



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No.17059/2024

1. Shri Manish Kumar Balwani S/o Shri Nand Lal Balwani, Senior Manager (Under Suspension), Employee Code 100313, Present Head Quarter Kankroli- Resident Of Ranka Bhawan, Main Road, Kankroli- 313324, Rajasthan.
2. Smt. Sonika Jain W/o Shri Bhasker Siyal, Employee Code 160991, Officer (Under Suspension) Resident Of 924, Gyan Nagar, Hiran Magri, Sector 4, Manwa Khera, Udaipur-313002, Rajasthan Present Head Quarter Regional Office, Udaipur.
3. Ms. Ranjnee Veronica Lakra W/o Shri Aseem Kerketta, Employee Code 109163, Officer, Bank Of Baroda, Kelwa Branch, Resident Of Raghunath Nagar, Karamchari Colony, Nathdwara, District Rajsamand, Rajasthan.

----Petitioners

Versus

1. Bank Of Baroda, Baroda Corporate Centre, C-26, G-Block, Bandra Kurla Complex (East), Mumbai - 400051, Represented By Executive Director (Hr).
2. The Chief General Manager (Hr), Bank Of Baroda, Baroda Corporate Centre, C-26, G-Block, Bandra Kurla Complex (East), Mumbai - 400051.
3. The Zonal Head (General Manager), Bank Of Baroda, Jaipur Zone, Baroda Bhawan, A-13, Airport Plaza, Shreeji Colony, Tonk Road, Durgapura, Jaipur - 302018.
4. The Deputy General Manager (Compliance And Assurance), Bank Of Baroda, Jaipur Zone, A-13, Airport Plaza, Shreeji Colony, Tonk Road, Durgapura, Jaipur - 302018.
5. Shri G.I. Sharma, Inquiry Authority (Ex- Deputy General Manager), C/o Bank Of Baroda, Baroda Bhawan, A-13, Airport Plaza, Shreeji Colony, Tonk Road, Durgapura, Jaipur - 302018.
6. Shri Varesh Kumar, Chief Manager (Presenting Officer) E.c.no. 89335, Bank Of Baroda Baroda Bhawan, Zonal Office, A-13, Airport Plaza, Shreeji Colony, Tonk Road, Durgapura, Jaipur - 302018.



----Respondents

For Petitioner(s) : Mr. Lokesh Mishra
Mr. Narendra Kumar Gautam
For Respondent(s) : Mr. Rupin Kala

JUSTICE ANOOP KUMAR DHAND

Order

Reserved on : 06/03/2025
Pronounced on : 18/03/2025
Reportable

For convenience of exposition, this judgment is divided in the following parts:-

INDEX

(1) Factual Matrix and relief claimed in this petition.....	2
(2) Submissions by counsel for the petitioner.....	3
(3) Submissions by counsel for the respondents.....	4
(4) Discussion & Analysis.....	6
(5) Conclusion.....	19
(6) Directions.....	19

Factual Matrix and relief claimed in this petition:-

1. The instant writ petition has been filed with the following prayer:-

“(1) Quash and set aside the charge sheets dated 16.08.2024 issued against the petitioners as arbitrary, illegal and violative of the principles of natural justice.

(2) Direct the respondents to invoke Clause 10 of the Bank of Baroda Officer Employees’ (Discipline & Appeal) Regulations, 1976, and conduct common disciplinary proceedings for all the officers involved in the IFILC Business Development case.

(3) Direct the respondents to reinstate the petitioners to their positions with immediate effect and quash the suspension order dated 11.03.2024.



(4) Direct the respondents to provide access to all documents, evidence, and CCTV footage relied upon in framing the charges against the petitioners and required by the petitioner for their proper defence.

(5) Pass any other order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

(6) Pending the final disposal of this writ petition, the petitioners respectfully seek interim relief in the form of an order staying the operation of the charge sheets dated 16.08.2024 and the suspension orders dated 11.03.2024 issued against the petitioners.

Any other appropriate order or direction which this Hon'ble Court deems fit and proper in favour of the petitioners may kindly be passed."

2. By way of filing this writ petition, a challenge has been led to the charge-sheets dated 16.08.2024, on the ground that the same have been issued in contravention of the provisions contained under Regulations 6.3 and 10 of the Bank of Baroda Officer Employees' (Discipline and Appeal) Regulations, 1976 (hereinafter referred to as "the Regulations of 1976") and an alternative prayer has been made for issuing direction for conducting common disciplinary proceedings against all the Officers involved in IFLIC Business Development Case.

