CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No 422 of 2007

Order Reserved on 13.5.2014
Order Pronounced on 01-07-2014

HON'BLE MR. NAVNEET KUMAR MEMBER (J)
HON'BLE MS. JAYATI CHANDRA, MEMBER (A)

Surendra Kumar Singh, aged about 51 years, son of Sri Ram Raj Singh, Resident of Village & P.O. Abboopur, Via Bhilsar, District Barabanki.

Applicant

By Advocate Sri Surendran P.

Versus

1. Union of India thorough the Secretary, Department of Posts, New Delhi.

2. Chief Post Master General, U.P. Circle, Lucknow.

3. Director of Postal Services (Head Quarter) Office of Chief Post Master General, Hazratganj, Lucknow.

4. Superintendent of Post Offices, Barabanki.

Respondents

By Advocate Sri S. P. Singh.

ORDER

By Hon'ble Mr. Navneet Kumar, Member (J)

The present O.A. is preferred by the applicant under Section 19 of the AT Act with the following reliefs: -

> "Wherefore, it is most respectfully prayed that this Hon'ble Court may kindly be pleased to quash the orders contained in Annexure No. 1 and 2 dated 29.9.2006 and 6.8.2007 and treat the applicant in continuous service as GDS BPM with all consequential benefits. It is so prayed in the interest of justice."

2. The brief facts of the case are that the applicant was working with the respondents organization was charge sheeted vide charge sheet dated 23.12.2004. After that the Inquiry Officer was appointed and he submitted his report wherein , charge No. 1 and 3 are partially proved and the charge No. 2 stands not proved. The said inquiry report was submitted by the inquiry

officer after due inquiry and the copy of which was also provided to the applicant through letter dated 12.7.2006 and in pursuance there of, the applicant has also submitted the representation on 24.7.2006. The Disciplinary Authority disagreed with the findings of the Inquiry Officer and issued the disagreement memo on 31.7.2006 giving specific reasons of his disagreement. As such, and sought for the explanation from the applicant which was duly given by the applicant through his representation dated 17.8.2006 and has pointed out that he has not committed any mistake and he is liable to be exonerated taking into account his family condition and also humanitarian and sympathetic approach. The disciplinary authority passed an order of dismissal vide order dated 29.9.2006. The applicant preferred the appeal and the said appeal was also considered and decided by the Appellate Authority and the appellate authority also passed the orders on 6.8.2007 rejected the appeal of the applicant. The applicant feeling aggrieved by the punishment order, preferred the present O.A. The learned counsel appearing on behalf of the applicant has categorically pointed out that the disagreement memo is just a notice and not given any specific reasons for his disagreement as such, it can not to be taken into cognizance.

3. The learned counsel appearing on behalf of the respondents filed their reply and through reply, it is indicated by the respondents that there is no procedural irregularities in conducting the inquiry. It is also indicated by the respondents that the applicant received a sum of Rs. 1500/- on 23.9.1999 from one Smt. Sita Singh for opening an account and instead of issuing the proper receipt for the above deposit issued receipt on the counter foil of the deposit slip duly signed and stamped with Post Office stamp but did not credit the amount in the PO

account on that date. Subsequently, he opened a forged RD account for Rs. 50/- on 3.5.2000 in the name of aforesaid smt. Sita Singh. As such, misappropriated Rs. 1500/- and gave a forged passbook to Smt. Sita Singh. It is also indicated by the respondents that in another incident, one Shri Prabhanjan Singh deposited a sum of Rs. 700/- on 12.9.2000 for opening a new TD/Account. The applicant received Rs. 700/- from him but did not issue SB-26 receipt to above Shri Prabhanjan Singh. He also did not credit the money in to government account instead of issued a receipt for Rs. 700/- on counter foil of SB-103, signed and stamped and gave to Shri Prabhanjan Singh and subsequently, on 11.10.2000 opened a forged RD A/C for Rs. 100/- in the name of above said depositor and also changed the type of A/C and amount of deposit on the passbook and given to the depositor. Not only this, it is also indicated by the respondents that he has also manipulated the account of one Shri Vijendra Pal Singh who gave Rs. 10,000/- on 23.8.1999 and applicant opened account on 3.5..2000 and also altered account number , date of issue of passbook, date of deposit, amount of deposit in words and figures by insertion and over figuring and gave to the depositor. Accordingly, the charge sheet was issued and after the inquiry, the applicant was awarded punishment. The learned counsel for the respondents has also relied upon certain decisions of the Hon'ble Apex Court as well as passed by this Tribunal and indicated that the Hon'ble apex court has been pleased to observed that while exercising the judicial review High court or Tribunal cannot act as an appellate authority if there is no procedural irregularity in conducing the inquiry and has also pointed out that since the applicant is holding the position of trust where honesty and integrity are inbuilt requirements of functioning, it would not be proper to deal with the

