IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

Present:

The Hon'ble Justice Ananya Bandyopadhyay

WPO No. 59 of 2017

Pranab Kumar Roy
-Vs-
Punjab National Bank
(Formerly Known As United Bank Of India) And Ors.

For the Petitioner	: Mr. Debrup Bhattacharjee Mr. S. S. Biswas Mr. Siddharth Singh
For the Respondent-Bank	: Mr. R. N. Majumder Mr. S. M. Obaidullah
Judgment on	: 31.03.2026

Ananya Bandyopadhyay, J.:-

1. The instant writ petition has been filed by the petitioner against the purported Order of the Executive Director and Disciplinary Authority dated November 25, 2014 bearing Ref. No.PD/DIR/10/1616 (C)/5117/2014 in respect of the Disciplinary Proceeding initiated against him by the respondent-Bank by way of Letter of Charge bearing Ref. No.HO/PD/DIR/1616 (C)/7712/2011 dated 29.10.2011 along with Addendum No.HO/PD/DIR/1616 (C)/938/2013 dated 28.05.2013 and No.PD/DIR/09/1616(C)/3188/2013 dated 17.10.2013 and the Order of the Appellate Authority dated April 06, 2016 upholding the order and punishment imposed by the Disciplinary Authority vide Order dated November 25, 2014.

2. The respondent no.1 comprised one of 14 major banks to be nationalized on July 19, 1969. On and from 1st April, 2020, the United Bank of India merged with the respondent no.1 bank. The respondent no.2 and 3 were the officers of the respondent no.1. The respondents no.1 to 3 formed the State within the meaning of Article 12 of the Constitution of India.

3. The petitioner, the erstwhile employee of respondent no.1 Bank, was appointed in service of the United Bank of India prior to its merging on March 05, 1974 as Direct Officer and held the post of General Manager on the date of his superannuation on 31.10.2011. His entire tenure of 37 years of employment was unsullied devoid of allegation except the present one being *mala fide* and baseless without any proof thereof.

4. On 29.10.2011, i.e., two days prior to his date of superannuation, the petitioner was served with a purported charge-sheet bearing Ref. No.HO/OD/DIR/1616 (C)/7712/2011 dated 29.10.2011. In the said charge-sheet, it was alleged that the petitioner had committed certain irregularities while sanctioning the loan amounts to companies and had purportedly violated the said Bank's Lending Policy dated 06.05.2009 in the process consequently failing to protect the interest of the said Bank, in contravention of Regulation 3(1) and 3(3) of the United Bank of India Officer Employees' (Discipline and Appeal) Regulations, 1976 amounting misconduct under Regulation 24 of the said Regulations. Thereafter further charges were added to the said charge-sheet by way of Addendum No.PD/DIR/06/1616(C)/938/2013 dated 28.05.2013.

5. It was pertinent to state that the actions of the petitioner with regard to which the purported disciplinary action had been initiated against him

were all in pursuance of discharging of official duties by the petitioner. The same were *bona fide* actions based on professional expertise of the petitioner and were also approved by his seniors.

6. The petitioner, through a letter dated 31st October, 2011 and letter dated June 06, 2013 addressed to the Chairman and Managing Director, United Bank of India, communicated his preliminary objections against the charges levelled against him.
7. On 31st October, 2011, the petitioner received a letter from the Executive Director of the respondent no.1 the then United Bank of India (now known as Punjab National Bank) which stated the Disciplinary Proceeding initiated against him in view of the abovementioned charge-sheet dated 29.10.2011 would continue after his superannuation. It was further stated he would not receive any pay and/or allowances after the date of cessation of his service and also would not be entitled to his retirement benefits till the final disposal of the disciplinary proceeding initiated against him.
8. Upon receipt of such reply from the petitioner, the Disciplinary Authority, vide its letter dated 14.08.2013, informed the petitioner that the Disciplinary Authority had decided to hold an enquiry into the allegations against the petitioner and accordingly one Naresh Kumar Kapoor, General Manager (RBD, Marketing & ADC) United Bank of India as Enquiry Officer and one Anil Kumar Sinha, General Manager (IT) United Bank of India were appointed.
9. The petitioner stated upon appointment of said Enquiry Officer and the Present Officer to hold an enquiry against the petitioner in respect of the

aforesaid charges, a further addition to the charge-sheet was made by virtue of Addendum No.PD/DIR/09/1616 (C)/3188/2013 dated 17.10.2013. The petitioner, vide his letter dated October 28, 2013 replied to the aforesaid charge-sheet thereby denying all the allegations levelled against him.

10. The petitioner stated in the meantime, the petitioner sent one representation dated May 17th, 2013 addressed to the Chairman and Managing Director of the erstwhile United Bank of India (now Punjab National Bank) being the respondent no.1 Bank agitating therein his grievances against the Bank and specifying the allegations in the charge-sheet related to loan accounts which were sanctioned one to two years prior to his retirement and raised question towards the delay in framing the said charges. Moreover, it was indicated the charge-sheet had not raised any *mala fide* intentions on part of the petitioner, however, flagged out certain technical errors.