Submissions by counsel for the petitioners:-

3. Learned counsel for the petitioners submits that for similar charges, four different charge-sheets have been issued to four Delinquent Officers, including the petitioners and one Abhishek Agarwal. Learned counsel submits that now the respondents are conducting four different enquiries against all the four persons, which is in violation of the mandate, contained under Regulation 10 of the Regulations of 1976. Learned counsel submits that as per the provisions described under the Regulation 10 of the Regulations of 1976, where two or more Officer employees are



concerned in a case, the Authority competent in order to impose major penalty on all such Officer employees, may make an order directing that the disciplinary proceedings against all of them may be taken in a common proceeding. While in the instant case, different proceedings have been initiated against all the four persons, hence, under these circumstances, interference of this Court is warranted.

4. Learned counsel for the petitioners further submits that as per the provisions, contained under the Regulation 6.3 of the Regulations of 1976, whenever any enquiry is proposed by the Disciplinary Authority, it is expected from the said authority to frame definite charges against the Officer employee with statement of allegations, list of documents along-with list of witnesses etc. Learned counsel submits that while serving charge-sheets upon the petitioners, the documents were not furnished, therefore, until and unless the documents are furnished to the petitioners, the Disciplinary Authority/Enquiry Officer cannot proceed against the petitioners. In support of his contentions, he has placed reliance upon the judgment passed by the Hon'ble Apex Court in the case of **Administrator, Union Territory of Dadra and Nagar Haveli Versus Gulabhia M. Lad** reported in **2010 AIR SCW 3785**, and in the case of **Neeraj Vishnu Srivastava Versus Executive Director, Dena Bank & others, Service Bench No.964/2010** decided by the Allahabad High Court at Lucknow Bench vide order dated 28.10.2010.

Submissions by counsel for the respondents:-

5. *Per contra*, learned counsel for the respondents opposed the arguments raised by the counsel for the petitioners and submitted



that as far as the arguments advanced by counsel for the petitioners with regard to non-compliance of the provisions contained under the Regulation 6.3 of the Regulations of 1976 is concerned, it is not mandatory to supply the documents along-with the charge sheet, particularly when the delinquent Officer employee has inspected the documents. Learned counsel submits that in the instant case also, ample opportunity was granted to the petitioners to inspect the documents and after inspecting the same, they gave their comments on the inspection application. Learned counsel submits that, under these circumstances, there is no violation of the Regulation 6.3 of Regulations of 1976.

6. Learned counsel submits that so far as the provisions contained under the Regulation 10 of the Regulations of 1976 are concerned, the same are not mandatory as the word "may" has been prescribed therein. Learned counsel submits that since all the four delinquent Officers including the petitioners hold different positions, hence, their corresponding Disciplinary Authority is also different. Learned counsel submits that the delinquent Abhishek Agarwal and Manish Kumar Balwani were holding the post of Chief Manager and Senior Manager respectively in the Branch, at the relevant time. While, the other two delinquent Officers Sonika Jain and Ranjnee Veronica Lakra were officers of the said Branch. Learned counsel submits that the Disciplinary Authority of Abhishek Agarwal and Manish Kumar Balwani is General Manager and Zonal Head, whereas, in the case of Sonika Jain and Ranjnee Veronica Lakra, the Disciplinary Authority is Deputy General Manager and Deputy Zonal Head. Learned counsel submits that under these circumstances, charge-sheets have been issued to



them accordingly, by the Authorities concerned and different enquiries are being conducted against all of them by one and the same Enquiry Officer i.e. Gopal Lal Sharma, Ex. Deputy General Manager. In support of his contentions, he has placed reliance upon the following judgments:-

- (1) **K.N. Gupta Versus Union of India & Another** reported in **(Delhi) 1968 SLR**;
- (2) **B.L. Kohli Versus Union of India & others** reported in **1974(2) SLR 679**; and
- (3) **Onkar Singh Khosla Versus Union of India & Others** reported in **1975 SCC OnLine DEL 13**.