matter leniently. The respondents through their reply, also indicated this fact that the charges were based on documentary evidence and those documents were duly produced before the inquiry officer and the applicant never challenged the authenticity of those document and merely non attendance of witnesses can not dilute the gravity and authenticity of charges. The applicant received Rs. 1500/- from Smt. Sita Singh, Rs. 700/-from Shri Prabhanjan Singh, Rs. 10,000/- from Shri Vijendra Pal Singh, and the charges were based on documents and accordingly, the punishment was awarded.

4. On behalf of the applicant, the rejoinder was filed and through rejoinder , mostly the averments made in the OA are reiterated and the contents of the counter reply are denied.

5. Heard the learned counsel for the parties and perused the record.

6. The applicant was working with the respondents organization was charge sheeted through charge sheet dated 23.12.2004. In the charge sheet, three charges are levelled against the applicant. Along with the charge sheet , the list of witnesses and list of documents are also annexed. In the charge sheet, it is indicated that the applicant received a sum of Rs. 1500/- from one Smt. Sita Sita Singh wife of Jagat Pal Singh for opening an account and the applicant instead of issuing a proper receipt for the above deposit, issued receipt on the counter foil of deposit slip duly signed and stamped with Post Office stamp but did not credit the amount to the PO account on that date itself whereas, he opened a forged RD account for Rs. 50/- on 3.5.2000 in the name of the aforesaid depositor and he has also altered the date of deposit in the pass book as 23.3.1999 and the amount of deposit as Rs. 1500/- by over figuring/insertion in the above passbook and give the passbook to Smt. Sita Singh. Another charge in the charge sheet shows that the applicant accepted a sum of Rs. 700/- on 12.9.2000 from one Shri Prabhanjan Singh for opening of a new TD account. The applicant though received Rs. 700/- from the depositor but did not issue proper receipt i.e. receipt No. SB-26 and has also not credited the money into government account

instead he issued a receipt for Rs. 700/- on counter foil of SB 103, signed and stamped and returned back to the depositor. Subsequently, he i.e. the charged officer opened a forged RD Account for Rs. 100/- in the name of the above depositor and on receipt of passbook of above said account, he changed the type of account and amount of deposit on the passbook and returned back to the depositor. The third charge which has mentioned in the charge sheet is this that the applicant accepted a sum of Rs. 10,000/- from one Shri Vijendra Pal on 23.8.99 for opening of a new TD Account and the applicant neither issued a receipt for it nor credited the amount to Post office account on that date. Subsequently, on 3.5.2000 he opened a forged RD Account in the name of Shri Vijendra Pal Singh and on receipt of passbook of above forged RD Account, he altered account number date of issue of passbook, date of deposit, amount of deposit in words and figures by insertion and over figuring and gave to the depositor. As such, the applicant himself misappropriated the amount deposited by Shri Vijendra Pal Singh. The copy of the charge sheet was duly served upon the applicant. After the receipt of the charge sheet, the applicant submitted a letter/representation and asked for certain documents. The inquiry officer was appointed and as indicated in his inquiry report firstly, the charged officer presented himself along with the defence assistant which was duly accepted but subsequently, he changed his defence assistant. Apart from this, the inquiry in the inquiry report it is submitted that from 9.2.2005 the date was fixed 17.2.2005, and the notice was issued. The inquiry officer read the charges in front of charge officer which was denied by the applicant. It is also indicated in the inquiry report that number of dates were fixed from 17.2.2005 till 28.4.2006 i.e. the date on which the inquiry got completed. The inquiry officer has also indicated in his inquiry report that the documents were examined as well as the list of witnesses were also examined and subsequently, it is also indicted that the applicant has accepted the misappropriation of amount in his statement and the inquiry officer came to the conclusion that the charge No. 1 and 3 stands partially