11. Irrespectively the enquiry proceeding commenced against the petitioner and the said Presenting Officer submitted his report dated April 04, 2014 and the petitioner correspondingly submitted his defence arguments before the Enquiry Officer. Upon completion of the said enquiry proceeding, the Enquiry Officer submitted his report before the Disciplinary Authority on June 04, 2014 and subsequent thereto on June 30, 2014 the petitioner submitted his written submissions before the Disciplinary Authority. During continuance of the enquiry proceedings, the petitioner requested the Bank to provide certain documents but in vain.

12. Thereafter the Disciplinary pronounced its order vide communication dated November 25, 2014 bearing Ref. No.PD/DIR/10/1616 (C)/5117/2014, thereby holding the petitioner indulged in reckless financing out of public money thus exposing the Bank to a huge loss and imposed the harshest major penalty, i.e., dismissal which should ordinarily be a disqualification for future employment as per Clause 4(j) of the United Bank of India Officer Employees' (Discipline and Appeal) Regulations 1976 and further holding that the petitioner would not be entitled to any terminal benefits other than the provisional pension already paid to him and his contribution to the Provident Fund. As per the said order he would not be entitled to the following terminal benefits:-

    i. Pension/communication of pension in terms of Regulation 22 read with Regulation 46 of United Bank of India (Employees') Pension Regulation, 1995.
    ii. Gratuity in terms of Regulation 46(1)(e) of United Bank of India Officers' Service Regulations, 1979.
    iii. Encashment of accrued leave as on notional date of superannuation in terms of Regulation 38 of United Bank of India Officers' Service Regulations, 1979.

13. The petitioner, being aggrieved by the punishment imposed upon him, preferred an appeal before the Appellate Authority on 05th January, 2015 against the findings of the Disciplinary Authority. The Appellate Authority delivered its order on 06th April, 2016 prejudically eliciting non-application of mind.

14. The Order of the Appellate Authority dated 6th April, 2016 resonated the Order of the Disciplinary Authority and the Report of the Enquiry Officer without appreciating the valid opposition and concomitant explanation by the petitioner in his petition, upheld the punishment pronounced by the same.

15. The finding against the petitioner did not explicit his *mala fide* intention. Neither the Report of the Enquiry Officer or the Order of the Disciplinary Authority nor the Order of the Appellate Authority delineated any *mala fide* intention of the petitioner of making any wrongful gain or for causing loss to the respondent no. 1 Bank. The charges against the petitioner would only define irregularities by the petitioner while sanctioning the said loan accounts.

16. Without the proof of any *mala fide* on part of the petitioner, it was arbitrary on the part of the Disciplinary Authority as well as the Appellate Authority to impose the harshest punishment upon the petitioner.

17. The facts which the Disciplinary Authority and the Appellate Authority failed to appreciate were enumerated hereunder:-

    i. With regard to Charge 1.1 – The Disciplinary authority failed to appreciate that TEV Report was to be considered only for large infrastructure project and the said project did not qualify as one.

    ii. With regard to Charge 1.2 – The Disciplinary Authority failed to appreciate that in the Lending Policy relevant at the time of sanctioning of the said loan, it was laid down that the assessment might be done on the basis of cash budget system and only in the subsequent year was the word "may" replaced by the word "should",

the Disciplinary Authority failed to appreciate the said assessment was made as per the Lending Policy of the respondent no.1 Bank in existence at the time of assessment.

iii. With regard to Charge 1.4 – The Disciplinary Authority did not take into account the fact that the Senior Manager and with regard to Charge 1.1 and 1.2. Manager of R.O. along with the Senior Manager of the branch made a joint inspection.

iv. With regard to Charges 2.1 and 2.2, the same as that had been stated with regard to Charge 1.1 and 1.2.

v. With regard to Charge 3.1 - The Disciplinary Authority made an observation *"It is a matter of common prudence that ACR is calculated on the basis of actual assets"*. The Appellate Authority upheld such reasoning of the Disciplinary Authority. It was pertinent to mention that that such view of the Disciplinary Authority was based on its person ideas and not on the basis of evidence and depositions.

vi. With regard to Charge 3.3 – It was observed by the Disciplinary Authority in paragraph 7 of the report that the petitioner's statements were lies. This only portrayed the personal bias of the Disciplinary Authority against the petitioner.

vii. With regard to Charge 3.4 – The Disciplinary Authority failed to appreciate the installments were paid, interest was serviced and account was not a stressed one. Further, the Disciplinary Authority observed the petitioner should have gone to the sources to verify the actual conduct of the account. The last part being the personal

observation of the Disciplinary Authority was not based upon any evidence.

viii. With regard to Charge 4.1 – The plea of the Disciplinary Authority that there is no documentary evidence to prove that processing official had verified the information offered by the prospective borrower company was against the rules and spirit of the Disciplinary Proceeding as "burden of proof" led on the Presenting Officer and not upon the C.S.O. (petitioner herein).

ix. With regard to Charge 4.2 – The plea of the petitioner that the net cash generation of the company which was evident from the balance-sheet analysis had increased sharply in the three consecutive years.

