IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20010 of 2011

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1.1. Lav Kumar Singh Son of Late Prem Prakash Singh, Resident of Village-Dumduma, P.S.- Dauadpur, District- Saran at Chapra, at presently residing at B-69, Devil Road, Village- Khanpur, deoli, South Delhi 110062.

1.2. Kush Kumar Singh Son of Late Prem Prakash Singh, Resident of Village-Dumduma, P.S.- Dauadpur, District- Saran at Chapra, at presently residing at B-69, Devil Road, Village- Khanpur, deoli, South Delhi 110062.

1.3. Goldy Kumari Daughter of Late Prem Prakash Singh, Resident of Village-Dumduma, P.S.- Dauadpur, District- Saran at Chapra, at presently residing at B-69, Devil Road, Village- Khanpur, deoli, South Delhi 110062.

... ... Petitioner/s

Versus

1. The Zonal Manager Central Bank of India, Zonal Office, Muzaffarpur.
2. The Regional Manager, Central Bank of India, Regional Office, Siwan.
3. The Branch Manager, Central Bank of India, Ekma Branch, Saran at Chapra.
4. The Branch Manager-cum-Inquiry Officer, Central Bank of India, Barharia Branch, Siwan.
5. A.G.M. cum Appellate Authority, Central Bank of India, Zonal Office, Muzaffarpur.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sushil Kumar Singh, Advocate
For the Respondent Bank:		Mr. Ajay Kumar Sinha, Sr. Advocate
	:	Mr. Ajit Kumar Sinha, Advocate
	:	Mr. Pravin Kumar, Advocate
	:	Ms. Dilkash Khan, Advocate

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CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
CAV JUDGMENT
Date : 22-09-2026

Heard the parties.

2. The present writ petition has been filed for the following reliefs:-

> *"(i) To issue writ in the nature of certiorari for setting aside the administrative order issued vide Memo No. RO/HRD/DA/2010-11/381 dated 22.02.2011 under the signature of the Assistant Regional Manager, Central Bank of India, Regional Office, Siwan whereby and whereunder punishment*

of dismissed without notice has been imposed upon the petitioner with an order that the petitioner would not get the difference amount of salary and subsistence allowance which he already got during the period of suspension;

(ii) To issue writ in the nature of certiorari for setting aside the Memo No. ZO/AA/11-12/142 dated 28.06.2011 issued under the signature of Assistant General manager Central Bank of India, Zonal Office, Muzaffarpur whereby and whereunder the appeal preferred by the petitioner has been disposed of confirming the order of the disciplinary authority:

(iii) To issue writ in the nature of mandamus commanding upon the respondent authorities to reinstate the petitioner in service with all consequential benefits."

3. During pendency of the writ petition, the original writ petitioner died on 09.04.2012 and thereafter I.A. No.01 of 2023 was filed for substituting the legal heirs of the sole writ petitioner. Simultaneously, an interlocutory application bearing I.A. No.02 of 2023 was also filed for condonation of delay of about 11 years in filing the substitution petition, since the sole writ petitioner died on 09.04.2012 and the substitution petition was filed in 2023.

4. Vide order dated 20.07.2026, both the Interlocutory applications i.e. I.A. No.01 of 2023 and I.A. No.02 of 2023 were allowed. The legal heirs of the sole writ petitioner were substituted in his place.

BRIEF FACTS

5. The brief facts, which are necessary for adjudication of the present writ petition, are that while the deceased petitioner was posted as Head Cashier in the Central Bank of India, Ekma Branch, Chapra, Saran, he was placed under suspension vide Memo No. RO/HRD/DAD/08-09/878 dated 18.09.2008, issued under the signature of the Regional Manager, Central Bank of India, Regional Office, Siwan, on account of fraudulent withdrawal of amounts from saving account of deceased customers of Ekma Branch. In the said order dated 18.09.2008, it was directed that for the first three months, the deceased petitioner would get one third of the pay and other allowances, which he would have got, but for the suspension and thereafter one half of the pay and allowance would be paid to him and after expiry of one year of suspension, full pay and allowances would be payable to him, if the enquiry is not delayed for the reasons attributable to the deceased-petitioner. An explanation was sought for by the Regional Manager of the Bank vide Memo No. RO/DAD/08-09/28

dated 13.11.2008 with regard to certain charges/illegality committed by the deceased petitioner, while posted as Head Cashier in the Bank. Subsequent thereto, another memo bearing memo no. RO/DAD/08-09/60 dated 14.01.2009 was issued by the Regional Manager of the Bank, by which charge memo/charge-sheet was served upon the deceased petitioner. Altogether, 7 charges (which were part of the earlier memo dated 13.11.2008) were levelled against him.

6. It is the case of the deceased petitioner that for the same set of allegations, one criminal case bearing Ekma P.S. Case No.90 of 2008 was instituted against him under different sections of the Indian Penal Code. He was granted the privilege of anticipatory bail by this Hon'ble Court vide order dated 21.05.2009 passed in Cr. Misc. No.2628 of 2009. The departmental proceeding initiated against the deceased-petitioner, proceeded, however no subsistence allowance was paid to him. Therefore, he submitted a request before the Branch Manager, Ekma branch on 07.04.2009 for payment of subsistence allowance, in terms of letter dated 18.09.2008. During course of enquiry, the deceased petitioner submitted an application on 01.06.2009, stating therein that he will not be able to appear in the proceeding on 05.06.2009, on account of his ailment and he also requested the

enquiry officer to provide relevant documents and evidences related to the departmental proceeding. Since the departmental proceeding was not concluded within the period of one year, from the date of suspension of the deceased petitioner, he submitted an application before the Regional Manager of the Bank on 13.01.2010, with a request to make payment of full salary and allowance to him. On the request made by him, the Regional Manager-cum-Disciplinary Authority vide memo dated 09.10.2009 informed him that even after expiry of one year, he would not be entitled to get full salary, since the delay in conclusion of the departmental proceeding has occurred on account of non-cooperation of him. Being aggrieved with the decision of the Disciplinary Authority dated 09.10.2009, the deceased petitioner filed a writ petition bearing C.W.J.C. No.5572 of 2010 before this Hon'ble Court. The writ petition filed by him was disposed of by an Hon'ble Single Judge of this Court vide order dated 13.04.2010, whereby the order dated 09.10.2009, issued by the Regional Manager-cum-Disciplinary Authority of the Bank was set aside and a direction was issued to the disciplinary authority to pass fresh orders in accordance with law, indicating the reasons as to why the deceased petitioner will be not paid full salary, after completion of one year from the date of suspension. He submitted a representation before the disciplinary authority on 23.04.2010, along with a copy of the order dated 13.04.2010 and requested him to make payment of full salary.

