

Sd/-
GENERAL MANAGER
APPELLATE AUTHORITY
22.11.2006

27. As already noted, the Tribunal *vide* Order dated 17.05.2013, while deciding the preliminary enquiry, had concluded that the enquiry against the Respondent was fair and the said order had attained finality. However, while passing the Final Award dated 25.09.2019, the Tribunal has re-appreciated the evidence adduced during the departmental proceedings against the Respondent. The relevant portion of final award is reproduced hereunder.

"...On a perusal of the evidence placed before the Enquiry Officer, it is obvious that there was no evidence pointing towards the CSE for causing entries in any of the Management documents exhibited. None of his colleagues were brought before the Enquiry Officer to depose that he is the Author of the entries in the Management documents. The statements of the witnesses recorded by the Investigating Officer do not serve by themselves as evidence. These statements since not subjected for cross examination, they are not worth considering as evidentiary material. What is established by the evidence of MW-2 is, Part time employee has also made entries in the record and the total pertaining to SB A/c 1550 did not tally on 31.03.2000 and subsequently the entry is corrected by someone. He has never stated having seen the 1st Party

handling the records of the Bank. The 1st Party workman is a Sub Staff with the education qualification of 7th Standard. No attempt is made to procure expert opinion that, the disputed entries are authored by the 1st Party workman. He has disputed the so called statement recorded by the Investigating Officer. Being a Sub Staff, it is a wild imagination to say that he was in a dominant position to harass his Superior Officer / the Bank Manager to sanction Loans by violating the procedure. Now it is submitted on his behalf that, all the Loan sanctioned in favour of his father and wife are cleared. His father is living separately from him and his wife earns her own income. I am unable to subscribe to this submission, if really that was the factuality; he ought to have examined his father and wife as his witnesses during the enquiry. Subsequent to the adjudication of the Preliminary issue he has adduced evidence contending that his Parent's and wife are dependent on him. There is contraction between his own evidence and argument.

9. Let us peruse the charge segment wise, though, his father Sh. Kambaiah was sanctioned Rs. 25,000/-(Twenty Five Thousand Rupees Only) Loan on 03.04.2000, the 1st Party requested for further Loan of Rs. 25,000/- (Twenty Five Thousand Rupees). Without executing Loan papers, the 1st Party posted the credit slips in the SB A/c 519 of Sh. Kambaiah and withdrew Rs. 15,000/- (Fifteen Thousand Rupees Only) from the said account on 24.03.2000, it is not shown that the entry in the SB A/c is made by the 1st Party. In the usual course the entries in the SB A/c should have been authored by the concerned Clerk. If at all the 1st Party had made such entry the witness to speak in the record was either the Manager or the concerned Clerk. The cheque leaf / withdrawal slip pertaining to Rs. 15,000/- (Fifteen Thousand Rupees Only) is not produced.

On 25.03.2000 he unauthorisedly debited SB A/c 1550 of Sh. Rama Krishnaiah, the credit slip and debit slip of 25.03.2000 and daily control register are not produced.

Again, it is not established that the relevant entry in SB A/c statement/Mex-8 is that of 1st Party workman.

he has not made corresponding entry in the subsidiary sheet - but that is not the duty of a Sub Staff.

the above transaction was brought to the notice of the Manager by the 1st Party on 31.03.2000 on which the Manager passed the slips on 31:03.2000 by debiting the SB. A/c of Sh. Rama Krishna and debiting the FGC Subsidiary- but same is not substantiated by the evidence.

That the debit slip was posted by him to Loan account Mex-12 of Sh. Kambaiah for his personal gain. It is not proved that the 1st Party is the Author of the entries in Ex Mex-12, though probably he might have enjoyed the Loan amount sanctioned. He made alterations in the balancing book and deliberately made alterations to Rs. 2,75,196/- (Two Lakhs Seventy Five Thousand One Hundred and Ninety Six Rupees Only) to tally the balance. He made alterations in SB control registers, closing balance in the subsidiary ledger to tally the book - but SB control register, balancing book and subsidiary ledger were not produced during the enquiry.