x. With regard to Charge 5.1 – The argument put forward in case of charge 1.1 was applicable.

xi. With regard to Charges 5.3 and 5.4 – It was submitted that both the Disciplinary Authority and the Appellate Authority failed to appreciate that there was a stipulated condition in terms of sanction that a Chartered Accountant's certificate was necessary for utilization of funds and the Chartered Accountant in case of necessity might employ some other competent agency to know the technicalities.

xii. With regard to Charge 5.5 – The Disciplinary Authority's observation that non-availability of the inspection report as on a later date did not mean the property was not inspected and was based on a wrong premise as it had been admitted by both the Enquiry Officer and the Disciplinary Authority that inspection was conducted by the

Assistant General Manager, Bangaluru Cantonment Branch on 11.08.2009. The Appellate Authority also failed to apply its mind and appreciate the arguments put forward in this regard on behalf of the petitioner.

xiii. With regard to Charge 6.1 – The Disciplinary Authority and the Appellate Authority failed to appreciate the same argument as put forward with regard to Charge 1.1.

xiv. With regard to Charge 6.2 – The Disciplinary Authority and the Appellate Authority failed to take into consideration that ME 30 would not be applicable in that regard as there was no element of advance remittance.

xv. With regard to charges 6.3 and 6.4 – The Disciplinary Authority and the Appellate Authority failed to take into consideration that the C.S.O (the petitioner herein) made it clear that utilization of funds would have to be certified by a C.A firm.

xvi. With regard to Charge 6.5 – The Disciplinary Authority and the Appellate Authority failed to take into consideration that the Valuer who had been appointed had been doing the work for the Bank for a very long time and thus the petitioner in good faith entrusted him and also in case of allegations over valuation, the said Valuer was to be made accountable and the C.S.O.

xvii. With regard to Charge 6.6 – It was further stated the C.S.O (petitioner) could not be made liable for the different valuations made by different Valuers.

xviii. With regard to Charge 7.1 – It was stated the Disciplinary Authority and the Appellate Authority failed to appreciate the same argument as put forward with regard to Charge 1.1.

xix. With regard to Charge 7.2 – The petitioner pointed out the inherent contradictions of the Enquiry Officer's findings before the Disciplinary Authority. Neither did the Disciplinary Authority's Report nor the Appellate Authority's Order touched upon the same and reiterated what was stated by the Enquiry Officer.

xx. With regard to Charge 7.3 – The Enquiry Officer, Disciplinary Authority as well as the Appellate Authority failed to appreciate the defence put forward by the petitioner that ME no.30 did not have any relevance with regard to the same as payment to vendor was made upon receipt and installation of software by the purchaser.

xxi. With regard to Charges 7.4 and 7.5 – The Disciplinary Authority failed to appreciate that the petitioner while acting C.S.O included a term in the sanction that certification of Chartered Accountant was a must for further disbursement and also for ensuring utilization of funds, the underlying principle being that the Chartered Accountant, in case of necessity might take help of any expert agency.

xxii. The charge-sheets were framed in such a way that in between Branch Manager and General Manager (petitioner) there was no any other tier of signatories. The loan proposals were placed before the petitioner after screening through different tiers. Apart from the proposal being vetted by the Regional Level Credit Committee comprising of Senior Manager (Advance), Senior Manager

(Inspection), Senior Manager (Admn.) Chief Manager (Credit), the proposal was processed by one Senior Officer and recommended by the then AGM/DGM. In other words, before being placed to the desk of the petitioner, the proposals were passed through the hands of several Senior Level Officers having experience of 10-15 years in handling credit proposals. It was mentioned that at Bank's Head Office, the loan proposals sanctioned by Bank's Board, CMD, ED and GM at HO were placed before them at the same way after being screened by different tiers.

xxiii. With regard to Charges 1.1, 1.2, 2.1, 2.2, 3.1, both the Disciplinary Authority and Appellate Authority did not give any cognizance to the Discretionary Power noting system. After sanction of any loan proposal by the Sanctioning Authority, the entire process note was sent to the next Higher Authority for noting. In the instant case, the proposal with entire process note was sent by the petitioner to the Executive Director and noted the same (DE-4, 6, 9 & 15) without raising any question on the alleged lapses and that noting carried the certificate *"We have scrutinized the said DP statement and found that General Manager (Southern Region) (i.e petitioner) has considered proposals within the Discretionary Power on Loans & Advance in conformity with Bank's Lending Policy as contained in dt.04 May-2009 and Circular No.O&M/DP/2/OM-050/09-10 CPPMI/ Lending Policy/15/OM-57/2009 dated 06.05.2009"*.

xxiv. As per Bank's Circular no.CPPMI/ADV/398/O&M-0960/10 dated 30.03.2010, Staff Accountability report of all NPA accounts with

outstanding balance above Rs.50 lacs were to be placed before the Committee of General Managers and accordingly the report of three accounts namely, AGS Infotel Ltd., Ignis Technology & Nexxoft Infotel Ltd. were placed before the Committee of GMs on 20.10.2011 and the examination of staff accountability by three General Managers showed no lapses in respect of processing and sanction (DE-3) but the Disciplinary Authority and Appellate Authority remained.