7. It is further case of the deceased petitioner that he submitted an application before the Regional Manager of the Bank on 24.04.2010, to appoint any other person as the enquiry officer, since he was apprehending that he would not get justice from the enquiry officer in the departmental enquiry. Subsequently, he submitted another application before the enquiry officer on 09.05.2010, with a request to handover to him the documents asked for by him from serial no.1 to serial no.9, so that he can be able to effectively defend himself in the departmental enquiry. The Regional Manager of the Bank vide his Memo No.141 dated 12.05.2010, directed the enquiry officer to follow the Central Office Circular dated 29.04.2009 on disciplinary action procedure and to allow the deceased petitioner (CSE) to present the relevant documents in his defence and he further directed/instructed the enquiry officer to complete the departmental enquiry as soon as possible.

8. It is further case of the deceased petitioner that the documents asked for by him were vital documents, on the basis of which he could prove his innocence, were not provided to him and

instead the letter dated 12.05.2010 was issued with a view to confuse the enquiry officer. Vide letter dated 24.05.2010, issued under the signature of the Regional Manager of the Bank, the deceased petitioner was informed that the delay in the departmental proceeding has been caused by him and therefore, he is not entitled for salary. It was directed that he would get the subsistence allowance only and even in the said letter, no whisper was there with regard to non-supply of the documents to the deceased petitioner. Left with no other option, he again preferred C.W.J.C. No.9903 of 2010 before this Hon’ble Court, with a prayer to supply relevant documents, as asked for by the deceased petitioner. Vide order dated 30.06.2010 passed by an Hon’ble Single Judge of this Court, the learned senior counsel for the bank was directed to seek instructions as to why the account number, from which the fraudulent withdrawal is alleged at the instance of the deceased petitioner, is not furnished to him, along with the documents concerning the departmental proceeding taken against the then Branch Manager Shri Ram Charan Singh, Accountant Shri Kamlesh Kumar and Sub-Accountant Shri Pramod Kumar Sinha. The learned senior counsel for the Bank was further directed to seek instruction from the Bank as to why the date, on which the account became dead, be not furnished to the deceased petitioner.

The matter was directed to be listed on 06.07.2010 and it was further directed that until 06.07.2010, the witnesses be not examined ex-parte. When the matter was again heard on 06.07.2010, the learned senior counsel appearing on behalf of the Bank informed this Hon'ble court that the departmental proceeding against the deceased petitioner was taken for ex-parte hearing on 22.05.2010, in compliance of the notice of the enquiry officer dated 19.05.2010. The said notice was received by the deceased petitioner on 19.05.2010 itself and since the delinquent did not choose to appear on 22.05.2010, the proceeding was closed with a direction to the deceased petitioner to file his written submission. Accordingly, the writ petition filed by the deceased petitioner was disposed of with a direction to him to challenge the findings contained in the enquiry report, if the findings are recorded against him, by raising the submissions, which have been raised in the writ petition, before the disciplinary authority by filing second show cause reply raising submissions that the findings have been recorded without giving him the relevant documents, as claimed by him in compliance of the directions of the disciplinary authority contained in letter dated 12.05.2010 as also the relevant documents/materials concerning Ram Charan Singh, Kamlesh Kumar and Pramod Kumar Sinha. It was directed that the second show cause reply filed by the deceased petitioner would be considered in accordance with law. The enquiry officer, after conducting the departmental enquiry, submitted his report before the disciplinary authority on 02.08.2010, whereby he found the charges levelled against the deceased petitioner to be proved. Immediately thereafter, he submitted an application before the Assistant General Manager of the Bank on 01.09.2010, whereby it was informed that vide order dated 12.05.2010, the Assistant General Manager had directed the enquiry officer to provide the 9 documents, as asked for by the deceased petitioner. However, the said documents were not provided to him. Second show cause notice was issued to the deceased petitioner vide Letter No.228 dated 27.09.2010, issued under the signature of the disciplinary authority/Regional Manager of the Bank. Along with the second show cause notice dated 27.09.2010, the enquiry report dated 02.08.2010 was also forwarded to him. In compliance thereof, the deceased petitioner submitted his reply on 18.10.2010 and he again requested the authority to provide the documents, which were directed to be provided to him vide letter dated 12.05.2010. The enquiry officer vide his Letter No.294 dated 20.11.2010 informed the deceased petitioner that all the relevant documents were provided to him during course of departmental enquiry and the other documents, which were not provided to him, were irrelevant documents and the same has already been recorded, during course of enquiry in the proceeding. Immediately thereafter, vide letter dated 06.12.2010, the deceased petitioner requested the disciplinary authority to provide the documents asked for by him, since the charges levelled against him are with respect to committing forgery and therefore, the documents asked for by him are relevant documents. He further informed the disciplinary authority that he had already requested the enquiry officer vide his letter dated 12.05.2010 to provide the documents asked for by him, however despite his request, the same has not been provided. Since the deceased petitioner was not submitting his reply to the second show cause notice, the disciplinary authority vide letter no.350 dated 12.01.2011 sent the proposed final order dated 12.01.2011 to him through the Branch Manager of Ekma Branch. Upon receipt of the letter dated 12.01.2011, the deceased petitioner again requested the Regional Manager of the Bank on 24.01.2011 to provide the documents asked for by him, which contained amongst others things, the enquiry report and the memo of charge against Ram Charan Singh, Kamlesh Kumar and Pramod Kumar Sinha. He informed the disciplinary authority that non supply of the documents is in complete violation of the order passed by this

Hon’ble Court and he requested the disciplinary authority to provide the said documents to him at the earliest.