With a motive to conceal unauthorised debit in SB A/c of Sh. Rama Krishnaiah, the 1st Party left out debit and credit entry while updating the Passbook- not only that the 1st Party has no authority, to make entry in the Passbook but also, it is not proved that he was the author of the entries in the passbook of Rama Krishna.

The TOD's in the SB A/c of Smt. Suwarnamma was allowed and Loan granted to Sh. Kambaiah without concurrence of controlling office the responsibility of the omission is directly on the Manager.

The outcome of the entire evidence was, irregularly Loan was sanctioned to the father and Wife of the 1st Party workman. Both being the members of the family of the 1st Party it is highly possible that at the insistence of the 1st Party the Manager committed the irregularities as alleged in the Charge Sheet. However, there was no complaint against the 1st Party nor did the Bank suffered any financial loss from the alleged incident. Mere suspension with or without proof cannot take over the seat of legal evidence. In the absence of any evidentiary material

establishing the complicity of the 1 Party workman in the manipulation of the Bank records, the finding of the Enquiry Officer that,
(i) He unauthorizedly made debit in SB A/c 1550,
(ii) He coerced the manager for sanction of Loans,
(iii) He tampered the Bank records,
without the foundation of evidentiary material, is perverse. Wherefore, the Punishment order passed on the basis of such imperfect and fragile finding is illegal.
10. Having said so, now the focus is on the nature of relief to be moulded. The 1st Party though was not directly involved in the alleged misconduct, it is obvious that he was the beneficiary of the misconduct / irregular Loan sanction. The punishment of compulsory retirement on the 1st Party workman who was in the midway of his carrier and had the responsibility of raising a family on such petty reason is too harsh and disproportionate. The workman probably has few more years of service if reinstated into service, he is enjoying retirement benefits. Having observed that, he was an interested Party in the alleged misconduct in my considered opinion reinstatement with continuity of service without back wages is the appropriate Award that would meet the situation.

AWARD

The reference is accepted. The order of the 2nd Party Canara Bank in imposing punishment of Compulsory Retirement from service dated 15.3.2006 against the 1st Party workman Sh. Ganaganarasimaiah is set aside.
The 2nd Party is directed to reinstate the workman into his original post with
continuity of service without back wages."

28. From the scrutiny of the Final Award, it appears that the Tribunal was mainly influenced by the fact that the department had failed to produce evidence to the fact that the Respondent was the author of the entries made in the bank/loan accounts, for which chargesheet had been served to him. The Tribunal had also emphasized that no attempt

was made by the bank to procure expert opinion to ascertain that the disputed entries were authored by the Respondent. However, the Tribunal has observed that it is highly possible that the irregularities as alleged in the chargesheet were committed by the Manager at the instance of the Respondent. The Tribunal then went on to record that in the absence of any evidentiary material in respect of complicity of the Respondent with regards to manipulation of bank record, the findings of the Enquiry Officer regarding making entries of unauthorized debit in disputed SB account, coercion on the part of the Respondent upon the manager for sanctioning of loan and tampering of books of record cannot be sustained. The Tribunal had also observed that though the Respondent was the beneficiary of the misconduct/irregular loan sanction but since there is no evidence that he was directly involved in the alleged misconduct, the punishment of compulsory retirement on the Respondent was too harsh and disproportionate.

29. Surprisingly, the High Court had confirmed the order of the Tribunal by adding its own reason that the charges levelled

against the Respondent are absurd and since the father of the Respondent was eligible for sanction of loan and the same has been sanctioned by the competent authority, it cannot be concluded that there is any illegality in sanctioning the loan in favour of the father of the Respondent. Strangely, the High Court had not taken into consideration the charge regarding the illegal disbursement of loans advanced in favour of the wife of the Respondent. The High Court was also impressed with the fact that since no financial loss has been occurred to the bank, no case for interference is made out.

