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WP(C) No. 19103 of 2014

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.M.MANOJ

FRIDAY, THE 11TH DAY OF APRIL 2025 / 21ST CHAITHRA, 1947

WP(C) NO. 19103 OF 2014

PETITIONER:

P.SANKARAN NAMBOOTHIRI
AGED 60 YEARS
S/O.S.PARAMESWARAN NAMBOODIRI, THALAVANNATTU ILLAM,
NAGAMPADAM, KOTTAYAM-1.

BY ADV P.SANKARAN NAMBOODIRI (Party-In-Person)

RESPONDENTS:

- 1 KERALA STATE FINANCIAL ENTERPRISES LTD
REPRESENTED BY ITS MANAGING DIRECTOR, CORPORATE OFFICE,
BHADRATHA, MUSEUM ROAD, THRISSUR-680 020.
- 2 STATE OF KERALA
REPRESENTED BY THE PRINCIPAL SECRETARY, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM-695 001.

R1 BY ADVS. SRI.M.GOPIKRISHNAN NAMBIAR, SC
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURYAN THOMAS
SMT. POOJA MENON
R2 BY SRI. BINOY DAVIS, GOVT. PLEADER.
SMT. A. ARUNA, AMICUS CURIAE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
11.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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C.R.

P.M. MANOJ, J

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Dated this the 11th day of April, 2025

JUDGMENT

The writ petition is preferred primarily challenging Ext.P2 and related Ext.P1 memo of charges, Ext.P3 enquiry report and Ext.P5 order passed in the appeal.

2. The petitioner was an employee of the Kerala State Financial Enterprises (for short 'KSFE') - the 1st respondent. He entered into the service of the 1st respondent on 28.08.1978. At the time of termination, he had completed 29 years of service.

3. While initiating disciplinary proceedings, he was working as the Senior Manager. The issue involved in this case is with respect to his tenure in the Loan Unit at Kottayam. During those periods, he had sanctioned 300 loans, which amounts to Rs.3 Crores. Out of which, the dispute was raised with respect to 24 loans, which were defaulted, and on examination and verification of the documents, certain



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irregularities were found, and the petitioner was charge- sheeted after two years.

4. Going by the charge memo, which is produced as Ext.P1, it is stated that the petitioner, in blatant violations of the procedures in vogue, had sanctioned loans amounting to Rs.34,40,000/- to a group of persons related to Sri.M.R.Sasikumar, one of the Chitty Canvassing Agents, during a time span of six months, accepting insufficient and unacceptable properties as securities disregarding the interest of the Company. On the basis of this allegation, he was charge-sheeted for the following activities:

- wrongful gain by collusive act.
- overvaluation of mortgaged properties for a high amount, which amounts to cheating the Company.
- devolution and transfer of properties mortgaged with preplanned intention to siphon out the Company money.
- malafide intention in acceptance of entire property for the loan transactions specified in the memo of charges which are devoid of independent accessibility and separate demarcation.



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- identified each property with malafide intention which is otherwise impossible to identify,
- A preplanned action plan in collusion with the Assistant Manager and Assistant concerned along with loanees and mortgagers.
- He has deliberately given high valuation to favour the loanees at the cost of Company's interest.
- Due to high inflated valuation given and no separate access to each property, it was impossible to dispose any one of the property to realize the respective dues.
- he has an intention to defeat the claim of the Company at the stage of realisation of the dues
- In order to make wrongful gain to himself and loss to the Company he did not follow the general guidelines issued by the Company for acceptance of security property whereby siphoned off Company's money.
- The Company has sustained heavy loss due to the activities of the petitioner. Thereby he failed to protect the interest of the



Company. By his unholy alliance with loanees and mortgagees he has forsaken the interest of the Company.

- With certain ulterior motive he did not entrust the task of valuation to Kattappana Branch Manager in violation of the directions of the Head Office.
- The unholy nexus with the loanees is evident from chart submitted by Internal Audit Team.

5. In addition to that, he has committed certain other serious lapses, which are:

- (i) The FSV of the properties are not even recorded in the scrutiny notes.
- (ii) Even the valuation reports are missing in a No. of files.
- (iii) Separate revenue records for each property, such as Location Sketch, Location Certificate, Possession certificate, upto date Encumbrance Certificate etc., were not obtained.
- (iv) Almost all valuation reports are devoid of many vital information such as extent of property, Sy.No., boundaries and means of access to the property etc.
- (v) The repayment capacity of Loanees has not been ascertained properly.
- (vi) Almost all the loan Agreements are totally blank.



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(vii) Equitable mortgage has not been created in a number of cases."

6. On the basis of the aforementioned charges, disciplinary actions were initiated. All the charges levelled against him have been categorically denied by him by Ext.P15.

7. Since the petitioner is appearing as a party in person and finding out the difficulties in answering the legal aspect, Adv.Aruna A., was appointed as Amicus Curiae. The primary argument of the learned Amicus Curiae on the allegations in Ext.P1 charge memo was that it is vague and non-specific. Secondly, the charges are not proved. Thirdly, Ext.P2 the order of dismissal and Ext.P5 order in appeal are cryptic. Fourthly, there is violation of principles of natural justice and; finally, the punishment imposed is disproportionate.

8. Whereas the petitioner's contention was that, no counter affidavit is filed even after repeated directions, thereby there is no specific denial of the contentions raised in the writ petition. He was denied festival allowance and DCRG, minimum pension supplement was withheld, the agent-principal relationship was misinterpreted/and there was inconsistent and arbitrary denial of benefits along with



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violation of principles of nature justice in the disciplinary proceedings etc.