18. It was submitted that the Appellate Authority failed to apply its individual mind while dealing with the said appeal and thereby only echoed what had been stated in the report of the Disciplinary Authority.

19. Further, it was submitted that none of other Officers against whom Disciplinary Proceedings were initiated in connection with the sanctioning of the said loans had been given such harsh punishment as the petitioner. The said Officers had been downgraded or made to take voluntary retirement yet none of their retirement benefits had been cancelled. Such treatment of the octogenarian petitioner only showed the vindictive attitude of the respondent no.1 Bank towards the petitioner.

20. The Learned Advocate representing the petitioner submitted as follows:-

    i. The Enquiry Report was prepared by unilateral consideration of the case made out by the Presenting Officer without proper appreciation of evidence being perverse and liable to be set aside.

    ii. The actions of the petitioner with regard to which the purported disciplinary action had been initiated were all in pursuance of discharging of official duties by the petitioner. The same were *bona*

fide actions based on professional expertise of the petitioner and were also approved by the seniors of the petitioner.

iii. The said Order of the Appellate Authority resonated the Order of the Disciplinary Authority and the Report of the Enquiry Officer. Without appreciating the valid opposition put forward by the petitioner in his petition, the Appellate Authority blindly supported the view of the Disciplinary Authority and upheld the punishment pronounced by the same.

iv. There had been no finding against the petitioner which showed any *mala fide* intention on the part of the petitioner. Neither the Report of the Enquiry Officer nor the Order of the Disciplinary Authority or the Order of the Appellate Authority delineated any *mala fide* intention of the petitioner of making any wrongful gain or for causing loss to the respondent no.1 Bank. The charges brought against the petitioner herein could at best be called irregularities by the petitioner while sanctioning the said loan accounts.

v. Without the proof *mala fide* on the part of the petitioner, it was arbitrary on the part of the Disciplinary Authority as well as the Appellate Authority to impose the harshest punishment upon the petitioner.

vi. None of other Officers against whom Disciplinary Proceedings were initiated in connection with the sanctioning of the said loans had been given such harsh punishment as the petitioner. The said Officers had been downgraded or made to take voluntary retirement

yet none of their retirement benefits had been cancelled as opposed to the punishment meted out to the petitioner.

vii. The punishment awarded to the petitioner was harsh and the same had no nexus to the irregularities, if any, committed by the petitioner and the writ petition must be allowed.

21. The Learned Advocate representing the respondents submitted as follows:-

i. The charge-sheet bearing No.HO/OD/DIR/1616 (C)/7712/2011 dated 29.10.2011 was issued against the petitioner for irregularities committed by the petitioner in M/s. Ignis Technology Solutions Pvt. Ltd. and M/s. AGS Infotech Ltd. Thereafter Addendum charge-sheet No.PD/DIR/06/1616 (C)/938/2013 dated 28.05.2013 was issued against the petitioner for irregularities committed by him in loan accounts M/s. Capture Systems Pvt. Ltd. and M/s. Nexxoft Infotel Ltd. and another Addendum charge-sheet bearing No.PD/DIR/09/1616 (C)/3188/2013 dated 17.10.2013 was issued against the petitioner for irregularities committed by him in loan accounts, M/s. Binary Spectrum Softech Pvt. Ltd., M/s. Acropetal Technologies Ltd. and M/s. Kinfotech Technologies Ltd. The bank has been exposed to financial loss of Rs.123.56 crore.

ii. The loan accounts, M/s Ignis Technology Solution (P) Ltd sanctioned for Rs. 30 Crore on 08/04/2010 became NPA on 30/06/2011, M/s AGS Infotech Ltd sanctioned for Rs.23.73

Crore on 08/12/2009 became NPA on 02/08/2011, M/s Capture Systems Pvt Ltd sanctioned for Rs. 20 Crore on 19/03/2010 became NPA on 31/12/2010, M/s Nexxoft Infortel Ltd sanctioned for Rs. 16 Crore on 26/08/2009 became NPA on 30/06/2011, M/s Binary Spectrum Softech (P) Ltd sanctioned for 16 Crore on 20/10/2009 became NPA on 31/03/2012, M/s Acropetal Technologies Ltd sanctioned for 20 Crores became NPA on 30/09/2012 and M/s Kinfotech Technologies Limited sanctioned for Rs. 30 Crore on 28/10/2009 became NPA on 31/12/2011. It would be evident from the above facts that all the loans were sanctioned almost I (one) year prior to the retirement of the petitioner and all the accounts turned NPA within 2 years from the date of sanction. Natually, the irregularities in the said loan accounts had surfaced only when the petitioner was at the verge of his retirement.