30. We are at pain to say that the Tribunal as well as the High Court had failed to take into consideration the settled principal of law in respect of judicial review in disciplinary matters. It is well settled that when a Disciplinary Enquiry against a delinquent for alleged misconduct is initiated and in the said Disciplinary Enquiry, he/she is found guilty and subsequently punished, the court before which a challenge is made by the delinquent, is required to examine and determine the following aspects: -

(i) Whether the enquiry was held by the competent authority?
(ii) Rule of natural justice has been complied with or not;
(iii) The conclusions arrived by the Disciplinary Authority are based on no evidence or the findings are perverse.

It is also equally settled that strict rules of evidence are not applicable in the departmental proceedings and the charge against the delinquent can be proved on preponderance of probabilities.

31. This Court in the case of ***B.C. Chaturvedi vs. Union of India and Others*** reported in **(1995) 6 SCC 749**, a three-judges Bench has held has under: -

> ***12.*** *Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of*

natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.
[Emphasis supplied]

13. *The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to reappreciate the evidence or the nature of punishment. In a disciplinary inquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In Union of India v. H.C. Goel this Court held at p. 728 that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued.*

14. *In Union of India v. S.L. Abbas when the order of transfer was interfered with by the Tribunal, this Court held that the Tribunal was not an appellate authority which could substitute its own judgment to that bona fide order of transfer. The Tribunal could not, in such circumstances, interfere with orders of transfer of a government servant. In Administrator of Dadra & Nagar Haveli v. H.P. Vora it was held that the Administrative Tribunal was not an appellate authority and it could not substitute the role of authorities to clear the efficiency bar of a public servant. Recently, in State Bank of India v. Samarendra Kishore Endow a Bench of this Court of which two of us (B.P. Jeevan Reddy and B.L. Hansaria, JJ.) were members, considered the order of the Tribunal, which quashed the charges as based on no evidence, went in detail into the question as to whether the Tribunal had power to appreciate the evidence while exercising power of judicial review and held that a tribunal could not appreciate the evidence and substitute its own conclusion to that of the disciplinary authority. It would, therefore, be clear that the Tribunal cannot embark upon appreciation of evidence to substitute its own findings of fact to that of a disciplinary/appellate authority.*

This judgment has been consistently followed in various cases.

32. This Court in the case of ***Standard Chartered Bank vs. R.C. Srivastava*** reported in **(2021) 19 SCC 281** has held that in the disciplinary proceedings, the tribunal cannot convert itself into court of appeal and also cannot revisit the evidence and in excess of its jurisdiction conferred by Section 11-A of the Industrial Disputes Act, 1947. Relevant Paragraphs of the Judgment are reproduced hereunder:

> ***9.*** *The learned counsel for the appellant submits that after the domestic enquiry was held to be fair and proper, the Tribunal has a limited scope to interfere with the findings recorded in the domestic enquiry and unless the finding is perverse and not supported by a piece of evidence, it was not open for the tribunal to interfere within the scope of Section 11-A of the Industrial Disputes Act, 1947 (hereinafter being referred to as "the 1947 Act").*
>
> ***10.*** *However, in the instant case, the Tribunal converted itself into a court of appeal and has not only revisited the evidence in toto but has proceeded on the assumption that the management has to prove the charges beyond reasonable doubt and despite the material evidence of three officers, who were abused by respondent workman in drunkenness condition, have been completely disowned on the premise that one Watchman (DW 1) and an ex-employee of the Bank (DW 2) have stated in their deposition that such incident has not occurred and to justify it, a document was placed on record i.e. the attendance register of the time in question and to confront it further with the fact that the delinquent had not appeared in the domestic enquiry and still a finding has been recorded by the Tribunal that such incidence has not occurred is something which has appeared from blue and without there being any iota of the factual foundation, the interference made by the Tribunal in the finding of guilt recorded in the course of enquiry is not only perverse but is unsustainable in law.*