9. Moreover, he has gone to the extent that the enquiry officer appointed by the Bank was one among the Advocates who is in the panel of lawyers entrusted with legal scrutiny of documents submitted before the KSFE especially attached to Kottayam Branch where the petitioner was holding the charge as senior Manager. She is having some resentment against the petitioner regarding the allotment of files in accordance with her likes.

10. According to the learned Amicus Curiae,

1. A single offence should not be split into multiple charges, the policy of framing one charge for one set of allegations should as far as possible be adopted

2. Distinct offences should not be merged into one charge

3. Charge should be brief pointed and couched in clear terms without any vagueness. The date of occurrence of the incident and times wherever applicable should always find a place in charge

4. Charges should be logically framed or in other words, they should follow logically from the nature of the allegations made.

5. a full and clear statement of allegations on which each charge is based together with any other circumstances



which is proposed to take into consideration in passing the orders in the matter should be appended.

11. However, the aforementioned principles about the memo of charges are not followed while issuing Ext.P1 memo of charges. It is contended by the learned Amicus Curiae that though Ext.P1 memo of charges comprised of 20 pages, there is no separation as memo of charges and statement of imputation. Mainly, there are five parts of the allegations numbered as 1 to 5.

- The first charge is with respect to sanctioning of loans amounting to Rs.34,40,000/-. However, no specific details are provided against that charge.
- Second charge is with respect to wrongful gain at the cost of the Company, obtained by the petitioner by sanctioning loans without adequate security with the help of subordinates, namely, V.Sudhakaran and K.P. Sreeraman. Even this charge was vague as there was no specific details given regarding the collusion and the quantum of wrongful gain obtained by the petitioner.
- The third charge is regarding the valuation of seven properties which is divided in sub paragraphs under headings A to D. Those sub paragraphs along with subdivisions would show that the over valuation and sanctioning of loans are termed as collusive, preplanned action, malafide and cheating etc. Those allegations appear to be a mere violation of the norms of Company.



However, it is not specifically explained as to how these allegations are collusive or preplanned or that amounts to malafide or cheating.

- Whereas the fourth charge is general and vague in nature, which speaks about the lapses while accepting the property security. But it says, "in almost all cases" but do not specify which are the cases in which such lapses were occurred from the part of the petitioner.
 - The first sub charge under fourth charge speaks about the File Scrutiny Verification of the properties which were not recorded in the scrutiny notes. But that is not specified which property and which corresponding loans are affected.
 - The second sub charge speaks about the missing of valuation report. Even in that case, the identity of such files where the valuation reports are missing is not mentioned.
 - The third sub charge provides that, certain revenue records of such properties were not obtained. But the details of such properties and the loans pertains to such transaction are not mentioned.
 - The fourth sub charge provides that, a phrase used as almost all valuation reports are devoid of many vital information regarding the extent,



survey numbers, boundaries and means of access to properties. Even then it is not specified which are the properties and the loan pertaining to the same.

- Sub charge five speaks about the inappropriate ascertainment of the repayment capacity of the loanees. Even that is vague with respect to the name and details of such loanees and the loans.
- And the sixth sub charge is that almost all the loan agreements are totally blank. Even in that, it is not specified with respect to the details of such loans.
- Finally sub charge seven, which speaks about an equitable mortgage not created in number of cases. Again in that charge the details of such loans are not specified.

Thereby the fourth charge remains vague and ambiguous making it impossible to ascertain and answer precisely the allegations provided. Thereby he was denied an opportunity for a meaningful defence which is in violation of principles of natural justice.

- The fifth charge is regarding a big conspiracy initiated by the petitioner and "others concerned, the names of whom are mentioned elsewhere herein."



Even there it is stated that almost all loans are under default even from the 1st instalment. However, the charge failed to specify how the alleged conspiracy was carried out, offering only casual and vague assertions without providing any details of the acts, rules or intentions of those persons involved in the conspiracy. While the charge memo contains numerous names it does not specify who are the individual implicated in connection with each allegation. The common terms used is "almost all loans are under default", but do not specify which loans are in default. Thereby rendering the charges ambiguous and lacking clear terms, it is against the principle that the charge should be brief, pointed and couched in clear terms, without any vagueness.

12. In support of this contention the Amicus Curiae has brought the attention of this Court to **Anant R Kulkarni v. Y.P. Education Society and Others** [2013 (6) SCC 515]. Wherein it is held in paragraphs 15, 16 and 17 as follows :

"**15.** In *Surath Chandra Chakrabarty v. State of W.B.* [(1970) 3 SCC 548 : AIR 1971 SC 752] this Court held, that it is not permissible to hold an enquiry on vague charges, as the same do not give a clear picture to the delinquent to make out an effective



defence as he will be unaware of the exact nature of the allegations against him, and what kind of defence he should put up for rebuttal thereof. The Court observed as under : (SCC p. 553, para 5)

"5. ... The grounds on which it is proposed to take action have to be reduced to the form of a *definite charge* or charges which have to be communicated to the person charged together with a statement of the allegations on which each charge is based and any other circumstance which it is proposed to be taken into consideration in passing orders has also to be stated. This rule embodies a principle which is one of the specific contents of a reasonable or adequate opportunity for defending oneself. If a person is not *told clearly and definitely* what the allegations are on which the charges preferred against him are founded, he cannot possibly, by projecting his own imagination, discover all the facts and circumstances that may be in the contemplation of the authorities to be established against him."