7. Lastly, he argued that charges against all the delinquent employees are different and distinct and, therefore, under these circumstances, there is no illegality in the procedure adopted by the respondents for conducting separate disciplinary proceedings against all the petitioners. Hence, under these circumstances, interference of this Court is not warranted.

Discussion & Analysis:-

8. Heard and considered the submissions made at Bar and perused the material available on record.

9. Basically, twofold arguments have been made by the petitioners i.e. firstly, as per the Regulation 10 of the Regulations of 1976, the proceedings should be common where two or more Officer employees are concerned in a case. It would be gainful to quote the Regulation 10 of the Regulations of 1976 and the same reads as under:-

“10. Common proceedings



Where two or more officer employees are concerned in a case, the authority competent to impose a major penalty on all such officer employees may make an order directing that disciplinary proceedings against all of them may be taken in a common proceedings."



Though, the Regulation 10 of the Regulations of 1976 indicates that the disciplinary proceedings should be common where two or more officers are involved in a case. As per the case of the petitioners, the charges and allegations against all the three petitioners and one Abhishek Agarwal are similar, hence, departmental proceedings against them should not be conducted separately and the same ought to have been conducted through a common proceeding. While, as per the respondents, the charges against all the four delinquent employees are different and distinct and their respective Disciplinary Authorities are also different and separate. The respondents have bifurcated the charges of all the four delinquent employees in a tabular form, in their reply, and the same is reproduced as under for ready reference:-

Nature/details of allegations/Charges.

CSO	Mr. Abishiek Agarwal, EC No. 94006	Mr. Manish Balwani (U/s), EC 100313	Mr. Sonika Jain (U/s), EC No 160991	Mr. Ranjnee Veronica Lakra, EC No. 109163
Grade/Scale at the time of Incidence.	Chief Manager & Branch Head	Sr. Manager (Branch Operations/ Joint Manager).	Officer.	Officer.
Memorandum (Charge-Sheet) issued on	16.08.2024	16.08.2024	16.08.2024	16.08.2024
Supervisory Role	Being Branch Head, he failed in overall supervision, care and control at the Nathdwara Branch. (allegation no. 1,2,3,4,5,6,7,8,1	Being Joint Manager/ Senior Manager (Branch Operations), he did not ensure and protect and interest of the Bank.	No such allegation attributed.	No such allegation attributed.



	0,11)	(allegation no. 8,9,10)		
Entry/ posting/ verification of fraudulent entries.	No such allegation attributed.	He entered or posted or verified -32- transfer transactions in -29- customer accounts.	She entered or posted or verified -70- transfer transactions in -45- customer accounts.	She entered or posted or verified -20- transfer transactions in -19- customer accounts.
Transaction carried out through menu option “HTM” instead of “INDIAF”	No such allegation attributed.	Such allegation attributed. (allegation no. 2)	Such allegation attributed. (allegation no. 2)	Such allegation attributed. (allegation no. 2)
Explicit customer mandate not obtained.	No such allegation attributed.	Such allegation attributed. (allegation no. 7)	Such allegation attributed. (allegation no. 7)	Such allegation attributed. (allegation no. 7)
Ensuring preparation or safekeeping of debit/credit vouchers.	No such allegation attributed.	Only -6- debit vouchers are available out of -32- transactions. (allegation no. 4)	Only -11- debit vouchers are available out of -70- transactions. (allegation no. 4)	Only -2- debit vouchers are available out of -20- transactions. (allegation no. 4)
Mentioned/ allowed to mention wrong narration in the transactions.	No such allegation attributed.	Such allegation attributed. (allegation no. 5)	Such allegation attributed. (allegation no. 6)	Such allegation attributed. (allegation no. 5)
Allowed access of the Finacle credentials	No such allegation attributed.	No such allegation attributed.	such allegation attributed. (allegation No.5)	No such allegation attributed.
Violation of four eye principle	No such allegation attributed.	He entered and posted -9- such transactions in violation of four eye principle. (allegation no. 6)	He entered and posted -13- such transactions in violation of four eye principle. (allegation no. 13)	No such allegation attributed.
Non maintenance of insurance Register.	Such allegation attributed. (allegation no. 9)	Such allegation attributed. (allegation no. 7)	No such allegation attributed.	No such allegation attributed.
Non generation of Inter-sol report.	No such allegation attributed.	Such allegation attributed. (allegation no. 13)	No such allegation attributed.	No such allegation attributed.
Posted/verified transaction to issue FDR but	No such allegation attributed.	No such allegation attributed.	Such allegation attributed. (allegation no.	No such allegation attributed.