proved whereas the charge No. 2 in the absence of witnesses was not proved. The copy of the inquiry report was duly submitted to the disciplinary authority and the copy of which was given to the applicant. The applicant submitted the reply , but disciplinary authority disagreed with the finding of the inquiry officer and issued the disagreement memo dated 31.7.2006 and has pointed out that as per the documents it is clear that the applicant has himself misappropriated the government money, as such, non presence of the witnesses cannot dilute the charges levelled against the applicant. As such, the copy of the disagreement note was served upon the applicant and he has submitted the reply wherein, the applicant submitted that he has not misappropriated any amount. The disciplinary authority considered the reply of the charged officer i.e. the applicant and came to the finding that the applicant is not fit to be retained in service and as such, passed the order of dismissal from service. While passing the said order, the disciplinary authority has categorically dealt with all the three charges levelled against the applicant along with the documents as well as the statements recorded by the witnesses. The applicant preferred the appeal dated 13.11.2006, and in appeal , it is indicated by the applicant that the punishment awarded to him is not in accordance with rules and also violates the provisions of principles of natural justice. The Appellate Authority considered the appeal of the applicant as well as the order passed by the disciplinary Authority and has also discussed in details the relevant provisions of GDS (Conduct and Employment) Rules 2001 and has pointed out that the applicant has himself misappropriated the amount which was to be deposited by him in the Government account given to him by the individual depositors. Not only this, the Appellate Authority has also dealt with the grounds taken in the appeal and in reply to the said grounds, it is pointed out by the Appellate Authority that the disagreement memo was duly served upon the applicant and the applicant has also submitted the reply to the said disagreement memo. Apart from this, it is also indicted by the Appellate Authority that the

inquiry officer has taken care of with all the three charges separately and in regard to the charge No. 2 , the inquiry officer came to the conclusion that in the absence of witnesses , the charge does not stands proved which was disagreed by the Disciplinary authority and the disagreement memo was served upon the applicant who has submitted the reply as well. As such, the Appellate Authority came to the conclusion that the appeal filed by the applicant is not maintainable. Accordingly which was rejected. . Rule 10 of GDS (Conduct and Employment) Rules provides for procedure for imposing a penalty and as per the Director General's Instructions through letter No. 151/4/77-Disc.II dated 16.1.1980 deals with inquiries against ED Agents. The said rules reads as under:

> **"While it may not be necessary to follow the provisions of Rule 14 of CCS (CCA) rules, 1965, literally in the cases of ED Agents, it would be desirable to follow the provisions of that rule in spirit so that there may be no occasion to challenge that the opportunities under Article 311 (2) of the Constitution were not provided."**

7. The learned counsel for the applicant has relied upon two decisions one of Calcutta Bench of this Tribunal and another of Lucknow Bench of this Tribunal and has indicated that once the disciplinary authority made its opinion on the enquiry report, that becomes final so far as the order of the disciplinary authority is concerned. The disciplinary authority cannot express its opinion on the enquiry report again and again on its own. The learned counsel for the respondents relied upon the cases of **State of U.P. and Others vs. Ramesh Chandra Mangalik reported in (2002) 3 SCC -443, State Bank of India and others vs. Ramesh Dinkar Punde (2006) 7 SCC 212 , N. V. Nirmala vs. Karnataka State Financial Corporation and Others** reported in **(2008) 7 SCC 639 as well as Noharlal Verma vs. District cooperative Central Bank Limited , Jagdalpur** reported in **(2008) 14 SCC 445**. Apart from this, the learned counsel for

the respondents also relied upon two decisions of this Tribunal in the case of Uma Shankar Yadav Vs. Union of India (O.A. No. 155/2006) and Shitla Prasad Gupta Vs. Union of India and Others (O.A. No. 125 of 2008) respectively.

8. Now, the question which requires determination is whether after the full fledged enquiry, how much the scope is left with the Tribunal to interfere in it. The bare perusal of the enquiry officer's report clearly provides that the applicant fully participated in the enquiry and the enquiry officer considered each and every aspect of the matter and submitted the enquiry report to the Disciplinary Authority and the Disciplinary Authority disagreed with the finding of the inquiry officer and also issued the disagreement memo and the copy of which was duly given to the applicant and the applicant has also submitted the reply to the Disciplinary authority and the Disciplinary authority after due consideration of the reply given by the applicant as well as inquiry officer report came to the finding that the applicant is not fit to be retained in service accordingly, the order of dismissal was passed.