16. Where the charge-sheet is accompanied by the statement of facts and the allegations are not specific in the charge-sheet, but are crystal clear from the statement of facts, in such a situation, as both constitute the same document, it cannot be held that as the charges were not specific, definite and clear, the enquiry stood vitiated. Thus, nowhere should a delinquent be served a charge-sheet, without providing to him, a clear, specific and definite description of the charge against him. When statement of allegations are not served with the charge-sheet, the enquiry stands vitiated, as having been conducted in violation of the principles of natural justice. The evidence adduced should not be perfunctory; even if the delinquent does not take the defence of, or make a protest that the charges are vague, that does not save the enquiry from being vitiated, for the



reason that there must be fair play in action, particularly in respect of an order involving adverse or penal consequences. What is required to be examined is whether the delinquent knew the nature of accusation. The charges should be specific, definite and giving details of the incident which formed the basis of *charges* and no *enquiry* can be sustained on vague charges. (Vide *State of A.P. v. S. Sree Rama Rao* [AIR 1963 SC 1723] , *Sawai Singh v. State of Rajasthan* [(1986) 3 SCC 454 : 1986 SCC (L&S) 662 : AIR 1986 SC 995] , *U.P. SRTC v. Ram Chandra Yadav* [(2000) 9 SCC 327 : 2001 SCC (L&S) 79 : AIR 2000 SC 3596] , *Union of India v. Gyan Chand Chattar* [(2009) 12 SCC 78 : (2010) 1 SCC (L&S) 129] and *Anil Gilurker v. Bilaspur Raipur Kshetriya Gramin Bank* [(2011) 14 SCC 379.

17. The purpose of holding an enquiry against any person is not only with a view to establish the charges levelled against him or to impose a penalty, but is also conducted with the object of such an enquiry recording the truth of the matter, and in that sense, the outcome of an enquiry may either result in establishing or vindicating his stand, and hence result in his exoneration. Therefore, fair action on the part of the authority concerned is a paramount necessity.” (pages 5 & 6)

13. It is to be noted that Ext.P1 is not accompanied by a statement of allegation which is essential for providing clarity on the charges. Further, the reply given by the petitioner as per Ext.P15 clearly establishes that the petitioner was unable to adequately respond to the legal issue raised in the charge memo as the loan



documents were not provided to him. This will further indicate that due to the vague and generalised charge memo, the petitioner had no other option but to submit a broad and generalised reply. As he lacked access to the necessary documents required for a meaningful defence, that amounted to violation of the principles of natural justice.

14. In the second phase of the argument, the learned Amicus Curiae contended that none of the charges raised in the memo of charges were proved, other than merely stating in the enquiry report that it was proved. The enquiry report does not contain charge-wise discussion of the allegations. Nor does it provide a charge-wise conclusion based on any analysis of evidence. The findings are presented in a generalised and conclusive manner without properly examining the specific allegations under each charge; not discussing with the evidence as well. Similarly, the enquiry report fails to provide a detailed discussion of the charges or the reasons for arriving at the conclusion. Instead of conducting a charge-wise evaluation, Ext.P3 enquiry report merely states that the petitioner had exercised his discretionary power in a malafide and irresponsible manner and failed to safeguard the interest of the company. At the same time, the enquiry officer failed to evaluate the evidence which is considered for



arriving at such a conclusion. **Therefore, such a conclusion is arrived at without any evidence.**

15. As stated earlier, vague charges were framed, especially the details of the loans in question. Thereby that cannot be stated to have proved without specific allegations. Any conclusion drawn against the petitioner, in the absence of any specific allegation and pointing the evidence on which such allegations are considered, are arbitrary and illegal. In the absence of any clear reasoning, the charges were found without evidentiary support. Thus, the entire disciplinary process is floated and unjust, warranting interference of this court.

16. It is further contended by the learned Amicus curiae that the second charge and the findings of the enquiry officer regarding the collusion with subordinates and wrongful gain by the petitioner is not sustainable. Evidence was neither produced nor availed by the enquiry officer to enter into a conclusion against the petitioner in that regard. In the absence of credible evidence or a reasoned conclusion, the findings in the enquiry report on the second charge are not legally sustainable or factually justified.

17. Similarly, the third charge accuses the petitioner of malafidedly attempting to cheat the company and siphoning money



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from its accounts colluding with the Assistant Manager, as evident from Ext.P1. But in Ext.P3 enquiry report, these aspects have not been substantiated with any proof. In fact, no evidence was adduced to support these allegations. The statement by the enquiry officer is vague and appears to be biased since it does not specify what is the alleged hidden purpose, nor does it explain the context in which such valuation was done by the delinquent with the aid of supporting and corroborative materials. This can be read along with the allegation of the petitioner that the enquiry officer, who is an advocate in the panel of the bank for legal scrutiny is having some resentment with the petitioner with respect to allotment of files.

18. The fourth charge is vague in nature. It states certain violations of the norms of the company with respect to certain loans. However, the enquiry report does not provide the details of the document which is produced as evidence by the management in order to prove those charges. The list of the materials produced as evidence is not provided along with the enquiry report.

19. The fifth charge was also dealt in a light manner. There is no evidence to prove conspiracy or collusion though violation of the norms while granting norms is discussed. In the absence of any



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evidence stated in the enquiry report, the findings of the enquiry officer cannot be accepted.