9. It is further case of the deceased petitioner that 02.02.2011 was the date fixed for hearing before the disciplinary authority, in which the he personally appeared. He again made a request before the disciplinary authority to provide the desired documents asked by him, by filing a written application. The written application submitted by the deceased petitioner was taken to be the written submission against the proposed punishment, by the disciplinary authority, which is evident from his order under punishment.

10. It is further case of the deceased petitioner that he never submitted any written submission before the enquiry officer or before the disciplinary authority, since he was not in a position to do so, in absence of the supply of the documents asked for by him. Finally, by the impugned order contained in Memo No. RO/HRD/DA/2010-11/380 dated 22.02.2011, the deceased petitioner was imposed punishment of dismissal from service, without notice under Clause- 6 (a) of the Memorandum of Settlement of Disciplinary Action Procedure for Workmen dated 10.04.2002. In the said order of punishment dated 22.02.2011, it was further ordered that the deceased petitioner will not be entitled

to get the difference amount of salary and the subsistence allowance, which he has already been paid during the period of suspension. Being aggrieved with the order of punishment dated 22.02.2011, the deceased petitioner preferred statutory appeal before the Zonal Manager-Cum-Appellate Authority of the Bank, wherein he again took a plea that the documents asked for by him were not supplied to him and he also informed the appellate authority that he was not granted opportunity to submit his defence and further informed that the quantum of punishment is disproportionate to the charges levelled against him. He also took a plea that the order of punishment was not a reasoned order. The deceased petitioner was heard by the appellate authority on 02.06.2011, wherein he informed the appellate authority that neither the enquiry officer nor the disciplinary authority provided the documents asked for by him and the authorities even ignored the orders passed by this Hon'ble Court.

11. It is further case of the deceased petitioner that though the appellate authority found that the documents asked for by him were denied by the enquiry officer, by stating the same to be irrelevant and he also recorded the grounds taken by the deceased petitioner that the documents were not provided to him and he kept on requesting for the same, however the appellate

authority erroneously held that the enquiry officer is the competent authority to decide what documentary evidence are relevant or having importance with the case and proceeded to uphold the order passed by the disciplinary authority vide Memo No. 20/AA/11-12/142 dated 28.06.2011.

SUBMISSION ON BEHALF OF THE PETITIONER

12. The learned counsel for the substituted petitioners submits that while the father of the petitioners was posted as Head Cashier in the Central Bank of India at Ekma Branch, he was placed under suspension vide memo dated 18.09.2008. Memo of charge was issued, however no documents, which were asked for by the father of the petitioners, were supplied to him. The father of the petitioners was never supplied the documents in support of the charge, either with the memo of charge or with the charge-sheet. Even the list of witnesses was not provided. Despite repeated request of their father, the authorities of the bank kept mum and proceeded with the departmental enquiry. Even after passing of the order by this Hon'ble Court, the documents were never supplied to the father of the petitioners. In absence of the relevant documents, which were vital to contradict the charges levelled against the delinquent, no written submission was filed. The respondent Bank considered the case, in absence of any written submission by their

father and proceeded to award punishment against him ex-parte. He submits that the entire departmental proceeding was conducted against the father of the petitioners with bias and with predetermined mind. It would be apparent from the reasons given by the disciplinary authority, as well as the enquiry officer that the most relevant documents to substantiate the charges against the delinquent were declared to be irrelevant. Since, the charges against the delinquent were with regard to fraudulent withdrawal of amounts from the account of the deceased persons during 21.04.2008 to 12.09.2008, therefore, the documents, which were asked for by the delinquent, related to the said charge were relevant, however the same were never provided to him. In absence of the evidence with regard to closure/non-closure of the accounts of the persons said to be deceased, the father of the petitioners was not in a position to contradict the charges levelled against him. The enquiry report does not even whisper that the alleged withdrawals were made from the closed accounts. The enquiry officer simply held that the withdrawal were made from the account of the dead person, but did not enter into the issue as to whether there was any death certificate with the records of the Bank and whether the accounts were closed on the date or even prior to the date, on which the alleged withdrawals were made.

The documents, which were the most important documents to bring home the charges against the delinquent, were declared to be irrelevant. Further, neither the disciplinary authority nor the appellate authority paid any heed to the request made by the delinquent for supply of the relevant documents, which were germane in nature to the issue.

13. The learned counsel for the substituted petitioners further submits that their father came to know that for almost identical charges, Ram Charan Singh, Kamlesh Kumar and Pramod Kumar Sinha were also proceeded departmentally, however they were exonerated from the charges levelled against them. When their father requested the authorities of the Bank to at least provide him the charges, which were levelled against the said three persons and the enquiry report submitted in the proceeding against them, he was informed that the said documents are irrelevant. The said Ram Charan Singh was made a witness on behalf of the Bank in the departmental proceeding, conducted against the father of the petitioners.

14. The learned counsel for the petitioners submits that the delinquent did not give any reply during course of entire departmental proceeding or did not even participate in the proceeding, since he was not provided with the relevant

documents. He further submits that the criminal case, which was lodged against the delinquent, is still pending for adjudication. One similarly situated person, namely, Ravi Kumar was also proceeded with departmentally, along with the deceased petitioner. He also assailed the order of punishment by filing C.W.J.C. No.7618 of 2012. An Hon'ble Single Bench of this Court vide letter dated 23.04.2024 has been pleased to remit back the matter to the respondent Bank for proceeding afresh. He submits that from perusal of the enquiry report, it would transpire that the enquiry officer on his own, proceeded to hold that the 9 documents, which were asked for by the delinquent, were irrelevant documents and cannot be provided to him.