FDR not opened in system.			7)	
Did not ensure to destroy the FDR in system resulted in mis-utilization.	No such allegation attributed.	No such allegation attributed.	Such allegation attributed. (allegation no. 7)	No such allegation attributed.
Availed outside loans without bank's permission.	Such allegation attributed. (allegation no. 12)	No such allegation attributed.	No such allegation attributed.	No such allegation attributed.

10. As per Circular No. BCC/BR/115/782 dated 22.12.2023 issued by the respondents, the competent authority who issued Explanatory Note, is also different for the different employees, which is as per their post and position. The competent authority has also bifurcated the same in the tabular form, which is reproduced as under:-

Sr. No.	Grade of Employee.	Competent Authority as per Aforesaid circular
1.	All Officers in JMG/S-I and MMG/S-II	Deputy Zonal Head not below the rank of Deputy General Manager.
2.	All Officers in MMG/S-III and SMG/S-IV	Zonal Head not below the rank of General Manager.

Sr. No.	Officials	Authorities who Issued the EN.
1.	Mr. Abhishek Agrawal, EC No. 94006, Chief Manager.	General Manager & Zonal Head.
2.	Mr. Manish Balwani, EC No. 100313, Senior Manager.	General Manager & Zonal Head.
3.	Mrs. Sonika Jain EC No. 160991, Officer.	Dy. General Manager & Dy. Zonal Head.
4.	Mrs. Ranjnee Veronica Lakra, EC No. 109163, Officer.	Dy. General Manager & Dy. Zonal Head.



11. As per the Circular No. BCC/BR/115/727 dated 01.12.2023 issued by the respondents, the disciplinary authority of the Delinquent Officers is also different and the same is according to their post and position in the bank. The name of the Disciplinary Authorities, are also mentioned in the tabular form which is reproduced as under:-



Sr. No.	Grade of Employee.	Disciplinary Authority as per aforesaid circular
1.	All Officers in JMG/S-I and MMG/S-II	Deputy General Manager. (Compliance & Assurance)*.
2.	All Officers in MMG/S-III and SMG/S-IV	Zonal Head not below the rank of General Manager.

Sr. No.	Charge-Sheet Officials	Authorities who Issued the Charge-Sheet
1.	Mr. Abhishek Agrawal, EC No. 94006, Chief Manager.	General Manager & Zonal Head.
2.	Mr. Manish Balwani, EC No. 100313, Senior Manager.	General Manager & Zonal Head.
3.	Mrs. Sonika Jain EC No. 160991, Officer.	Deputy General Manager. (Compliance & Assurance)*
4.	Mrs. Ranjnee Veronica Lakra, EC No. 109163, Officer.	Deputy General Manager. (Compliance & Assurance)*

12. Hence, it is clear from the above circulars that for the delinquent employee Abhishek Agarwal-Chief Manager and the petitioner-Manish Kumar Balwani-Senior Manager, the competent authority for issuance of Explanatory Note is General Manager & Zonal Head, whereas for the petitioners-Sonika Jain and Ranjnee Veronica Lakra, the competent authority is Deputy General Manager and Deputy Zonal Head. Hence, the competent authorities and disciplinary authorities in both the cases are



different, hence, jurisdiction of one cannot be snatched by another. The jurisdiction of General Manager and Zonal Head cannot be exercised by Deputy General Manager (Compliance & Assurance) or vice-a-versa.

13. Though, some of the charges against all the four delinquent employees are different and some of them are common, hence the disciplinary proceedings of the delinquent Abhishek Agarwal and Manish Kumar Balwani can be conducted by the General Manager & Zonal Head, while, the disciplinary proceedings against the delinquent Sonika Jain and Ranjnee Veronica Lakra can be conducted by the Deputy General Manager (Compliance & Assurance) in a composite manner. Hence, two different composite enquiries and disciplinary proceedings can be conducted against them respectively. A similar view has been taken by the Hon'ble Apex Court in the case of **Administrator, Union Territory of Dadra and Nagar Haveli** (supra) and it has been held in para 15, as under:-

"15. In a matter of imposition of punishment where joint disciplinary enquiry is held against more than one delinquent, the same or similarity of charges is not decisive but many factors as noticed above may be vital in decision making. A single distinguishing feature in the nature of duties or degree of responsibility may make difference insofar as award of punishment is concerned. To avoid multiplicity of proceedings and overlapping adducing of evidence, a joint enquiry may be conducted against all the delinquent officers but imposition of different punishment on proved charges may not be impermissible if the responsibilities and duties of the co-delinquents differ or where distinguishing features exist. In such a case, there would not be any question of selective or invidious discrimination."