20. Moreover, it is the case of the petitioner that Sri.V.Sudhakaran, Assistant Manager and Sri.K.P. Sreeraman, Assistant, who are the incumbents stated to have colluded or conspired with the petitioner, have been completely exonerated from the charges. According to the petitioner, he is only a supervising authority. Originally, the entire verification, after obtaining the legal scrutiny report, was to be done by the Assistant first verified by the Assistant Manager and only in the last session it will come up before the petitioner. Though such contention is raised by the petitioner, that aspect is not controverted either during the argument or through a counter affidavit. Therefore, the allegation of collusion and conspiracy cannot stand since another person who would have an element of conspiracy, and collusion is completely exonerated from the charges.

21. It is further contended that it is a settled principle that the jurisdiction under Article 226 can be exercised to interfere with the disciplinary proceedings in cases where the findings of the fact is based on no evidence or the conclusion on its very face is so wholly arbitrary and capricious that no reasonable person could ever have



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arrived at such conclusion. This position has been upheld by the Apex Court in **Union of India and others v. P.Gunasekaran** [(2015) 2 SCC 610]. Further, the Hon'ble Apex Court has held that "the findings, recorded in a domestic enquiry, can be characterized as perverse if it is shown that such a finding is not supported by any evidence on record or is not based on the evidence adduced by the parties or no reasonable persons could have come to those findings on the basis of that evidence." This principle was laid down by this Court in **State of Andhra Pradesh and Others v. S. Sree Rama Rao** [1994 2 LLJ 150 = AIR 1963 SC 1723 = 1964 (3) SCR 25] in which the question was whether the High Court under Article 226 could interfere with the finding recorded at Departmental enquiry. This decision was followed in **Central Bank of India v. Prakash Chand Jain** [(1969) 2 LLJ 377 (SC) = AIR 1969 SC 983] and **Bharat Iron Works v. Bhagubhai Balubhai Patel and others** [1976 SCC (L&S) 92 = AIR 1976 SC 98 = (1976) 1 SCC 518]. In **Rajinder Kumar Kindra v. Delhi Administration through Secretary (Labour) and others** [AIR 1984 SC 1805 = (1984) 4 SCC 635]. It was laid down that where the findings of misconduct are based on no legal evidence and the conclusion is one to which no reasonable man could come, the findings



can be rejected as perverse. It was also laid down where a quasi-judicial tribunal records findings based on no legal evidence and the findings are his mere *ipse dixit* or based on conjectures and surmises, the enquiry suffers from the additional infirmity and non-application of mind and stands vitiated. [**Kuldeep Singh v. The Commissioner of Police** [(1999) 2 SCC 10].

22. It is further contended by the Amicus Curiae that without any evidence and without any discussion on the charges alleged separately, arrived at a conclusion on the charges that the charges levelled against the delinquent are successfully proved. Further, it is contended that the enquiry report does not contain any findings of fact with respect to the charges alleged in the charge memo evaluating the evidence. The nature of allegations and the discussion in the enquiry report is vague and is a one-sided one, whereby no reasonable person could have justifiably arrived at a conclusion warranting the dismissal of the petitioner from service. Therefore, the disciplinary proceedings suffer from serious legal infirmities warranting interference of this Court.

23. The learned Amicus Curiae also contends that Exts.P2, P3, and P5 are cryptic. They do not offer reasonable findings specifically



on the charges alleged in Ext.P1. On that basis, those orders are liable to be interfered with.

24. The learned Amicus Curiae further argued that there is violation of principles of natural justice, since the petitioner has a case that he was denied with an opportunity of hearing before issuance of Ext.P5. That part is not at all denied by the respondents by way of a counter affidavit. Moreover, the petitioner was not given an opportunity to examine the witness as per the witness list produced by him. That was refused by the management. In this regard, it was held by the Apex Court in **Union of India and Others v. Prakash Kumar Tandon** [AIR 2009 SC 1375] which reads as :

“17. The principles of natural justice demand that an application for summoning a witness by a delinquent officer should be considered by the enquiry officer. It was obligatory on the part of the enquiry officer to pass an order in the said application. He could not refuse to consider the same. It is not for the Railway Administration to contend that it is for them to consider as to whether any witness should be examined by it or not. It was for the enquiry officer to take a decision thereupon. A disciplinary proceeding must be fairly conducted. An enquiry officer is a quasi judicial authority. He, therefore, must perform his functions fairly and reasonably which is even otherwise the requirement of the principles of natural justice.



18. In [M.V. Bijlani v. Union of India & Ors.](#) [(2006) 5 SCC 88], this Court has held :

"Although the charges in a departmental proceeding are not required to be proved like a criminal trial i.e. beyond all reasonable doubt, we cannot lose sight of the fact that the enquiry officer performs a quasi-judicial function, who upon analyzing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record. While doing so, he cannot take into consideration any irrelevant fact. He cannot refuse to consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witnesses only on the basis of surmises and conjectures. He cannot enquire into the allegations with which the delinquent officer had not been charged with."

19. If the disciplinary proceedings have not been fairly conducted, an inference can be drawn that the delinquent officer was prejudiced thereby.

20. In [S.L. Kapoor v. Jagmohan & Ors.](#) (1980) 4 SCC 379, this Court has held that non-compliance of the principles of natural justice itself causes prejudice. We are not oblivious of the fact that the said principle has since been watered down but in a situation of this nature, we are of the opinion that the concurrent findings of the Tribunal, as also the High Court cannot be said to be unreasonable or suffering from any legal infirmity warranting interference."