15. The learned counsel for the petitioners refers to and relies upon a judgment dated 04.08.2026 passed in **C.W.J.C. No. 13691 of 2016** ***(Rubi Shankar & Ors. versus the State of Bihar & Ors)***, wherein this Hon'ble Court in paragraph no.13 has held as follows:-

> *"13. Having considered the rival submissions and after going through the record, it appears that the deceased petitioner was apprehended while accepting bribe of Rs. 15,000/-, for which a vigilance case bearing Vigilance P.S. Case No. 58 of 2012 was instituted under different Sections of the Prevention of Corruption Act. The deceased*

petitioner was taken into custody and later on was released on bail by this Hon'ble Court on 15.01.2013. He was put under suspension and thereafter he was departmentally proceeded, for which memo of charge was issued. Along with the memo of charge, list of documents and list of witnesses were given to him. The deceased petitioner kept on asking for the documents to be relied upon by the department during course of departmental enquiry and witnesses to be relied upon during course of departmental enquiry. Ultimately, he submitted his reply before the Enquiry Officer on 05.03.2014. The Enquiry Officer, after considering the reply submitted by the deceased petitioner, proceeded to prove the charges leveled against him, only on the basis of the vigilance case lodged against him. It appears from Enquiry Report that during course of enquiry, not even a single document or witness was produced/submitted by the Presenting Officer. Even he did not submit his written submission/opinion/comment before the Enquiry Officer. The Enquiry Officer, by assuming the role of the Presenting Officer, himself went on to prove the charges leveled against the deceased petitioner and found him guilty of accepting bribe. The Disciplinary Authority, while issuing second show-cause notice to the deceased petitioner on 04.04.2014, had already decided to *dismiss the petitioner from service, since in the second show-cause notice itself, he asked the petitioner to give his reply that, why he be not dismissed from service. The Disciplinary Authority, since he had already decided to dismiss the deceased petitioner from service, by the impugned order contained in memo no. 363 dated 30.05.2014, proceeded to dismiss the him from service. Even the Appellate Authority, without even considering the grounds taken by the deceased petitioner in his memo of appeal preferred by him vide memo no. 88 dated 12.01.2016, proceeded to reject the appeal. It appears from the record that even the complainant, on whose complaint the vigilance case was lodged against the deceased petitioner, was not examined during course of departmental enquiry and the deceased petitioner was also denied an opportunity to produce defence witnesses or to cross-examine the witnesses, since no witnesses were examined during course of enquiry. The same is in violation of Rule 17(14) of Bihar CCA Rules, 2005. It is settled law that even if departmental proceeding is proceeded with ex-parte, the document has to be proved by a witness, if the delinquent does not plead guilty, then witnesses had to be examined to prove the charges leveled against the delinquent and the document and the witness would have to be tendered for cross-examination. In the* *present case, no such effort has been made by the Enquiry Officer and he submitted his Enquiry Report without following the due process of law."*

16. The learned counsel for the petitioners further refers to and relies upon a judgment of the Hon'ble Supreme Court of India reported in ***2010 (2) SCC 772 (State Of U.P. & Ors vs Saroj Kumar Sinha),*** wherein in paragraph nos.27, 28 and 30, it has been held as follows:-

"27. A bare perusal of the aforesaid sub-rule shows that when the respondent had failed to submit the explanation to the charge-sheet it was incumbent upon the inquiry officer to fix a date for his appearance in the inquiry. It is only in a case when the government servant despite notice of the date fixed failed to appear that the inquiry officer can proceed with the inquiry ex parte. Even in such circumstances it is incumbent on the inquiry officer to record the statement of witnesses mentioned in the charge-sheet. Since the government servant is absent, he would clearly lose the benefit of cross-examination of the witnesses. But nonetheless in order to establish the charges the Department is required to produce the necessary evidence before the inquiry officer. This is so as to avoid the charge that the inquiry officer has acted as a prosecutor as well as a judge.

28. An inquiry officer acting in a quasi-judicial authority is in the position of an independent *adjudicator. He is not supposed to be a representative of the department/disciplinary authority/Government. His function is to examine the evidence presented by the Department, even in the absence of the delinquent official to see as to whether the unrebutted evidence is sufficient to hold that the charges are proved. In the present case the aforesaid procedure has not been observed. Since no oral evidence has been examined the documents have not been proved, and could not have been taken into consideration to conclude that the charges have been proved against the respondents.*

30. When a departmental enquiry is conducted against the government servant it cannot be treated as a casual exercise. The enquiry proceedings also cannot be conducted with a closed mind. The inquiry officer has to be wholly unbiased. The rules of natural justice are required to be observed to ensure not only that justice is done but is manifestly seen to be done. The object of rules of natural justice is to ensure that a government servant is treated fairly in proceedings which may culminate in imposition of punishment including dismissal/removal from service."

<u>SUBMISSION ON BEHALF OF THE RESPONDENT BANK</u>

17. Per contra, the learned senior counsel for the Bank submits that as per Clause 19.12 of the Bipartite Settlement, no list of documents or list of witnesses are required to be given. The

documents, which were produced by the Bank during enquiry were perused by the delinquent and it is not the case of the petitioners that the documents, which the delinquent was asking for, were relied by the presenting officer or the enquiry officer during course of the departmental enquiry. He further submits that the documents, which were produced by the management, were perused by the delinquent and he was given opportunity by the enquiry officer to file his reply, however he refused to do so. He submits that the charges levelled against the delinquent were serious in nature, relating to withdrawal of amount from inoperative deceased accounts. He submits that the enquiry report was duly served upon the delinquent and his request for providing him the documents, were duly considered by the authorities concerned. He submits that the enquiry officer followed all the procedure prescribed for conducting departmental enquiry and the delinquent was granted opportunity to prove his innocence by producing evidence/reply in his favour. The daily order-sheet was provided to the delinquent. Even the written statement, which was produced by the management, was provided to him and he was provided opportunity to cross-examine the witnesses, however he refused to do so and continuously remained absent in the departmental proceeding.