9. Be that as it may, it is now well settled that the scope of judicial review in disciplinary matters are very limited. The Court or Tribunal can interfere only if there is violation of principles of natural justice or if there is violation of statutory rules or it is a case of no evidence. The applicant could not point out that any provisions of the principles of natural justice have been violated. Neither any ground of non-supply of relied upon documents is taken by the applicant, as such, this Tribunal can only look into that to what extant it can go into the scope of judicial review in the matter of disciplinary proceedings. As stated above it is now well settled the scope of judicial review in a disciplinary matter is very limited. The Court or Tribunal can interfere only if there is a violation of principles of natural justice or if there is violation of any statutory rules

or if it is a case of no evidence. **The Tribunal or the Court cannot sit as an appellate authority as observed by the Hon'ble Apex Court in the case of State of Uttar Pradesh v. Raj Kishore Yadav reported in 2006(5) SCC 673. The Hon'ble Apex Court has been further pleased to observe as under:-**

> **"4. On a consideration of the entire materials placed before the authorities, they came to the conclusion that the order of dismissal would meet the ends of justice. When a writ petition was filed challenging the correctness of the order of dismissal, the High Court interfered with the order of dismissal on the ground that the acts complained of were sheer mistakes or errors on the part of the respondent herein and for that no punishment could be attributed to the respondent. In our opinion, the order passed by the High Court quashing the order of dismissal is nothing but an error of judgement. In our opinion, the High Court was not justified in allowing the writ petition and quashing the order of dismissal is noting but an error of judgement. In our opinion, the High Court was not justified in allowing the writ petition and quashing the order of dismissal and granting continuity of service with all pecuniary and consequential service benefits. It is a settled law that the High Court has limited scope of interference in the administrative action of the State in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India and, therefore, the findings recorded by the enquiry officer and the consequent order of punishment of dismissal from service should not be disturbed. As already noticed, the charges are very serious in nature and the same have been proved beyond any doubt. We have also carefully gone through the enquiry report and the order of the disciplinary authority and of the Tribunal and we are unable to agree with the reasons given by the High Court in modifying the punishment imposed by the disciplinary authority. In short, the judgment of the High Court is nothing but perverse. We, therefore, have no other option except to set aside the order passed by the High Court and restore the order passed by the disciplinary authority ordering dismissal of the respondent herein from service."**

11. The Hon'ble Apex Court in the case of **B.C. Chaturvedi v. U.O.I. & ors. reported in 1995(6) SCC 749** again has been pleased to observe that **"the scope of judicial review in disciplinary proceedings the Court are not competent and cannot appreciate the evidence."**

12. In another case the Hon'ble Apex Court in the case of **Union of India v. Upendra Singh reported in 1994(3)SCC 357** has been pleased to observe that the scope of judicial review in disciplinary enquiry

is very limited. The Hon'ble Apex Court has been pleased to observe as under:-

> **"In the case of charges framed in a disciplinary inquiry the Tribunal or Court can interfere only if on the charges framed (read with imputation or particulars of the charges, if any) no misconduct or other irregularity alleged can be said to have been made out or the charges framed are contrary to any law. At this stage, the tribunal has no jurisdiction to go into the correctness or truth of the charges. The tribunal cannot take over the functions of the disciplinary authority. The truth or otherwise of the charges is a matter for the disciplinary authority to go into. Indeed, even after the conclusion of the disciplinary proceedings, if the matter comes to court or tribunal, they have no jurisdiction to look into the truth of the charges or into the correctness of the findings recorded by the disciplinary authority or the appellate authority as the case may be."**

13. Not only this the Hon'ble Apex Court has even observed in regard to scope of judicial review as well as in regard to the quantum of punishment and in the case of **State of Rajasthan v. Md. Ayub Naaz reported in 2006 (1) SCC 589**. The Hon'ble Apex Court has been pleased to observe as under:-