25. Moreover, in Ext.P3 enquiry report it is stated by the enquiry officer that "on 14.09.2009 both sides prayed time for producing the argument notes and the management submitted their argument notes on 15.10.2009 and the delinquent sought some more adjournment for producing his argument notes. But so far he has not produced the same and hence the enquiry was closed and the matter was taken for orders."

26. Going by the proceedings detailed by the enquiry officer prior to this, it appears that the enquiry officer has given several adjournments on various occasions to the management. However, that privilege was denied to the petitioner. That also would show that the enquiry officer was biased, being an advocate in the panel of the Bank for scrutiny of the documents. From this, it can be presumed that the principles of natural justice has been completely violated. Thereby, serious prejudice has been caused to the petitioner and procedural irregularity occurred warranting interference of this Court as it was held in **Gunasekharan's** case supra.

27. On the basis of the aforementioned arguments, the learned amicus curiae is trying to conclude that the punishment imposed on the petitioner as per Ext.P5 is disproportionate, especially when the



charges are not proved and no evidence was adduced to prove such charges. The enquiry report itself does not provide any list of documents and the list of witnesses on which the enquiry officer relied on to enter into the conclusion that charges are proved. Moreover, it is further stated that as per Ext.P17, all the loan accounts mentioned in the charge memo have been closed and the company has fully received its money. Thereby, there was no financial loss sustained to the company as alleged in the charge memo. It is also stated that at the time of initiation of a disciplinary proceeding, the petitioner had 29 years of unblemished service which the respondents have not disputed. It is also pertinent to note that the alleged conspirators, as per the charge memo, have completely been exonerated. Therefore, it appears that the petitioner had been punished for no reason.

28. Under the aforementioned circumstances, the punishment of dismissal from service, which will deny him the pensionary benefits of 29 years of service rendered by him, is itself excessive, unjust, void and disproportionate to the charges. Such a harsh penalty can be characterised as showing the court's consciousness.



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29. Per contra, the contention of the petitioner as well as the learned amicus curiae was that, though no counter affidavit has been filed even after sufficient opportunities, the counsel for the respondents argued on the basis of reported decisions in **Apparel Export Promotion Council v. A.K. Chopra** [(1999) 1 SCC 759] **Management of State Bank of India v. Smita Sharad Deshmukh and another** [(2017) 4 SCC 75] and **The State of Rajasthan and others v. Bhupendra Singh** [JT 2024 (8) SC 351] that the scope of judicial review for interfering with disciplinary proceedings is quite limited. In that regard, the learned counsel for the respondents brought the attention of this Court to para 16 & 17 of the **Apparel Promotion Council** supra which are as follows :

“**16.** The High Court appears to have overlooked the settled position that in departmental proceedings, the disciplinary authority is the sole judge of facts and in case an appeal is presented to the appellate authority, the appellate authority has also the power/and jurisdiction to reappraise the evidence and come to its own conclusion, on facts, being the sole fact-finding authorities. Once findings of fact, based on appreciation of evidence are recorded, the High Court in writ jurisdiction may not normally interfere with those factual findings unless it finds that the recorded findings were based either on *no evidence* or that



the findings were wholly perverse and/or legally untenable. The adequacy or inadequacy of the evidence is not permitted to be canvassed before the High Court. Since the High Court does not sit as an appellate authority over the factual findings recorded during departmental proceedings, while exercising the power of judicial review, the High Court cannot, normally speaking, substitute its own conclusion, with regard to the guilt of the delinquent, for that of the departmental authorities. Even insofar as imposition of penalty or punishment is concerned, unless the punishment or penalty imposed by the disciplinary or the departmental appellate authority, is either impermissible or such that it shocks the conscience of the High Court, it should not normally substitute its own opinion and impose some other punishment or penalty. Both the learned Single Judge and the Division Bench of the High Court, it appears, ignored the well-settled principle that even though judicial review of administrative action must remain flexible and its dimension not closed, yet the court, in exercise of the power of judicial review, is *not* concerned with the *correctness* of the findings of fact on the basis of which the orders are made so long as those findings are reasonably supported by evidence and have been arrived at through proceedings which cannot be faulted with for procedural illegalities or irregularities which vitiate the process by which the decision was arrived at. Judicial review, it must be remembered, is directed not against the decision, but is confined to the examination of the decision-making process. Lord Hailsham in *Chief Constable of the North Wales Police v. Evans* [(1982) 3 All ER 141 HL] observed:



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"The purpose of judicial review is to ensure that the individual receives fair treatment, and not to ensure that the authority, after according fair treatment, reaches, on a matter which it is authorized or enjoined by law to decide for itself, a conclusion which is correct in the eyes of the court."

17. Judicial review, not being an appeal from a decision, but a review of the manner in which the decision was arrived at, the court, while exercising the power of judicial review, must remain conscious of the fact that if the decision has been arrived at by the administrative authority after following the principles established by law and the rules of natural justice and the individual has received a fair treatment to meet the case against him, the court cannot substitute its judgment for that of the administrative authority on a matter which fell squarely within the sphere of jurisdiction of that authority."

Whereby it is contended that the High Court normally should not interfere unless such findings are based on no evidence or were wholly perverse and/or legally untenable and the High Court cannot function as an appellate authority.