18. The learned senior counsel for the Bank further submits that prior to passing the impugned order of punishment, the delinquent was directed to appear in person before the disciplinary authority. He appeared before the disciplinary authority and he was again given an opportunity to submit his written statement, which he did not do and finally the order of punishment was passed. Before passing the order of punishment, the delinquent was directed to make comment on the proposed order of punishment, however he again refused to do so. He submits that so far, the submission of the petitioners to the effect, that the proceeding vitiated on account of not providing the list of documents and witnesses, along with the charge memo is concerned, the departmental proceeding was conducted in terms of Clause 19.12 of Bipartite Settlement, which does not provide that the charge-sheet must contain the list of witnesses or list of documents. He submits that the submission of the petitioners that it is required, as per Clause 19.10 of the Bipartite Settlement, is not tenable, since Clause 19.10 and 19.12 of the settlement operates in mutually exclusive area. The procedure for conducting the departmental proceeding for award staff i.e. clerk etc. are governed by Clause 19.12 of the Bipartite Settlement, whereas Clause 19.10 of the settlement deals with certain circumstances,

which only provides for entering in book kept specifically for the purposes, the date on which the proceeding was held, the name of the employee proceeded against, the charge or the charges, the evidences on which they are based, the explanation and the evidence, if any tendered by the said employee, the findings or findings with ground on which they are based and the order passed shall be recorded with sufficient fullness, as clearly as possible and such record of the proceedings shall be signed by the officer, who holds them, after which a copy of such records shall be furnished to the employees concerned, if so requested by him in writing. He submits that Clause 19.10 is only for record keeping of the proceedings/charge-sheet/evidence/findings and the orders passed by the officer, who held them under certain circumstances mentioned therein. It does not/cannot be interpreted to mean that the charge-sheet must contain list of witnesses or documents, if the employee is proceeded in terms of clause 19.12.

19. The learned senior counsel for the Bank next submits that so far, the submission of the delinquent to the effect that the proceeding vitiated on account of non-supply of the documents asked for by him is concerned, the same is not tenable. All the documents relied upon by the management during the proceeding were allowed to be inspected by the delinquent and then were

marked as exhibits. Copies of the exhibits were provided to the defence. The documents asked for were not supplied, as the same were denied by the enquiry officer on the ground that the relevant documents, were already marked as exhibits and other documents, were irrelevant, therefore the same were not provided. He submits that only relevant documents are to be supplied and not each and every document, asked for by the delinquent officer/employee has to be supplied to him.

20. To support his above mentioned contention, the learned senior counsel for the Bank refers to and relies upon a judgment of the Hon'ble Supreme Court of India reported in ***1996 (5) SCC 474 (State of Tamil Nadu versus Thiru K.V. Perumal and Ors.)***, wherein in paragraph no.4, it has been held as follows:-

> *"**4.** After hearing the counsel for the parties we find that grounds 1, 2 and 4 are unsustainable in law and on facts of the case. We need not deal with grounds 1 and 2 inasmuch as Shri Venkatramani, the learned counsel for the respondent, did not seek to support the said grounds. Be that as it may, we have perused the memo of charges and we do not find any vagueness in the charges. Similarly the second ground given by the Tribunal appears to be based upon a mistake as to the identity of the person appointed as the inquiry officer. So far as the fourth*

ground is concerned, it has been repeatedly held by this Court that it is not the province of the Tribunal to go into the truth or otherwise of the charges and that the Tribunal is not an appellate authority over the departmental authorities. Accordingly, the Tribunal must be held to have exceeded its jurisdiction in entering upon a discussion whether the charges are established on the material available. The fourth ground also thus disappears. Now remains only the third ground, viz., the non-furnishing of the documents asked for by the respondent. The Tribunal seems to be under the impression that the inquiry officer/disciplinary authority is bound to supply each and every document that may be asked for by the delinquent officer/employee. It is wrong there. Their duty is only to supply relevant documents and not each and every document asked for by the delinquent officer/employee. In this case the respondent had asked for certain documents. The Registrar, to whom the request was made, called upon him to specify the relevance of each and every document asked for by him. It is not brought to our notice that the respondent did so. The Tribunal too has not gone into the question nor has it expressed any opinion whether the documents asked for were indeed relevant and whether their non-supply has prejudiced the *respondent's case. The test to be applied in this behalf has been set out by this Court in State Bank of Patiala v. S.K. Sharma [(1996) 3 SCC 364: 1996 SCC (L&S) 717: (1996) 3 Scale 202]. It was the duty of the respondent to point out how each and every document was relevant to the charges or to the enquiry being held against him and whether and how their non-supply has prejudiced his case. Equally, it is the duty of the Tribunal to record a finding whether any relevant documents were not supplied and whether such non-supply has prejudiced the defendant's case. Since this has not been done by the Tribunal in this matter, it has to go back for a rehearing."*

21. The learned senior counsel for the Bank further refers to and relies upon a judgment of the Hon'ble Supreme Court of India reported in ***2006 (3) SCC 150 (Syndicate Bank & Ors. v. Venkatesh Gururao Kurati)***, wherein in paragraph no.7 & 18 it has been held as follows:-

"7. In the writ appeal, the learned Division Bench framed the following issues:

(i) Whether charges framed against the appellant delinquent officer are vague?

(ii) Whether non-supply of the documents sought by the appellant vitiated the enquiry and the action of the management of the respondent Bank in

removing the appellant from service is a disciplinary measure?

(iii) Whether placing reliance on statements previously recorded by CBI by the enquiry officer has vitiated the enquiry?

(iv) Whether the findings of fact recorded by the enquiry officer are perverse for want of legal evidence?