14. It has been held by the Hon'ble Apex Court in the above referred case that in order to avoid multiplicity of proceedings and overlapping adducing of evidence, a joint enquiry may be conducted if the Appointing Authority and Disciplinary Authority is one and same.

15. In the matter of **Balbir Chand Vs. Food Corporation of India Ltd. & Ors.** reported in 1997 (3) SCC 371, the Hon'ble Apex Court has taken a view in para 5 as follows:-

"5.When more than one delinquent officer are involved, then with a view to avoid multiplicity of the proceedings, needless delay resulting from conducting the same and overlapping adducing of evidence or omission thereof and conflict of decision in that behalf, it is always necessary and salutary that common enquiry should be conducted against all the delinquent officers. The competent authority would objectively consider their cases according to Rules decide the matter expeditiously after considering the evidence to record findings on proof of misconduct and proper penalty on proved charge and impose appropriate punishment on the delinquents. If one charged officer cites another charged officer as a witness, in proof of his defence, the enquiry need not per se be split up even when the charged officers would like to claim an independent enquiry in that behalf. If that procedure is adopted, normally all the delinquents would be prone to seek split up of proceedings in their/his bid to delay the proceedings, and to see that there is conflict of decisions taken at different levels. Obviously, disciplinary enquiry should not be equated as a prosecution for an offence in a Criminal Court where the delinquents are arrayed as co-accused. In disciplinary proceedings, the concept of co-accused does not arise. Therefore, each of the delinquents would be entitled to summon the other person and examine on his behalf as a defence witness in the enquiry or summon to cross-examine any other delinquent



officer if he finds him to be hostile and have his version placed on record for consideration by the Disciplinary Authority. Under these circumstances, the need to split up the cases is obviously redundant, time consuming and dilatory. It should not be encouraged.....”

16. Herein the instant case, the Disciplinary Authority of the delinquent employees Abhishek Agarwal and Manish Kumar Balwani is same while the Disciplinary Authorities of Sonika Jain and Ranjnee Veronica Lakra are different. Hence, the concerned Authority of both sets of delinquent can conduct joint enquiry and disciplinary proceedings against them respectively.

17. Now, this Court proceeds to deal with the second argument raised by counsel for the petitioner that whether it is necessary to supply each and every document to the delinquent which are annexed with the charge-sheet?

18. It is settled proposition of law that if the documents are allowed to be inspected by the delinquent officer/employee then non-supply of documents to him/her would not vitiate the proceedings. This view has been taken by the Delhi High Court in the case of **K.N. Gupta** (supra) and it has been held as under:-

“6.As I have already mentioned in this case the petitioner was given permission to inspect the documents and to take extracts from them. If the petitioner wanted to take copies of any of the documents made available to him for inspection, there was nothing to prevent him from doing so. It is not the case of the petitioner that he wanted to take copies of those documents and he was prevented from taking copies but was permitted to take only extracts. It will be too much of a technicality to contend that it will not be sufficient if the petitioner is permitted to inspect the documents and take copies of those documents but the department itself must take copies and furnish those copies to the petitioner. As far as the facts of this case are concerned, as I pointed out



already, the petitioner was given permission to inspect the documents and take extracts there from. The argument of Shri Anthony is that the petitioner has an absolute right to be furnished with copies of the documents by the department and it is not enough if he is permitted to peruse or inspect the documents and allowed to take copies of those documents. I am unable to accept this contention which, in my opinion, is not supported by any authority.....”