30. Similarly, paragraph 6 of **Management of State Bank** *supra* reads:

"6. In *Bank of India v. Degala Suryanarayana* [*Bank of India v. Degala Suryanarayana*, (1999) 5 SCC 762 : 1999 SCC (L&S) 1036], after referring to *H.C. Goel case* [*Union of India v. H.C. Goel*, (1964) 4 SCR 718 : AIR 1964 SC 364], this Court held at para 11 : (*Degala case* [*Bank of India v. Degala Suryanarayana*, (1999) 5 SCC 762 : 1999 SCC (L&S) 1036], SCC pp. 768-69)



"11. Strict rules of evidence are not applicable to departmental enquiry proceedings. The only requirement of law is that the allegation against the delinquent officer must be established by such evidence acting upon which a reasonable person acting reasonably and with objectivity may arrive at a finding upholding the gravamen of the charge against the delinquent officer. Mere conjecture or surmises cannot sustain the finding of guilt even in departmental enquiry proceedings. The court exercising the jurisdiction of judicial review would not interfere with the findings of fact arrived at in the departmental enquiry proceedings excepting in a case of mala fides or perversity i.e. where there is no evidence to support a finding or where a finding is such that no man acting reasonably and with objectivity could have arrived at that finding. The court cannot embark upon reappreciating the evidence or weighing the same like an appellate authority. So long as there is some evidence to support the conclusion arrived at by the departmental authority, the same has to be sustained." "

31. The High Court will not re-appreciate the evidence, and its jurisdiction is limited only to examine whether there is evidence in support of the conclusion. It is further pointed out that in **State of Rajasthan** supra as per paragraphs 20 to 24 & 27 it is contended by the counsel for the respondents that the scope of judicial review under Article 226 does not extend to reassessing evidence on the ground that another view was possible on the material on record and the interference is needed only when the findings are perverse based on no evidence and if there is a violation of natural justice.



32. It is further argued that going by Ext.P1 memo of charges itself, it can be seen that each and all charges are explicitly stated, and details of charge have been provided against each charge. The charge memo itself thereby contained 20 pages, and Ext.P2 order of punishment itself speaks about the procedure adopted while conducting the disciplinary proceedings, the cost for such initiation of disciplinary proceedings, conclusions of the enquiry officer, and finally, the punishment and mode of recovery of loss from the petitioner. Therefore, it cannot be heard to have stated that it is not a non-speaking one.

33. Going by Ext.P3, it can be seen that the enquiry officer has followed the procedure contemplated for conducting disciplinary proceedings. The petitioner was given sufficient opportunity, and the enquiry officer verified the documents and details of the examination of witnesses, which were discussed and concluded that the charges levelled against the petitioner were proved. Even the appeal filed as per Ext.P4 has also considered in the 433rd Board Meeting held on 27.06.2012 as item No.18, and as per Resolution No.5787 the Board resolved to reject the appeal by upholding the decision of the MD to



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dismiss the petitioner from service with forfeiture of DCRG on the proven charges.

34. The contention with respect to recovery of loss as per Ext.P17 is also denied by the counsel for the respondent. In fact, it is not due to the effort of the petitioner, but the strenuous effort taken by the 1st respondent, the amount, as stated in Ext.P17, could be recovered. That cannot give any credit to the petitioner since by traversing beyond his jurisdiction, he has assigned the loan, and that became a default, and it was in a stage where the loans were not recoverable due to the insufficiency of security assets. Therefore, that cannot be taken for giving any leniency to the petitioner. The 29 years of service and unblemished service, as claimed by the petitioner, cannot be considered in the light of the findings in enquiry wherein the charges alleged against the petitioner have been fully proved.

35. I have heard Sri.P. Sankaran Namboothiri, Party in person along with learned Amicus Curiae Smt.A Aruna and Sri.P. Gopalakrishnan Nambiar for the 1st respondent.

36. As rightly contended by the counsel for the respondent, the jurisdiction to interfere with the disciplinary proceedings is quite



limited. Since the judicial review is not an appeal from a decision but a review of the manner in which the decision was arrived at, the court while exercising the power of judicial review must remain conscious of whether the decision has been arrived at by administrative authority after following the principles established by law, the rules of natural justice and the individual has received a fair treatment to meet the case against him. However, this Court can interfere only when findings are perverse, based on no evidence and on violation of principles of natural justice. And the punishment imposed must shock the conscious of the Court.

37. On the aforementioned parameters settled by the Apex Court, through the various decisions aforementioned, I have considered the issue involved in this case.

38. In order to examine the violations of principles of natural justice this Court has to look into the memo of charges, Ext.P1. While looking at Ext.P1 this court could have borne in mind the general principles with respect to the content of memo of charges. The general Principles states : Charge should be brief, pointed, and couched in clear terms without any vagueness. The date of occurrence of the



incident and times, wherever applicable, should always find a place in charge. Charge should be logically framed or in other words, they should follow logically from the nature of allegations made.

39. Going by Ext.P1 charge memo though it contains 20 pages, it does not have a separation of statement of allegation and memo of charges, which is essential for providing clarity on the charges. Going by Ext.P15 reply given by the petitioner itself, it appears that due to the nature of the charge memo the petitioner was not in a position to provide adequate reply to each and every charges. Thereby a generalised reply was given to the vague and generalised charges.

40. There are allegations of wrongful gain, collusion with subordinates, siphoning off company money, mala fide intention in accepting the property which does not access as security towards the loan, malafide intention in accepting these properties which is impossible to identify with inflated valuation and the act of the petitioner is a result of pre-planned action in collusion with Assistant Manager and Assistant concerned along with loanees and mortgagees. It is also alleged that the petitioner's acts are intentional to defeat the claim of the company at the stage of realisation of dues. It is alleged



that the company has sustained heavy losses, and the petitioner has an alliance with the loanees/mortgagees which are forsaken with the interest of the company. It is also alleged that the petitioner has acted with ulterior motives while not entrusting the task of valuation to the Kattappana Branch manager, and the excess loanees charge submitted by the internal audit team is also mentioned in para 4 of the charges.