18. In our view, non-supply of documents on which the enquiry officer does not rely during the course of enquiry does not create any prejudice to the delinquent. It is only those documents, which are relied upon by the enquiry officer to arrive at his conclusion, the non-supply of which would cause prejudice, being violative of principles of natural justice. Even then, the non-supply of those documents prejudice the case of the delinquent officer must be established by the delinquent officer. It is well-settled law that the doctrine of principles of natural justice are not embodied rules. It cannot be put in a straitjacket formula. It depends upon the facts and circumstances of each case. To sustain the allegation of violation of principles of natural justice, one must establish that prejudice has been caused to him for non-observance of principles of natural justice."

22. The learned senior counsel for the Bank further submits that considering the nature of charges proved and the fact that the delinquent is an employee of the Bank, the penalty imposed is justified and is not disproportionate to the gravity of the offence. He finally submits that since the delinquent did not participate in the departmental proceeding and he did not submit his reply, either before the enquiry officer or to the second show cause notice issued by the disciplinary authority, the bank got no other option, but to proceed with the enquiry ex-parte. During the ex-parte enquiry, witnesses were duly examined by the enquiry officer and the delinquent was given opportunity to cross-examine the witnesses, however he refused to do so, therefore, the order of punishment passed against the delinquent cannot be faulted with on account of any procedural irregularity.

CONSIDERATION

23. Having considered the rival submissions and after going through the records, it appears that while the deceased petitioner was posted as Head Cashier in the Central Bank of India at Ekma Branch, he was put under suspension on 18.09.2008, on account of fraudulent withdrawals of amount from savings bank accounts of some of the deceased customers in the Branch. An explanation was sought for by the Regional Manager of the Bank

on 13.11.2008 with regard to certain charges/illegality committed by the delinquent. Altogether 7 charges were levelled against him vide Memo dated 14.01.2009. For the same set of charges, one criminal case bearing Ekma P.S. Case No.90 of 2008 was also instituted against him under different Sections of the Indian Penal Code. He was granted bail by this Hon’ble Court vide order dated 21.05.2009. Although, the departmental proceeding against the delinquent proceeded, however no subsistence allowance was paid to him, therefore he submitted a request before the concerned authority on 07.04.2009, however the same was not paid to him on the ground that the delay in departmental proceeding is attributable upon him, therefore, the same was denied. The delinquent moved before this Hon’ble Court by filing C.W.J.C. No.5572 of 2010, whereby the decision of the disciplinary authority with regard to non-payment of subsistence allowance/salary to him was assailed. Vide order dated 13.04.2010, an Hon’ble Single Judge of this Court set aside the order of the disciplinary authority dated 09.10.2009, whereby the full salary to the delinquent was denied. Again a representation was submitted on 23.04.2010, along with a copy of the order dated 13.04.2010. During course of the departmental enquiry, the delinquent submitted a letter dated 24.04.2010 to appoint any other enquiry officer, since it was his apprehension that he would not get justice form the enquiry officer in the departmental enquiry and subsequently one another letter was submitted by him on 09.05.2010, with a request to hand over to him certain documents asked for by him from serial nos.1 to 9 of the letter, so that he can be able to defend himself effectively. All the relevant documents, which were relied upon by the Bank/presenting officer, during course of departmental enquiry were provided to him, however the documents which were asked for by the delinquent were not provided to him, on the ground that the same were not relevant documents. The delinquent kept on asking for the same documents time and again and when the same was not provided to him, then he filed a writ petition bearing C.W.J.C. No.9903 of 2010. The writ petition was heard on 30.06.2010 and an interim order was passed, however during pendency of the writ petition, the Bank informed the Hon'ble Single Judge that the departmental proceeding against the delinquent was taken for ex-parte hearing on 22.05.2010, in terms of the notice of the enquiry officer dated 19.05.2010. It was informed to this Hon'ble Court that the delinquent received the notice on 19.05.2010 itself and since he did not choose to appear on 22.05.2010, the proceeding was closed with a direction to the delinquent to file his written submission. The writ petition filed by the delinquent was disposed of vide order dated 06.07.2010, with a direction to the delinquent to challenge the findings contained in the enquiry report, if the findings are recorded against him, by raising the submissions, which have been raised in the writ petition, before the disciplinary authority by filing the second show cause reply, raising submissions that the findings have been recorded without giving him the relevant documents, as claimed by him in compliance of the direction of the disciplinary authority contained in letter dated 12.05.2010 as also the relevant document/material concerning three other employees. The disciplinary authority was directed to consider the reply to the second show cause notice filed by the delinquent, before passing the final order. The enquiry officer submitted his report, after conducting the enquiry on 02.08.2010, whereby the charges levelled against the delinquent were found to be proved. Again, an application was submitted by the delinquent on 01.09.2010, whereby it was informed that vide order dated 12.05.2010, the Assistant General Manager had directed the enquiry officer to provide the nine documents, which were asked for by the delinquent. It was informed that the said documents were never provided to him. After submission of the enquiry report, the disciplinary authority issued second show cause notice to the delinquent on 27.09.2010. Along with the second show cause notice, the enquiry report was also forwarded and the delinquent submitted his reply on 18.10.2010, wherein he again requested the disciplinary authority to provide him the documents, which were directed to be provided vide order dated 12.05.2010. It was informed to the delinquent vide letter dated 20.11.2010 by the enquiry officer that all the relevant documents were provided to him during course of departmental enquiry and the documents, which were not provided to him, were irrelevant documents and the same has also been recorded in the order-sheet, during course of enquiry. Immediately thereafter, on 06.12.2010 the delinquent requested the disciplinary authority to provide the documents asked for by him, since the charges levelled against him were with respect to committing forgery, and therefore the documents asked for by him are relevant documents. Despite repeated requests made by the disciplinary authority, the delinquent was not submitting his reply to the second show cause notice, therefore, the disciplinary authority vide his letter dated 12.01.2011 sent the proposed final order dated 12.01.2011 to the delinquent, for his comments. The delinquent again requested the Regional Manager of the Bank on 24.01.2011 to provide the documents, which were asked for by him. The disciplinary authority fixed 02.02.2011 as the date for hearing the delinquent and on the said date although, he appeared, however, he again requested the disciplinary authority for providing him the said documents. He never submitted any written submission before the enquiry officer or before the disciplinary authority, since the documents asked for by him were not being provided, therefore he submitted that he is not in a position to submit his written reply. Finally, vide order dated 22.02.2011, punishment of dismissal from service was imposed against the delinquent. Being aggrieved with the order of punishment dated 22.02.2011, the delinquent preferred statutory appeal before the Appellate Authority, wherein again he requested for providing him the documents and he took a plea that the documents were not provided to him. The appellate authority heard the delinquent on 02.06.2011, and thereafter by recording the reasons for rejecting his appeal, proceeded to reject the appeal filed by the delinquent vide his order dated 28.06.2011. It appears that despite being given opportunity, the delinquent never submitted his written reply before the enquiry officer. He did not participate in the departmental enquiry and the enquiry officer proceeded in the departmental enquiry ex-parte. During course of enquiry, witnesses were examined and an opportunity was granted to the delinquent to cross-examine them, however he did not cross examine any of the witnesses and he kept on asking for the documents, which were not provided to him on account of being irrelevant. From perusal of the enquiry report, it would transpire that during course of examination of the witnesses, all the witnesses have supported the charges levelled against the delinquent and the enquiry officer found all the seven charges levelled against him to be proved beyond all reasonable doubts. After submission of the enquiry report, again second show cause notice was issued to him, however he again refused to file any written reply/show cause reply before the disciplinary authority. He filed a letter, wherein he again asked for the documents, which in his view were relevant documents. It appears from the enquiry report that during course of enquiry, the documents, so sought for by the delinquent were never relied upon by the enquiry officer and the documents, which were relied upon by the enquiry officer/presenting officer during course of enquiry, were duly provided to the delinquent.