> **"10. This Court in Om Kumar v. Union of India while considering the quantum of punishment / proportionality has observed that in determining the quantum, role of administrative authority is primary and that of court is secondary, confined to see if discretion exercised by the administrative authority caused excessive infringement of rights. In the instant case, the authorities have not omitted any relevant materials nor has any irrelevant fact been taken into account nor any illegality committed by the authority nor was the punishment awarded shockingly disproportionate. The punishment was awarded in the instant case after considering all the relevant materials, and, therefore, in our view, interference by the High Court on reduction of punishment of removal was not called for."**

14. The Hon'ble Apex Court in another decision of **State of UP v. Saroj Kr. Sinha reported in 2010 (2) SCC 772** has been pleased to observe that the employee should be treated fairly in any proceedings which may culminate in punishment being imposed on him. In the instant case the entire proceedings were carefully considered by the disciplinary authority and full opportunity was given to the applicant in conducting the enquiry and applicant also in his defence submitted the reply etc.

15. **The Hon'ble Supreme Court in the case of Union of India & Another. Vs. G. Ganayutham 1997 SCC (L & S) 1806 has been pleased to observe as under:**

> **"According to Wednesbury case, while examining 'reasonableness' of an administrative decision the Court has to find out if the administrator has left out relevant factors or taken into account irrelevant factors. The decision of the administrator must have been within the four corners of the law, and not one which no sensible person could have reasonably arrived at, having regard to the above principles, and must have been a bona fide one. The decision could be one of many choices open to the authority but it was for that authority to decide upon the choice and not for Court to substitute its view.**
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> **Similarly, according to CCSU case, to characterize an administrator's decision as 'irrational' the Court has to hold, on material, that it is a decision so outrageous as to be in total defiance of logic or moral standards.**
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> **In India, the role of the Courts/Tribunals is purely secondary in cases not involving fundamental freedoms. While applying Wednesbury and CCSU principles to test the validity of executive action or of administrative action taken in exercise of statutory powers, the Court and the Tribunals in India can only go into the matter, as a secondary reviewing Court to find out if the executive or the administrator in their primary roles have arrived at a reasonable decision on the material before them in the light of Wednesbury and CCSU tests. The choice of the options available is for the authority, the Court/Tribunal cannot substitute its view as to what is reasonable."**
>
> **(1) To judge the validity of an administrative order or statutory discretion, normally the Wednesbury test is to be applied to find out if the decision was illegal or suffered from procedural improprieties or was one which no sensible decision-maker could, on the material before him and within the framework of the law, have arrived at. The Court would consider whether relevant matters had not been taken into account or whether irrelevant matters had been taken into account or whether the action was not bona fide. The Court would also consider whether the decision was absurd or perverse. The Court would not however go into the correctness of the choice made by the administrator amongst the various alternatives open to him. Nor could the Court substitute its decision to that of the administrator. This is the Wednesbury test."**

16. As stated above that the Tribunal or the Court cannot sit in appeal over the decision of disciplinary authority nor can substitute its view in place of the said authority. The disciplinary authority was within his right to issue appropriate punishment as he may have deemed fit and proper.

The Tribunal is not competent to go into the quantum of punishment inflicted by the disciplinary authority unless it is shockingly disproportionate the Tribunal cannot sit as an appellate authority on the decision of the disciplinary authority or exercise their jurisdiction of judicial review in disciplinary matters if there is no apparent illegality.

17. In the case of **Mani Shankar v. Union of India & Ors.** reported in **(2008)1 SCC(L&S)-819** "The procedural fairness in conducting the departmental proceeding is a right of an employee." However, in this case the Hon'ble Supreme Court has also pleased to observe that the scope of judicial review in disciplinary proceedings is very limited. The Administrative Tribunals are to determine whether relevant evidences were taken into consideration and irrelevant evidences are excluded.