iii. Subsequent to identification of irregularities committed by the petitioner, the bank had issued charge sheet against the petitioner on 29/10/2011 i.e. two days prior to the date of his superannuation date and since the disciplinary proceedings initiated against the petitioner was pending as on 31/10/2011, the bank had invoked Regulation 20 (3)(iii) of the United Bank of India (Officers) Service regulations, 1979. It is humbly submitted that the Regulation 20 (3) (iii) of the UBI (Officers) Service Regulations, 1979 permits the Bank to continue disciplinary proceedings even after retirement of an officer

employee if the proceedings was initiated prior to his retirement and for such proceedings the employee is deemed to be in service for the purpose of continuance and conclusion of the proceedings. It is submitted that the charge sheet in the instant case was served upon the petitioner prior to his retirement and the proceedings were conducted and concluded as per procedure detailed in the UBI Officer Employees' (Discipline & Appeal) Regulations, 1979.

iv. There was nothing on records to suggest that the findings of the enquiry officer were perverse. In this connection reliance had been placed on a decision of the Hon'ble Supreme Court reported *(2003) 3 SCC 583 (Lalit Popli-Vs- Canara Bank)* held as follows:-

> ***"17.*** *While exercising jurisdiction under Article 226 of the Constitution the High Court does not act as an appellate authority. Its jurisdiction is circumscribed by limits of judicial review to correct errors of law or procedural errors leading to manifest injustice or violation of principles of natural justice. Judicial review is not akin to adjudication of the case on merits of an appellate authority.*
>
> ***18.*** *In B.C. Chaturvedi v. Union of India the scope of judicial review was indicated by stating that review by the court is of decision making process and where the findings of the disciplinary authority are based on some evidence, the court or the tribunal cannot reappreciate the evidence and substitute its own finding."*

v. Reliance was also placed in this regard on a decision of the Hon'ble Supreme Court reported in *(2003) 9 SCC 191 (Sub-*

Divisional Officer, Konch -Vs- Maharaj Singh). The relevant portion of the said decision replicated below:-

> ***"5.*** *In view of the submissions made at the Bar, we have scrutinized the impugned order of the High Court. A bare perusal of the same makes it crystal clear that the High Court in exercise of its jurisdiction under Article 226 has reappreciated the entire evidence, gone into the question of burden of proof and onus of proof and ultimately did not agree with the conclusion arrived at by the enquiring officer, which conclusion was upheld by the disciplinary authority as well as the U.P. Public Service Tribunal. It has been stated by this Court on a number of occasions that the jurisdiction of the High Court under Article 226 is a supervisory one and not an appellate one, and as such the Court would not be justified in reappreciating the evidence adduced in a disciplinary proceeding to alter the findings of the enquiring authority. In the aforesaid premises, we have no hesitation to come to the conclusion that the High Court exceeded its jurisdiction under Article 226 in interfering with the findings arrived at by the enquiring authority by re-appreciation of the evidence adduced before the said enquiring authority. We, therefore, set aside the impugned order of the High Court and the writ petition filed stands dismissed. This appeal is allowed." (Emphasis added).*

vi. On the question of integrity and honesty of a Bank officer/employee, the Hon'ble Supreme Court in a decision reported in *1997 II LLJ 26 (Tara Chand Vyas -Vs- Chairman and Disciplinary Authority & Ors.) inter alia* held as follows:-

> *"The employees and officers working in the banks are not merely the trustees of the society, but also bear responsibility and owe duty to the society for effectuation of socio-economic empowerment. Their acts and conduct should be in discharge*

of that constitutional objectives and if they derelict in the performance of their duty, it impinges upon the enforcement of the constitutional philosophy, objective and the goals under the rule of law. Corruption has taken deep roots among the sections of the society and the employees holding public office or responsibility equally became amenable to corrupt conduct in the discharge of their official duty for illegal gratification. The banking business and services are also vitally affected by catastrophic corruption. The disciplinary measure should, therefore, aim to eradicate the corrupt proclivity of conduct on the part of the employees/officers in the public offices including those in banks. It would, therefore, be necessary to consider, from this perspective, the need for disciplinary actions to eradicate corruption to properly channelise the use of the public funds, the live wire for effectuation of socio-economic justice in order to achieve the constitutional goals set down in the Preamble and to see that the corrupt conduct of the officers does not degenerate the efficiency of service leading to denationalization of the banking system. What is more, the Nationalisation of the banking service was done in the public interest. Every employee/officer in the bank should strive to see that banking operations or services are rendered in the best interest of the system and the society so as to effectuate the object of Nationalisation. Any conduct that damages, destroys, defeats or tends to defeat the said purposes resultantly defeats or tends to defeat the constitutional objectives which can be meted out with disciplinary action in accordance with rules lest rectitude in public service is lost and service becomes a means and source of unjust enrichment at the cost of the society". (Emphasis added.)