> ***11.*** *The scope of judicial review in the matter of domestic enquiry is to examine whether the procedure in holding domestic enquiry has been violated or the principles of natural justice has been complied with, or any perversity in the finding of guilt recorded during the course of domestic enquiry has been committed. The basic error which was committed by the Tribunal in its impugned award has not been appreciated even by the High Court and dismissed the writ petition without appreciating the finding recorded in the domestic enquiry keeping into consideration the principles laid down by this Court of preponderance of probabilities while holding guilt in the domestic enquiry and exceeded in its jurisdiction defined under Section 11-A of the 1947 Act. To the contrary, the officers with whom the alleged occurrence of gross misconduct has been committed have been put to notice that their allegation on the face of it is unfounded, baseless and has not at all occurred which is something beyond imagination. More so, when it was established during the course of enquiry after affording an opportunity of hearing to the delinquent respondent, enquiry officer held the charges proved and confirmed by the disciplinary authority followed with the penalty of dismissal upon the respondent.*

33. This Court in the case of ***State of Rajasthan and Others vs. Heem Singh*** reported in **(2021) 12 SCC 569** on the issue of judicial review or disciplinary matters has held as under: -

> ***37.*** *In exercising judicial review in disciplinary matters, there are two ends of the spectrum. The first embodies a rule of restraint. The second defines when interference is permissible. The rule of restraint constricts the ambit of judicial review. This is for a valid reason. The determination of whether a misconduct has been committed lies primarily within the domain of the disciplinary authority. The Judge does not assume the mantle of the disciplinary authority. Nor does the Judge wear the hat of an employer. Deference to a finding of fact by the disciplinary authority is a recognition of the idea that it is the employer who is responsible for the efficient conduct of their service. Disciplinary enquiries have to abide by the rules of natural justice. But they are not governed by strict rules of evidence which apply to judicial proceedings. The standard of proof is hence not the strict standard which governs a criminal trial, of proof beyond reasonable doubt, but a civil standard governed by a preponderance of probabilities. Within the rule of*

> *preponderance, there are varying approaches based on context and subject. The first end of the spectrum is founded on deference and autonomy — deference to the position of the disciplinary authority as a fact-finding authority and autonomy of the employer in maintaining discipline and efficiency of the service. At the other end of the spectrum is the principle that the court has the jurisdiction to interfere when the findings in the enquiry are based on no evidence or when they suffer from perversity. A failure to consider vital evidence is an incident of what the law regards as a perverse determination of fact. Proportionality is an entrenched feature of our jurisprudence. Service jurisprudence has recognised it for long years in allowing for the authority of the court to interfere when the finding or the penalty are disproportionate to the weight of the evidence or misconduct. Judicial craft lies in maintaining a steady sail between the banks of these two shores which have been termed as the two ends of the spectrum. Judges do not rest with a mere recitation of the hands-off mantra when they exercise judicial review. To determine whether the finding in a disciplinary enquiry is based on some evidence an initial or threshold level of scrutiny is undertaken. That is to satisfy the conscience of the court that there is some evidence to support the charge of misconduct and to guard against perversity. But this does not allow the court to reappreciate evidentiary findings in a disciplinary enquiry or to substitute a view which appears to the Judge to be more appropriate. To do so would offend the first principle which has been outlined above. The ultimate guide is the exercise of robust common sense without which the Judges' craft is in vain.* **[Emphasis Supplied]**

34. In the light of the law laid down in the above referred cases, if we analyze the Final Award passed by the Tribunal, it is apparent that the Tribunal had acted in a manner as if it was hearing an appeal against the order passed by the Disciplinary Authority. The Tribunal had failed to take into account that it is a settled law that in the departmental

proceedings strict rules of evidence, as applicable in the judicial proceedings, cannot be applied and a charge of misconduct is to be proved only on preponderance of probabilities. The Tribunal, despite recording a finding that it is highly possible that irregular entries in the bank/loan accounts were made at the insistence of the Respondent and that he was the beneficiary of those irregularities, had interfered with the punishment order passed by the Disciplinary Authority merely on the ground that the department had failed to prove that the Respondent was the author of the disputed entries. The Tribunal had even gone to the extent of observing that the opinion of the handwriting expert had not been obtained to prove the signatures of the Respondent. The Tribunal had dealt the case with a pre-conceived notion that in the disciplinary proceeding strict rules of evidence, as applicable in a criminal case, are applicable whereas the position of law is altogether contrary to it.