24. So far the judgment relied upon by the learned counsel for the petitioner in the case of ***Saroj Kumar Sinha*** (supra) is concerned, the same is related to a departmental enquiry conducted against an employee in terms of the CCA Rules. In the present case, the matter relates to termination of an employee of

bank and in the matter of departmental enquiry in bank, the proceedings are conducted through the Bank Rules/Bipartite Settlement. A bank officer is required to exercise higher standards of honesty and integrity. He deals with money of the depositors and the customers and every officer/employee of the bank is required to take all possible steps to protect the interest of the bank and to discharge the duties with utmost integrity, honesty, devotion and diligence and do nothing, which is unbecoming of the Bank officer. Good conduct and discipline are inseparable from the function of every officer/employee of the Bank. Therefore, the judgment relied upon by the learned counsel for the petitioner is not applicable in the present case. So far, as the judgment relied upon by the learned counsel for the petitioner in the case of ***Rubi Shankar and others*** *(supra)* is concerned, wherein also the matter related to disciplinary proceeding against a Class-III employee, who was attached in the office of the District Programme Officer, Planning and Accounts, in the district of Arwal and the departmental proceeding therein was initiated in terms of the Bihar CCA Rules, 2005. Therefore, the judgment in the case of ***Rubi Shankar and others*** (supra) will also be not applicable in the case of the delinquent.

25. It is not in dispute that all the seven charges against the delinquent were found to be proved and he did not participate in the departmental enquiry, which was held ex-parte and in the said enquiry, the presenting officer presented the witnesses, whose statement was recorded, however the delinquent did not cross-examine them. Therefore, it cannot be said that the enquiry, which was conducted ex-parte, was in violation of the rules and regulations. Opportunity was given to the delinquent at every stage, either by the enquiry officer or by the disciplinary authority, however he choose not to participate in the same and did not even file any written submission, therefore it cannot be said that the enquiry conducted against the delinquent was not in accordance with law. So far, the judgment relied upon by the learned senior counsel for the Bank is concerned, this Court is in total agreement that a bank officer is required to exercise high standard of honesty and integrity, since he deals with the money of the depositors and the customers. The charges against the delinquent were of fraudulently withdrawing money from the accounts of the customers, who were dead and therefore it amounts to forgery, cheating and corruption and misrepresentation.

26. The Hon'ble Supreme Court of India in a case reported in ***2026 SCC OnLine SC 1109 (Surekha Domaji Bele***

Versus Executive Engineer, Testing Division, MSEDCL), in paragraph nos. 106-110 has held as follows:-

*"**106.** Dismissal from service is the severest form of penalty which can be inflicted on a delinquent employee in service jurisprudence. It brings the relationship of employer and employee to an end permanently, and ordinarily deprives the employee of the incidents of past service, including retiral benefits. It does not lead merely to the loss of the existing source of income for the employee but also for the dependent family members. Thus, it will have a devastating effect not only on the dismissed employee but also on all those who are dependent on the employee. Because of the severity of its impact not only on the employee but also to his dependents, the disciplinary authority must be very careful in seeking to impose the severest form of punishment of dismissal.*

It further carries consequences beyond immediate cessation of employment. It leaves a permanent stigma on the service record of the employee concerned, and may impair future employment prospects, particularly in public employment, statutory bodies, public sector undertakings and other regulated establishments where antecedents and service record are material. For this reason, dismissal must remain reserved for cases where the misconduct is of the most *serious nature where elements of synthetic consideration would be undesirable and inappropriate.*

107. *The misconduct found proved against the Appellant relates to indiscipline, insubordination, and the consequent tampering with documents. We are not minimizing the importance of discipline in an office establishment. However, the material presently noticed does not show corruption, illegal gratification, moral turpitude, misappropriation of funds, proved pecuniary loss to the employer, public scandal, or conduct bringing the institution into public disrepute. The allegations substantially appear to arise out of internal office functioning and service-related conflict and did not play out in the public domain.*

108. *In the present case, we do not find that the competent authority undertook such an exercise of evaluating various relevant factors. The order does not reflect consideration of the Appellant's long service, past record, age, absence or presence of dishonesty, or absence or presence of actual loss as also commended by the Labour Court.*