19. A similar view has been taken by the Delhi High Court in the case of the **B.L. Kohli** (supra) and it has been held in Para 2 of the judgment as under:-

“2. Mr. Kathuria the learned counsel for the petitioner contended that the whole proceedings are vitiated because the petitioner was not given reasonable opportunity as required by rules inasmuch as documents shown in the list attached to charge sheet dated 19th of April, 1965, which were relied upon while framing charges, was not shown to him. It appears that the petitioner, on 24th April, 1965 had requested that he should be supplied the copies of the original documents mentioned in the list. He was, however, informed by the department by its letter dated 18th June, 1965 that the necessary document will be shown to him on the date of hearing. The counsel made a grievance that the refusal of the respondent to supply him the said copies has initiated the enquiry and the subsequent order of removal. Now in the return affidavit filed by the Assistant Collector (Head quarters) Central Excise Collectorate, New Delhi, it has been stated that the petitioner was supplied with all the copies which were relied upon and that he had been given full opportunity to present his case. Moreover, a reference to the list of which department was relying attached to annexure H would show that they are original application and receipts and obviously the demand of the petitioner that he should be supplied the original document could hardly have been conceded. It is further clear from the record that the petitioner did inspect the record. As a matter of fact, in his letter to the Enquiry Officer dated 27-10-1966 (Annexure B) the petitioner has clearly stated that he had examined and taken extracts except the two files which related to the year 1955-56, and the later were stated to be not available. At no stage during the enquiry



or even in the present petition has any grievance been made that he wanted any particular document to be inspected by him and the same was refused to him. The enquiry extended over a number of hearing and lasted for about two years. It is not the case of the petitioner that at any time during this period he wanted inspection of any particular document, and was refused. The only suggestion by the counsel, was that because the copies of the documents were not supplied to the petitioner this per se vitiates the enquiry. I cannot agree. Availability of the copies of documents to the petitioner relied on by department is to give a reasonable opportunity to the employee to defend himself. Had the department refused to show any document to the petitioner on which it was relying, the grievance of the petitioner would have force. But when all the documents were made available and inspection was done by the petitioner the argument that because the department of its own did not make out copies and supplied the same to the petitioner has led to denial of opportunity is an argument, which on no principle of precedent or logic can be accepted. Even in his representations to the authorities I do not find any grievance made that any particular document was withheld from him during the enquiry. The grievance of the petitioner, therefore, that he was not given a reasonable opportunity to defend himself must fail."

20. Again in the case of **Onkar Singh Khosla** (supra), the Delhi High Court has observed that if the documents relied upon by the Department are not supplied to the delinquent officer but the inspection of the same is allowed to him/her, then, there is no illegality so as to vitiate the proceedings. It has been held in Para 12, which reads as under:-

"12. Mr. Kapur has urged that non supply of a copy of the report of preliminary investigation and other documents also vitiates the proceedings. There is no Rule winch requires that copies of these be supplied. Admittedly inspection of documents was permitted to the petitioner. Therefore, I cannot persuade myself to accept the contention that the proceedings stand vitiated on account of non supply of the any document. It is urged that there is serious irregularity in the commencement of



the disciplinary authority inasmuch as no list of documents relied upon by the department or list of witnesses to be produced at the inquiry was supplied to the petitioner alongwith the charge sheet as postulated by sub-clause (i) of clause (ii) of sub-rule 3 of rule 9 of the Railway servant (Discipline and Appeal) Rules 1968. It may be stated that since these rules came into force subsequent to the commencement of the disciplinary proceedings in this case there was no statutory requirement of supplying the same. In that view of the matter, one can only plead prejudice and that the rule of natural justice demanded that these should have been given. Inasmuch as it is not shown how non supply of these at the initial stage has adversely affected the petitioner, I cannot say that there is any illegality so as to vitiate the proceedings themselves."



21. In the instant case also, the petitioners were allowed to inspect the documents and the same has been done by them. Hence, under such circumstances, it cannot be said that the charge-sheet could be quashed only on the aforesaid count.

22. The petitioners have tried to raise an argument that the charges levelled against them are not correct, hence, the same are liable to be quashed. The petitioners can put their defence by way of filing their reply before the Enquiry Officer/Disciplinary Authority, but in any case, this Court cannot act as an Enquiry Officer or Disciplinary Authority to adjudicate upon the correctness of the allegations.

23. The Hon'ble Supreme Court in the case of **Union of India (UOI) and Ors. vs. K.K. Dhawan** reported in **1993 (2) SCC 56** has held as under:-

"26. In the case on hand, article of charge clearly mentions that the nine assessments covered by the article of charge were completed:

- i) in an irregular manner,
- ii) in undue haste, and



iii) apparently with a view to confer undue favour upon the assessee concerned.