35. It is also to be noticed that the Enquiry Officer as well as the Disciplinary Authority had recorded a finding that from the

naked eyes, it can be ascertained that the author of the disputed entries in the bank/loan accounts is the Respondent and other documents were also altered in the handwriting of him by putting his initial. We cannot ignore the fact that the Enquiry Officer as well as the Disciplinary Authority were bank officers and they might be in practice of comparing the signature of customers with naked eyes in routine and therefore, could have gained sufficient experience in identifying the signatures of customers and their fellow employees from the perspective of "*banker's eye*".

36. This Court in the case of ***Indian Overseas Bank and Others vs. Om Prakash Lal Srivastava*** reported in **(2022) 3 SCC 803** dealing with the similar situation has held as under:-

> ***"17.*** *We would like to emphasise at the threshold that there are certain inherent legal limitations to the scrutiny of an award of a Tribunal by the High Court while exercising jurisdiction under Article 226 of the Constitution of India. We may refer to the judgment of this Court in GE Power India Ltd. v. A. Aziz. If there is no jurisdictional error or violation of natural justice or error of law apparent on the face of the record, there is no occasion for the High Court to get into the merits of the controversy as an appellate court. That too, on the aspect of an opinion formed in respect of two sets of signatures where the inquiry was held by an officer of the Bank who came to an opinion on a bare comparison of the signatures that there is a difference in the same. It has been looked at from the perspective of a "banker's eye"..."*

37. This Court in the case of ***State Bank of Bikaner and Jaipur vs. Nemi Chand Nalwaya*** reported in **(2011) 4 SCC 584** while dealing with the case wherein the Disciplinary Authority has imposed punishment of dismissal on a bank employee who was guilty of committing irregularities in the bank records, has held as under:-

> ***7.*** *It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations. (Vide B.C. Chaturvedi v. Union of India, Union of India v. G. Ganayutham, Bank of India v. Degala Suryanarayana and High Court of Judicature at Bombay v. Shashikant S. Patil.*
>
> ***8.*** *When a court is considering whether the punishment of "termination from service" imposed upon a bank employee is shockingly excessive or disproportionate to the gravity of the proved misconduct, the loss of confidence in the employee will be an important and relevant factor. When an unknown person comes to the bank and claims to be the account-holder of a long inoperative account, and a bank employee, who does not know such person, instructs his colleague to transfer the account from "dormant" to "operative" category (contrary to the instructions regulating dormant accounts) without any kind of verification, and accepts the money withdrawal form from such person, gets*

a token and collects the amount on behalf of such person for the purpose of handing it over to such person, he in effect enables such unknown person to withdraw the amount contrary to the banking procedures; and ultimately, if it transpires that the person who claimed to be the account-holder was an impostor, the bank cannot be found fault with if it says that it has lost confidence in the employee concerned. A bank is justified in contending that not only the employees who are dishonest, but those who are guilty of gross negligence, are not fit to continue in its service. **[Emphasis Supplied]**

9. *Several witnesses were examined to prove the charge. One of them was H.S. Sharma who conducted the preliminary enquiry and to whom the respondent had made a statement broadly admitting the facts which constituted the subject-matter of the second charge. I.M. Rawal, who was the cashier and I.C. Ojha, the officiating Branch Manager were also examined. Based upon their evidence, the enquiry officer found the respondent to be guilty of the second charge and that has been accepted by the disciplinary authority. The High Court has interfered with the said finding without expressly holding that the said finding of guilt was erroneous. The High Court has proceeded as if it was sitting in appeal over the departmental enquiry and interfered with the finding on a vague assumption that the respondent must have acted bona fide in an "increasing customer-friendly atmosphere". There was no justification for the Division Bench to interfere with the finding of guilt.*