5. The charges that have been proved in the enquiry were gross misconduct and the punishment of removal of the petitioner was fully justified. The petitioner has contended in ground No.3 inter alia as follows:-

"It cannot be expected from the petitioner to prove anything which is not actual but presumptive, likelihood and mere possibilities."

vii. In this connection to counteract the said contention reliance is placed on the decision of the Hon'ble Supreme Court reported in *(1999) 4 SCC 759 (State Bank of India & Ors.-Vs- T. J. Paul)* in which it was inter alia as follows:-

*"**15.** Taking up the definition of "gross misconduct" in para 22(iv), it is obvious that clause 9h) does not apply because the charge is not one of insubordination or disobedience of specific orders of any superior officer. Coming to clause (I) of para 22 (iv), the doing of any act prejudicial to the interests of the Bank, or gross negligence or negligence involving or likely to involve the Bank in serious loss is gross misconduct. In other words likelihood of serious loss coupled with negligence is sufficient to bring the case within gross misconduct. The enquiry officer's finding of "gross misconduct" on the ground of not obtaining adequate security is, therefore, correct and cannot be said to be based on no evidence as held by the High Court. This can be contrasted with para 22(vi) (c) under minor misconduct which deals with "neglect of work and negligence in performing of duties".*

***16.** The contention of the learned Senior Counsel for the respondent ignores the fact that "gross negligence or negligence likely to involve the Bank in serious loss" would come under major misconduct within para 22(iv) (1). As stated above, even assuming that there is not gross negligence, simple negligence will come under major misconduct if accompanied by "likelihood" of serious loss and this is clear from para 22(iv) (1). Hence the finding of the enquiry officer regarding gross misconduct is correct and could not have been set aside by the High Court. The findings of the enquiry officer clearly bring the*

case under "major misconduct". As held in Disciplinary authority-cum-Regional Manager v. Nikunja Bihari Patnaik proof of loss is not necessary." (Emphasis added.)

viii. The Hon'ble Supreme Court in a decision reported in *1996 SCC (L & S) 1194 (Disciplinary authority-cum-Regional Manager v. Nikunja Bihari Patnaik) inter alia* held as follows:-

"It may be mentioned that in the memorandum of charges, the aforesaid two regulations are said to have been violated by the respondent. Regulation 3 requires every officer/employee of the bank 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. It requires the bank officer/employee to maintain good conduct and discipline and to act to the best of his judgment in performance of his official duties or in exercise of the powers conferred upon him. Breach of Regulation 3 is 'misconduct' within the meaning of Regulation 24. The findings of the Inquiry Officer which have been accepted by the disciplinary authority, and which have not been disturbed by the High Court, clearly show that in a number of instances the respondents allowed overdrafts or passed cheques involving substantial amounts beyond his authority. True, it is that in some cases, no loss has resulted from such acts. It is also true that in some other instances such acts have yielded profit to the bank but it is equally true that in some other instances the funds of the bank have been placed in jeopardy; the advances have become sticky and irrecoverable. It is not a single act; it is a course of action spreading over a sufficiently long period and involving a large number of transactions. In the case of a bank for that matter, in the every case of any other organisation officer/employee is supposed to act within the limits of his authority. If each officer

/employee is allowed to act beyond his authority, the discipline of the organisation/bank will disappear; the functioning of the bank would become chaotic and unmanageable. Each officer of the bank cannot be allowed to carve out his own little empire wherein he dispenses favours and largesse. No organisation, more particularly, a bank can function properly and effectively if its officers and employees do not observe the prescribed norms and discipline. Such indiscipline cannot be condoned on the specious ground that it was not actuated by ulterior motives or by extraneous considerations. The very act of acting beyond authority that too a course of conduct spread over a sufficiently long period and involving innumerable instances is by itself a misconduct. Such acts, if permitted, may bring in profit in some cases but they may also lead to huge losses. Such adventures are not given to the employees of banks which deal with public funds. If what we hear about the reasons for the collapse of Barings Bank is true, it is attributable to the acts of one of its employees, Nick Leeson, a minor officer stationed at Singapore, who was allowed by his superiors to act far beyond his authority. As mentioned hereinbefore, the very discipline of an organisation `and more particularly, a bank is dependant upon each of its employees and officers acting and operating within their allotted sphere. Acting beyond one's authority is by itself a breach of discipline and a breach of Regulation 24. No further proof of loss is really necessary though as a matter of fact, in this case there are findings that several advances and overdrawals allowed by the respondent beyond his authority have become sticky and irrecoverable." (Emphasis added.)

ix. In this connection reliance was also placed on a decision of the Hon'ble Supreme Court reported in *(1998) 4 SCC 310 (Union*

Bank of India-Vs- Vishwa Mohan). The relevant partition of the said decision stated as below:-

> ***"12.*** *After hearing the rival contentions, we are of the firm view that all the four charges which were inquired into relate to serious misconduct. The respondent was unable to demonstrate before us how prejudice was caused to him due to non-supply of the Inquiry Authority's report/findings in the present case. It needs to emphasised that in the banking business absolute devotion, diligence, integrity and honesty is to be preserved by every bank employee in particular the bank officer. If this is not observed, the confidence of the public/depositors would be impaired. It is for this reason; we are of the opinion that the High Court had committed an error while setting aside the order of dismissal of the respondent on the ground of prejudice on account of non-furnishing of the Inquiry report/findings to him." (Emphasis added.)*

x. On the question of proportionality of the punishment reliance is placed on a decision of the Hon'ble Supreme Court reported in *(2009) 13 SCC 272 (Government of Andhra Pradesh and Others -vs-P. Chandra Mouli and Another).* The relevant portion of the said decision is reproduced below:

> *"**14.** It is trite that the power of punishment to an employee is within the discretion of the employer and ordinarily the courts do not interfere, unless it is found that either the enquiry proceedings or punishment is vitiated because of non-observance of the relevant rules and regulations or principles of natural justice or denial of reasonable opportunity to defend etc. or that the punishment is totally disproportionate to the proved misconduct of an employee. All these principles have*

been highlighted in Indian Oil Corporation -vs. Ashok Kumar Arora and Lalit Popli -vs.- Canara Bank SCC pp. 77, 78."

xi. It was submitted that conducts of the petitioner did not instill confidence on the bank to retain him in the service of bank by imposing any other lesser punishment. The charges that were proved against the petitioner involve gross financial irregularities which have exposed the bank to huge losses. In this connection reliance is placed on a decision of the Hon'ble Supreme Court reported in *(2005) 3 SCC 254 (Divisional Controller, KSRTC (NWKRTC)-vs.-A.T. Mane)*. The relevant portion of the decision is stated below:-

*"**12.** Coming punishment, one should bear in mind the fact that it is not the amount of money misappropriated that becomes a primary factor for awarding punishment; on the contrary, it is the loss of confidence which is the primary factor to be taken into consideration. In our opinion, when a person is found guilty of misappropriating the corporation's funds, there is nothing in the corporation losing confidence or faith in such a person and awarding a punishment of dismissal.*

13. This Court in the case of B.S.Hullikatti held in a similar circumstances that the act was either dishonest or was so grossly negligent that the respondent therein was not fit to be retained as a conductor. It also held that in such cases there is no place for generosity or misplaced sympathy on the part of the judicial forums and thereby interfere with the quantum of punishment."

xii. Finally it was submitted that in view of the proposition of law as laid down by the Hon'ble Supreme Court in a decision reported in *(2003) 4 SCC 364 (Chairman and Managing Director, United*

Commercial Bank & ors -vs- P.C. Kakkar) this Hon'ble Court may be pleased not to interfere with the decision of the Disciplinary Authority as there has been no error on the decision making process. The relevant portion of the said decision is replicated below:-

> *"**11.** The common thread running through in all these decisions is that the Court should not interfere with administrator's decision unless it was illogical or suffers from procedural impropriety or shocking to the conscience of the Court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in the Wednesburry's case (supra), that the Court would not go into the correctness of the choice made by the administrator open to him and the Court should not substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in decision-making process and not the decision."*

xiii. As regards the claim for Payment of gratuity and other benefit it is submitted that the petitioner is not entitled to any monetory benefits and gratuity for the reasons as set forth in paragraph 19 of the Affidavit in opposition of the Respondents in paragraph 19 thereof wherein it has been stated the bank has been exposed to fiancial loss of Rs.123.56 crore. The petitioner is not entitled to any gratuty for the reasons as stated in Paragraph 19 of the Affidavit in opposition as also the stand taken by the Respondent Bank in earlier writ petition being W.P.NO.416 OF 2013 as would be evident from the judgment and order dated 1st April, 2014 as stated in Annexure-R-1" at page 27 thereof.

Regulation 46 of United Bank of India (Officers) Service Regulations, 1979 (hereinafter referred to as the said regulations) reads as follows:-

"(1) Every officer shall be eligible for gratuity on –

(a) Retirement

(b) Death

(c) Disablement rendering him unfit for further service as certified by a medical officer approved by the Bank;

(d) Resignation after completing ten years of continuous service; or

(e) Termination of service in any other way except by way of punishment after completion of 10 years of service."

xiv. Apart from the abovementioned two provisions and in that the UBI has also issued circular No.PD/DISC/08/99 dated 20th May, 1999 dealing with entitlement of terminal benefits of the employees of UBI in case of termination by way of punishment it has been specifically mentioned that in case of termination by way of dismissal from the service the loss caused by the delinquent officer shall be recovered from his gratuity as per the provisions of the Payment of Gratuity Act, 1972.

xv. It was submitted that the provision of Regulation 46 (1) (e) of the United Bank of India (Officers) Service Regulation, 1979, which is a statutory rule framed in exercise of the powers conferred by Section 19 read with sub-section (2) of Section 12 of the Banking Companies (Acquisition of Transfer of Undertakings) Act, 1970 (hereinafter referred to as the Transfer of Undertakings Act) being a special law has an overriding effect on the provisions of Payment of Gratuity Act, 1972 following the

principle of Generalia Specialibus non derogant. In this connection reliance may be placed on a principle laid down by the Hon'ble Supreme Court in a decision reported in (2010) (10) SCC 338 (P.Rajan Sandhi -vs- Union of India & Ors), the relevant portion whereof is replicated below:-