(Emphasis supplied).

Therefore, the allegation of conferring undue favour is very much there unlike Civil Appeal No.560/91. If that be so, certainly disciplinary action is warranted. This Court had occasion to examine the position. In Union of India v. A. N. Saxena, (1992) 3 SCC 124 to which one of us (Mohan, J.) was a party, it was held as under (Paras 7 and 8 of AIR):

"It was urged before us by learned counsel for the respondent that as the respondent was performing judicial or quasi-judicial functions in making the assessment orders in question even if his actions were wrong they could be corrected in an appeal or in revision and no disciplinary proceedings could be taken regarding such actions. In our view, an argument that no disciplinary action can be taken in regard to actions taken or purported to be done in the course of judicial or quasi-judicial proceedings is not correct. It is true that when an officer is performing judicial or quasi-judicial functions disciplinary proceedings regarding any of his actions in the course of such proceeding should be taken only after great caution and a close scrutiny of his actions and only if the circumstances so warrant. The Initiation of such proceedings. it is true, is likely to shake the confidence of the public in the officer concerned and also if lightly taken likely to undermine his independence. Hence the need for extreme care and caution before initiation of disciplinary proceedings against an officer performing judicial or quasi-judicial functions in respect of his actions in the discharge or purported to discharge his functions. But it Is not as if such action cannot be taken at all. Where the actions of such an officer indicate culpability, namely a desire to oblige himself or unduly favour one of the parties or an improper motive there is no reason why disciplinary action should not be taken."

27. This dictum fully supports the stand of the appellant. There is a great reason and justice for





holding in such cases that the disciplinary action could be taken. It is one of the cardinal principles of administration of justice that it must be free from bias of any kind.

28. Certainly, therefore, the officer who exercises judicial or quasi-judicial powers acts negligently or recklessly or in order to confer undue favour on a person is not acting as a Judge.

Accordingly, the contention of the respondent has to be rejected. It is important to bear in mind that in the present case, we are not concerned with the correctness or legality of the decision of the respondent but the conduct of the respondent in discharge of his duties as an officer. The legality of the orders with reference to the nine assessments may be questioned in appeal or revision under the Act. But we have no doubt in our mind that the Government is not precluded from taking the disciplinary action for violation of the Conduct Rules. Thus, we conclude that the disciplinary action can be taken in the following cases:

- i) Where the officer had acted in a manner as would reflect on his reputation for integrity good faith or devotion to duty;
- ii) if there is prima facie material to show recklessness or misconduct in the discharge of his duty;
- iii) if he has acted in a manner which is unbecoming of a government servant;
- iv) if he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;
- v) if he had acted in order to unduly favour a party;
- vi) if he had been actuated by corrupt motive however, small the bribe may be because Lord Coke said long ago "though the bribe may be small, yet the fault is great."

24. In the case of **State of Orissa Vs. Sangram Keshari Misra: (2010) 13 SCC 311** the Hon'ble Apex Court has held that normally a charge-sheet is not quashed prior to conclusion of the enquiry on the ground that facts stated therein are erroneous for



the reason that finding correctness or truth of the charge, is the function of the disciplinary authority.

Conclusion:-

25. In the considered opinion of this Court, a writ petition generally does not lie against the charge-sheet unless it is established that the same had been issued by an authority not competent to initiate the disciplinary proceedings. It is settled law that charge-sheet cannot be interfered with by the Court lightly or in a routine manner. The delinquent employee instead of seeking quashing of the charge-sheet, at the initial stage, must submit his/her reply before the Enquiry Officer/Disciplinary Authority and wait for conclusion of the disciplinary proceedings.

Directions:-

26. In view of the observations made hereinabove, the instant writ petition stands disposed of with direction to the respondents to conduct one composite enquiry against Manish Kumar Balwani along-with Abhishek Agarwal under the competent authority i.e., General Manager and Zonal Manager whereas in the case of Sonika Jain and Ranjnee Veronica Lakra, a composite enquiry and disciplinary proceedings can be conducted under the competent authority i.e., Deputy General Manager (Compliance & Assurance) in order to avoid contradictory and conflicting orders.

27. Stay application and all pending applications (pending, if any) also stand disposed of.

(ANOOP KUMAR DHAND),J

Karan/