41. On the basis of the aforementioned evaluation of allegations it is pertinent to note that separate charges are not framed against the petitioner on the basis of these allegations. The disciplinary proceedings have been initiated. Though certain details of loans were provided, it does not specify against which loan the alleged charges are framed. It is quite ambiguous about the nature of the charge since it does not provide details of the loan against each charge or allegation, which cannot be categorically distinguished. Similarly, the other charges raised in paragraph 4 are also general in nature. It is also bywords "on many occasions" "in almost all". The charges are supplemental which show that the memo of charge is not brief, pointed and in clear terms. It was vague, there was no distinct



offence mentioned in the memo of charges. The charges are not in a state of distinguishing allegations. Originally, the charge should be logically framed, and which would flaw the nature of allegations made. In this case there is no separate charge as well as allegation.

42. In the case of Ext.P3 enquiry report, the enquiry officer does not discuss the charges on the basis of each allegation, and there is no separate conclusion with respect to proving each charge. The findings are generalised and conclusory manner. There are no explicit details of evidence which is considered for concluding the charges. Certain findings of the enquiry officer, especially with respect to exercising of discretionary power by the delinquent, were vague and lacked supporting evidence, or there were no specific findings to sustain such serious allegations. Therefore, such a conclusion entered by the enquiry officer appears to be arbitrary and illegal and based on no evidence. There are charges of collusion with subordinates and wrongful gain to the petitioner. However, there is no discussion with respect to the evidence against such an allegation/charge. However, it is concluded by the enquiry officer that such a charge is proved. In



the absence of any pointed evidence or material evidence, it cannot be accepted as proven.

43. Similarly, certain details of the loans are provided, saying that some procedural irregularities have occurred due to violation of the company norms. It is not discernible whether it is a charge or allegation that the petitioner is malafidedly attempting to cheat the company and siphon its fund in collusion with the assistant manager and the assistant concerned. In fact, no evidence is provided by the enquiry officer for treating this allegation, the charge as proved. Nowhere is it proved with evidence the petitioner had a wrongful gain, and that the petitioner had colluded with the Assistant Manager and the Assistant concerned. In fact, in the latter part, these two persons, the Assistant Manager and the Assistant concerned, were completely exonerated from the charges.

44. Going by the words of the petitioner, as per the procedure, all the applications are primarily submitted to the Assistant concerned and the Assistant, along with the supporting documents by the loanee or mortgagee to obtain the loan, be forwarded to the Assistant Manager. On the basis of the scrutiny conducted by the Assistant



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Manager, the files will be forwarded to the petitioner, the Senior Manager, who on scrutinising the records on the basis of the recommendations of the Assistant Manager, will sanction the loans. However, this part is absent in the enquiry and this part is not controverted by the 1st respondent through a counter affidavit. Therefore, those allegations with respect to the loans cannot be accepted, which cannot be proved in the absence of any cogent evidence.

45. Similarly, the fourth charge is also in a similar fashion, wherein the enquiry officer has not explained the evidence which was considered to prove such charges. As stated above, since the AM and the Assistant concerned are exonerated, the charges of collusion and conspiracy cannot be sustained. These issues have been considered by the Apex Court in **Gunasekharan** supra and **Kuldeep Singh** supra.

46. Ext.P2 is the order of punishment, and Ext.P5 is the order of appeal. Ext.P5 order in appeal does not contain any details which are cryptic in nature. It only says that the appeal has been considered by the Board on its 433rd meeting held on 27.06.2012 as item No.18 and



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the decision has been taken as per Resolution No.5787 to reject the appeal. However, no formal orders are passed and communicated to the petitioner. Since the enquiry report appears to be not sustainable, no specific discussion is made with respect to Ext.P2 order of punishment. Moreover, going by Ext.P17, it appears that the entire loan amount has been recovered by the 1st respondent, therefore, the alleged loss that occurred to the company cannot be sustained. However, it is stated by the counsel for the respondent that the amounts could be recovered by the respondent through the strenuous efforts taken by them. Such arguments cannot be accepted at first blush since if those documents are stated to be inflated or created in collusion and have been done with an intention to defeat the claim of the company at the stage of realisation of the dues, these amounts could not have been recovered by the 1st respondent.

47. On the basis of the aforementioned findings, it appears that there is a violation of principles of natural justice, and there is a serious procedural irregularity warranting interference of this Court. The said position is upheld by the Apex Court in **P. Gunasekharan** supra.



48. Since charges are vague and the findings are entered on the basis of no evidence, and there is no loss occurred to the 1st respondent in the light of Ext.P17, it appears that the punishment is disproportionate. Moreover, considering the service of the petitioner, which is stated to be unblemished till this incident, the recovery of the gratuity of the petitioner towards alleged dues, which has not all occurred as evident from Ext.P17, is shocking the conscience of this Court. This court has valued that though there is allegations of collusion and conspiracy, the other persons stated to have been a part of that were completely exonerated. Then the punishment imposed on the basis of collusion and conspiracy also cannot be sustained.