18. The Hon'ble Supreme Court in the case of **U.O.I. & ors. v. G. Annadurai reported in (2009) 13 SCC 469** has held that Courts are not for interfering with dismissal order passed against respondent employee and it is further observed by the Hon'ble Apex Court:-

> **"4. A memo of charges dated 23.12.1997 was drawn up, the charge memo was sent to the respondent by registered post at his home address. The respondent did not respond to the charges leveled and the charge memo was sent back undelivered. An enquiry officer was appointed and after issuance of notice to the respondent to appear before him on 26.1.1998 along with his written statement, reminder was sent to him on 10.2.1998. As the respondent did not respond to the notices issued, an order was passed ex parte.**
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> **12. The factual scenario shows that ample opportunities have been given to the respondent in order to enable him to effectively participate in the proceeding. He has failed to avail those opportunities. That being so the Division Bench of the High Court ought not to have interfered with the order of the learned Single Judge which according to us is irreversible. The appeal is therefore allowed and the impugned judgment is set aside."**

19. In the case of state of **State Bank of India an Others Vs. Ramesh Dinkar Punde reported in (2006) 7 SCC 212,** the Hon'ble Apex court has been pleased to observe as under:-

> **"6. Before we proceed further, we may observe at this stage that it is unfortunate that the High court has acted as an Appellate Authority despite the**

consistent view taken by this court that the High court and the Tribunal while exercising the judicial review do not act as an Appellate Authority:

"Its jurisdiction is circumscribed and confined to correct errors of law or procedural error, if any, resulting in manifest miscarriage of justice or violation of principles of natural justice. Judicial review is not akin to adjudication on merit by re-appreciating the evidence as an Appellate Authority."

Further it has been observed by the Hon'ble Apex Court as under:-

"9. It is impermissible for the High Court to re-appreciate the evidence which had been considered by the inquiry officer, a disciplinary authority and the Appellate Authority. The finding of the High Court, on facts, runs to the teeth of the evidence on record."

20. In the case of state of **Union of India vs. Parma Nanda reported in (1989) 2 SCC 177** , the Hon'ble Apex court has been pleased to observe as under:-

"27. We must unequivocally state that the jurisdiction of th Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the inquiry officer or competent authority where they are not arbitrary or utterly perverse. It is appropriate to remember that the power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislature or rules made under the proviso to article 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is malafide is certainly not a matter for the tribunal to concern itself with. The Tribunal also cannot interfere with the penalty if the conclusion of the inquiry officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter."

Further in the case of **Chairman and MD, United Commercial Bank vs. P.C. Kakkar reported in (2003) 4 SCC 364,** the Hon'ble Apex Court has been pleased to observe as under:-

"14. A bank officer is required to exercise higher standards of honesty and integrity. He deals with the 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 discipliner are inseparable from the functioning of every officer/employee of the bank. As was observed by this court in Disciplinary Authority-cum-Regional Manager Vs. Nikunja Bihari Patnaik it is no defence available to say that there was no loss or profit resulted in 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 an 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. These aspects do not appear to have been kept in view by the High Court."

21. Not only this, it is such a proposition that if the charged employee holds a position of trust where honesty and integrity are inbuilt requirements of functioning, it would not be proper to deal with the matter leniently. Misconduct in such cases has to be dealt with iron hands. Where the person deals with public money or is engaged in financial transactions or acts in a fiduciary capacity, the higher degree of integrity and trustworthiness is a must and unexceptionable.

22. As observed by the Hon'ble Apext Court in the case of **Noharlal Verma Vs. district Cooperative central Bank Limited Jagdalpur reported in (2008) 14 SCC 445,** the Hon'ble Apex Court has been pleased to observe as under:-

"The appellant was holding position of trust and was Manager of a Bank. The charges levelled against him were serious in nature concerning misappropriation of money. Though the amount was not big and it was also repaid and the Bank has not suffered, yet the fact is that Manager of a cooperative bank was involved in financial irregularities. The Bank was satisfied that he should not be retained in service and passed an order of removal. It cannot be said that such punishment is grossly disproportionate or excessively high. Normally in exercise of power of "judicial review", a writ court will not substitute its own judgment or decision for the judgment or decision of disciplinary authority unless it comes to the conclusion that it has shocked the conscience of the court or the punishment is such that no "reasonable man" would impose such punishment , or the decision is s absurd that the decision – maker at the time of making the decision "must have taken leave of his senses."

23. The applicant fail to make out any shortfalls in the enquiry proceeding as such, it cannot be said at this stage that the Disciplinary Authority has acted arbitrarily without considering the relevant facts available on record.

24. Considering the submissions of the learned counsel for the parties as well as observations made by the Hon'ble apex court, we do not find any justification to interfere in the present case. Accordingly, O.A. is dismissed. No order as to costs.

(Ms. Jayati Chandra)
Member (A)

(Navneet Kumar)
Member (J)

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