109. *Even where the Regulations include dismissal as one of the permissible punishments for acts of misconduct, the authority is not relieved of its duty to* *consider all relevant factors to see whether the facts of the case truly warrant the most extreme form of penalty. The mere fact that a proved act falls within the broad category of "misconduct" under the Regulations does not mean that dismissal must follow as a matter of course.*

110. *Dismissal is ordinarily justified where the misconduct is of such gravity that continuance of the employee would be wholly incompatible with discipline, trust or institutional functioning. Cases involving corruption, illegal gratification, moral turpitude, misappropriation, acts causing substantial loss to the employer, or conduct showing complete unfitness for continued service stand on a different footing. However, where the misconduct does not involve corruption, moral turpitude, financial misappropriation or proved loss to the employer, and where there is long service without much blemish, the disciplinary authority must carefully examine whether any lesser punishment would meet the ends of justice.*

27. Further, the Hon'ble Supreme Court of India in a case reported in ***2005 (7) SCC 435 (State Bank of India and another versus Bela Bagchi and others),*** in paragraph no.15 has held as under:-

*"**15.** A bank officer is required to exercise higher standards of honesty and integrity. He deals*

with money of the depositors and the customers. Every officer/employee of the bank is required to take all possible steps to protect the interests of the bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and to do nothing which is unbecoming of a bank officer. Good conduct and discipline are inseparable from the functioning of every officer/employee of the bank. As was observed by this Court in Disciplinary Authority-cum-Regional Manager v. Nikunja Bihari Patnaik [(1996) 9 SCC 69 : 1996 SCC (L&S) 1194] , it is no defence available to say that there was no loss or profit which resulted in the case, when the officer/employee acted without authority. The very discipline of an organization more particularly a bank is dependent upon each of its officers and officers acting and operating within their allotted sphere. Acting beyond one's authority is by itself a breach of discipline and is a misconduct. The charges against the employee were not casual in nature and were serious. That being so, the plea about absence of loss is also sans substance."

28. Similarly, a learned Co-ordinate Bench of this Court in a case reported in ***2019 (1) BLJ 235 (Bali Ram Prasad Singh versus General Manager, Bank of India and Another),*** in paragraph nos.29 & 30 has held as under:-

*“**29.** In the present case, the materials in form of several management exhibits and the oral evidence of the management witnesses are clearly indicating towards the reasonableness on the part of the inquiry officer in arriving at the findings recorded in the Inquiry report. It cannot be said that the findings of the Inquiry Officer are perverse. This court would remind itself with the judgment of the Hon'ble Supreme Court rendered in the case of State Bank of India (Supra) wherein it has been held that it was impermissible for the High Court to reappreciate evidence which have been considered by the Inquiry Officer. The jurisdiction of the High Court is circumscribed and confined to correct the errors of law of procedural errors, if any, resulting in manifest miscarriage of justice or violation of principles of natural justice. Similarly, this court would take note of the judgment of the Hon'ble Apex Court in the case of Union of India v. Sardar Bahadur reported in (1972) 4 SCC 618 : (1972) 2 SCR 218 wherein it has been held that “a disciplinary proceeding is not a criminal trial. The standard proof*

required is that of preponderance of probability and not proof beyond reasonable doubt…………..”

30. *In the case of Chairman & Managing Director, United Commercial Bank v. P.C. Kakkar reported in (2003) 4 SCC 364; the Hon'ble Supreme Court held that “a Bank Officer is required to exercise higher standards of honesty and integrity. He deals with money of the depositors and the customers. Every officer/employee of the Bank is required to take all possible steps to protect the interest of the Bank and to discharge his duty with utmost integrity, honestly, devotion and diligence and to do nothing which is unbecoming of a Bank Officer. Good conduct and discipline are inseparable from the functioning of every officer/employee of the Bank”.*

29. So far, the contention of the learned counsel for the petitioner with regard to the punishment being disproportionate to the charges are concerned, there is no dispute that the High Court/Tribunal, while exercising the power of judicial review cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority, shocks the

conscience of the High Court/Tribunal, it would properly mold the relief, either directing the disciplinary authority to reconsider the penalty imposed or to shorten the litigation, it may itself, in exceptional and rare case, impose appropriate punishment with cogent reasons in support thereof. In the present case, this Court has come to the conclusion that since the delinquent did not participate in the proceeding and the charges were proved beyond reasonable doubt by the enquiry officer, on the basis of the statement of the witnesses and on the basis of the documents relied upon by the management and this Court from the materials available on record finds that the delinquent had withdrawn the amount from the account of the dead persons, which caused loss to the reputation of the bank, which is paramount in case of the Bank and which also eroded the public trust and confidence. Therefore, this Court is of the opinion that the punishment imposed against the delinquent is not required to be interfered with. So far, the contention of the learned counsel for the delinquent that in similar matter, one Ravi Kumar, who was also charged along with the deceased petitioner, however, his case has been remitted back by a learned Co-ordinate Bench of this Court vide order dated 23.04.2024 passed in C.W.J.C. No. 7618 of 2012 is concerned, this Court finds that in the said case, the charges were not found proved by the enquiry officer, but the disciplinary authority and the appellate authority proceeded to hold him guilty on account of him depositing the 50% of his share to the tune of Rs.2,13,000/- of the defalcated amount, while being enlarged on bail by this Hon’ble Court. In the present case, no such finding has been recorded by the disciplinary authority or the appellate authority and the delinquent has been awarded the punishment, after going through the enquiry report and after considering each and every charge, which was found to be proved by the enquiry officer.

30. From the consideration made above, this Court does not find any reason to interfere with either the order issued vide Memo No. RO/HRD/DA/2010-11/381 dated 22.02.2011 or the order issued vide Memo No. ZO/AA/11-12/142 dated 28.06.2011.

31. Accordingly, the present writ petition is dismissed.

32. Pending applications, if any, shall also stand disposed of.

(Ritesh Kumar, J)

AjayMishra/-

AFR/NAFR	AFR
CAV DATE	10.08.2026
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