49. Under such circumstances, I deem it appropriate to set aside Ext.P1, P2 and P5, and the petitioner will be reinstated with all back wages. However, it is clarified that since the petitioner has crossed the age of retirement, the calculation of back wages and other benefits shall be done on a notional basis, including the entitled promotions. The 1st respondent will have to release the gratuity that is forfeited towards the loss in the absence of loss as evident in Ext.P17 with statutory interest from the date of forfeiture.



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50. The entire exercise shall be completed within a period of three months from the date of receipt of a certified copy of this judgment. In case of failure to release the gratuity amount, that will carry penal interest at the rate of 18% on completion of three months.

51. Such orders are passed considering the pecuniary and jobless situation of the petitioner since then and the sufferings of the petitioner and his family.

Before parting, it would be a failure on my part if I did not mention the assistance rendered by the Amicus Curiae before this Court in deciding this matter. I appreciate the efforts taken by the learned Amicus Curiae Smt.A Aruna even during her peculiar circumstances.

Sd/-

P.M.MANOJ
JUDGE

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APPENDIX OF WP(C) 19103/2014

PETITIONER'S EXHIBITS :

- | | |
|--------------------|--|
| Exhibit P1 | TRUE COPY OF THE CHARGESHEET DATED 09.08.2007
ISSUED BY THE 1ST RESPONDENT. |
| Exhibit P2 | TRUE COPY OF THE DISMISSAL ORDER ISSUED BY THE
1ST RESPONDENT. |
| Exhibit P3 | TRUE COPY OF THE REPORT OF THE ENQUIRY
COMMISSIONER DATED 14.11.2009. |
| Exhibit P4 | TRUE COPY OF THE APPEAL MEMORANDUM DATED
23.03.2011 FILED BY THE PETITIONER BEFORE THE
BOARD OF DIRECTORS OF THE COMPANY. |
| Exhibit P5 | TRUE COPY OF THE ORDER DATED 30.07.2012 OF THE
BOARD OF DIRECTORS OF THE COMPANY. |
| Exhibit P6 | TRUE COPY OF THE APPLICATION FOR INFORMATION
SUBMITTED BY THE PETITIONER UNDER THE RIGHT TO
INFORMATION ACT DATED 22.1.2020 |
| Exhibit P7 | TRUE COPY OF THE REPLY DATED 5.2.2020 ISSUED
BY THE PUBLIC INFORMATION OFFICER OF THE 1ST
RESPONDENT |
| Exhibit P8 | TRUE COPY OF THE REPRESENTATION FILED BY THE
PETITIONER BEFORE THE 1ST RESPONDENT DATED
12.7.2021 |
| Exhibit P9 | TRUE COPY OF THE LETTER DATED 12.8.2021 ISSUED
BY THE 1ST RESPONDENT REFUSING THE GRATUITY TO
THE PETITIONER |
| Exhibit P10 | TRUE COPY OF THE LETTER DATED 24.9.2021 FILED
BY THE PETITIONER BEFORE THE 1ST RESPONDENT |
| Exhibit P11 | TRUE COPY OF THE RELEVANT PORTION OF THE BANK
STATEMENT SHOWING THE DISBURSEMENT OF GRATUITY
AMOUNT TO THE PETITIONER |



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Exhibit P12	TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 2.9.2022 FOR FESTIVE ALLOWANCE
Exhibit P13	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 2.9.2022 FOR THE MINIMUM PENSION
Exhibit P14	TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT DATED 29.9.2023
Exhibit P15	TRUE COPY OF THE REPLY STATEMENT FILED BEFORE THE 1ST RESPONDENT DATED 21.11.2007 BY THE PETITIONER
Exhibit P16	TRUE COPY OF THE APPLICATION DATED 7.3.2014 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT
Exhibit P17	TRUE COPY OF THE ANSWER TO THE EXHIBIT P16 APPLICATION BY THE 1ST RESPONDENT TO THE PETITIONER DATED 13.3.2024
Exhibit 18	TRUE COPY OF THE FINDINGS ISSUED BY THE GOVERNMENT MEDICAL COLLEGE, KOTTAYAM DATED 17.5.2024
Exhibit P19	TRUE COPY OF THE FINDINGS OF DR. LAL KRISHNA DATED 23.5.2024 ISSUED BY THE GOVERNMENT MEDICAL COLLEGE
Exhibit P20	TRUE COPY OF THE DISCHARGE CARD ISSUED BY THE MEDICAL COLLEGE HOSPITAL, KOTTAYAM DATED 25.5.2024
Exhibit P21	TRUE COPY OF THE RESULTS ISSUED BY THE DDRC AGILUS DIAGNOSTIC CENTRE DATED 30.5.2024 FOR FURTHER TREATMENT
Exhibit P22	THE TRUE COPY OF THE ORDER DATED 15.06.2007 ISSUED BY THE 1ST RESPONDENT



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RESPONDENTS' ANNEXURES :

- Annexure (A)** True copy of the relevant extracts of the Minutes of the 433rd meeting of the Board of Directors of the 1st Respondent Company held on 27.06.2012 and Resolution No. 5787 vide which the Appeal of the Petitioner was resolved to be rejected
- Annexure (B)** True copy of the relevant extracts of the Standing Orders of the Company governing disciplinary proceedings and Appeals therefrom

PETITIONER'S EXHIBITS :

- Exhibit P23** TRUE COPY OF THE QUERIES SUBMITTED ON THE RIGHT TO INFORMATION ACT
- Exhibit P24** TRUE COPY OF THE REPLIES RECEIVED TO THE QUERIES FROM R1

//TRUE COPY//

Sd/-
P.S. TO JUDGE