10. *The fact that the criminal court subsequently acquitted the respondent by giving him the benefit of doubt, will not in any way render a completed disciplinary proceeding invalid nor affect the validity of the finding of guilt or consequential punishment. The standard of proof required in criminal proceedings being different from the standard of proof required in departmental enquiries, the same charges and evidence may lead to different results in the two proceedings, that is, finding of guilt in departmental proceedings and an acquittal by giving benefit of doubt in the criminal proceedings. This is more so when the departmental proceedings are more proximate to the incident, in point of time, when compared to the criminal proceedings. The findings by the criminal court will have no*

effect on previously concluded domestic enquiry. An employee who allows the findings in the enquiry and the punishment by the disciplinary authority to attain finality by non-challenge, cannot after several years, challenge the decision on the ground that subsequently, the criminal court has acquitted him.

11. *We are, therefore, of the view that the High Court was not justified in quashing the punishment and directing reinstatement with back wages and consequential benefits. In fact, the order of the High Court directing back wages amounts to rewarding a person who has been found guilty of a misconduct. However, having regard to the fact that the proven charge did not involve either misappropriation or fraudulent conduct and the other circumstances of the case, we are of the view that the punishment of dismissal should be substituted by compulsory retirement, which does not involve reinstatement.*

38. Emphasising on the conduct of a bank employee, the three-judge Bench of this Court in the case of ***'Deputy General Manager (Appellate Authority) and Others vs. Ajai Kumar Srivastava'*** reported in **(2021) 2 SCC 612** has held as under:-

42. *Before we conclude, we need to emphasise that in banking business absolute devotion, integrity and honesty is a sine qua non for every bank employee. It requires the employee to maintain good conduct and discipline and he deals with money of the depositors and the customers and if it is not observed, the confidence of the public/depositors would be impaired. It is for this additional reason, we are of the opinion that the High Court has committed an apparent error in setting aside the order of dismissal of the respondent dated 24-7-1999 confirmed in departmental appeal by order dated 15-11-1999.*

[Emphasis Supplied]

39. In the present case, the Enquiry Officer as well as the Disciplinary Authority had taken into consideration the

evidence available on record and had come to the conclusion that the Respondent was found guilty on the charges levelled against him. The Appellate Authority had also revisited the evidence and concurred with the Disciplinary Authority. After careful scrutiny of the order passed by the Disciplinary Authority as well as the Appellate Authority, it cannot be said that the said orders were based on no evidence or are perverse in the absence of cogent and reliable evidence. The Tribunal had acted as an Appellate Authority and despite concluding that it is highly possible that the irregularities as alleged in the chargesheet were committed by the manager at the insistence of the Respondent, and he was the direct beneficiary of the irregular loan sanction, had illegally interfered with the punishment order passed by the Disciplinary Authority. The Tribunal had also erred in observing that the punishment of compulsory retirement imposed upon the Respondent is too harsh and disproportionate as it may result in denial of the retirement benefit to him.

40. It is well settled that compulsory retirement of an employee from the services does not mean that the employee is not entitled to retirement benefits, which can only be denied in a case of dismissal from service. Unfortunately, the High Court without taking into consideration the settled principle of law in the matter of judicial review in the disciplinary proceedings, and while adding its irrelevant reasons, confirmed the order passed by the Tribunal.

41. In view of the above discussions, we are of the view that the impugned Order passed by the Tribunal as well as the High Court cannot be sustained and therefore, the same are set aside. The writ petition filed by the Appellant before the High Court is allowed and the order passed by the Disciplinary Authority is affirmed. However, as punishment of compulsory retirement is imposed upon the Respondent, he is entitled for gratuity and other pensionary benefits in accordance with law.

42. With these observations, the present appeal is disposed of.

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

..... J.
(J.K. MAHESHWARI)

..... J.
(VIJAY BISHNOI)

NEW DELHI,
Dated: 09th SEPTEMBER, 2025