> *"**11.** It may be seen that there is a difference between the provisions for denial of gratuity in the Payment of Gratuity Act and in the Working Journalists Act. Under the Working Journalists Act gratuity can be denied if the service is terminated as a punishment inflicted by way of disciplinary act, as has been done in the instant case. We are of the opinion that Section 5 of the Working Journalists Act being a special law will prevail over Section 4(6) of the Payment of Gratuity Act which is a general law. Section 5 of the Working Journalists Act is only for working journalists, whereas the Payment of Gratuity Act is available to all employees who are covered by that Act and is not limited to working journalists. Hence, the Working Journalists Act is a special law, whereas the Payment of Gratuity Act is a general law. It is well settled that special law will prevail over the general law, vide G.P. Singh's 'Principles of Statutory Interpretation', Ninth Edition, 2004 pp. 133, 134.*
>
> ***12.** The special law, i.e., Section 5(1)(a)(i) of the Working Journalists Act, does not require any allegation of proof of any damage or loss to, or destruction of, property, etc. as is required under the general law, i.e., the Payment of Gratuity Act. All that is required under the Working Journalists Act is that the termination should be as a punishment inflicted by way of disciplinary action, which is the position in the case at hand. Thus, if the service of an employee has been terminated by way of disciplinary action under the Working Journalists Act, he is not entitled to gratuity." (Emphasis added)*

xvi. In this connection reference may also be made of the decision of the Hon'ble Supreme Court in a decision reported in *(2007) 9 SCC 15 (Ramesh Chandra Sharma -vs-Punjab National Bank & Another)* about the effect of the Punjab National Bank (Officers) Service Regulation, 1979 framed by the Board of Directors of Punjab National Bank in consultation with Reserve Bank of India in exercise of the power conferred under Sub-section (2) of Section 19 of the read with Section 12 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970. United Bank of India (Officers) Service Regulation, 1979 is *pari materia* of Punjab National Bank (Officers) Service Regulation, 1979 The relevant portion of the said decision is replicated below:-

> *"**17.** We have noticed hereinbefore that the Bank have made Regulations which are statutory in nature. Regulation 20(3)(iii) of the said Regulations reads thus:-*
>
> > *"20 (3)(iii). The officer against whom disciplinary proceedings have been initiated will cease to be in service on the date of superannuation but the disciplinary proceedings will continue as if he was in service until the proceedings are concluded and final order is passed in respect thereof. The concerned officer will not receive any pay and/or allowance after the date of superannuation. He will also not be entitled for the payment of retirement benefits till the proceedings are completed and final order is passed thereon except his own contribution to CPF."*

xvii. The said Regulation clearly envisages continuation of a disciplinary proceeding despite the officer ceasing to be in service on the date of superannuation. For the said purpose a legal fiction has been created providing that the delinquent officer would be deemed to be in service until the proceedings are concluded and final order is passed thereon. The said Regulation being statutory in nature should be given full effect.

xviii. The effect of a legal fiction is well-known. When a legal fiction is created under a statute, it must be given its full effect, as has been observed in *East End Dwellings Co. Ltd. vs. Finsbury Borough Council [1951 (2) All E.R. 587)* as under:-

> *"If you are bidden to treat an imaginary state of affairs as real, you must surely, unless prohibited from doing so, also imagine as real the consequences and incidents which, if the putative state of affairs had in fact existed, must inevitably have from accompanied it. One of these in this case is emancipation from the 1939 level of rents. The statute says that you must imagine a certain state of affairs; it does not say that having done so, you must cause or permit your imagination to boggle when it comes to the inevitable corollaries of that state of affairs."*
>
> ***19.*** *The issue is, thus, no longer res integra, which as would be evident from the ratio laid down by this Court from time to time." (Emphasis added)*

xix. It was submitted that in the instant case obviously a legal fiction has been created i.e. whether provision of Payment of Gratuity Act would apply or the Provisions of United Bank of India (Officer's) Service Regulations, 1979 shall apply.

xx. In the light of the decision of the Hon'ble Supreme Court in PNB's case (Supra) as well as the principle laid down by the Hon'ble Supreme Court in P.Rajan Sandhi case (Supra) in my opinion since *"THE UNITED BANK OF INDIA (OFFICERS') SERVICE REGULATIONS, 1979"* is a statutory regulation, and accordingly by reason of termination of service of the Respondent/Applicant he is not entitled to receive the gratuity in terms of Regulation 46(1) (e) thereof.

xxi. Leaving aside the aforesaid the petitioner is not entitled to any gratuity under the provisions of the Payment of Gratuity Act, 1972 by reason of the Bank being exposed to heavy financial loss as discussed hereinbefore.

xxii. In the lights of the aforesaid decisions the ratio of which aptly applies in the instant case, it is submitted that the writ petition should be dismissed

22. Upon a comprehensive and sequential assimilation of the pleadings, documents, memoranda and communications as disclosed across the entirety of the writ petition, the factual conspectus, arranged in its chronological and thematic continuity, unfolds thus:

The writ petition is directed against the order dated 25th November, 2014, issued by the Executive Director acting as Disciplinary Authority, bearing reference No. PD/DIR/10/1616 (C)/5117/2014, arising out of disciplinary proceedings initiated against the petitioner. The appellate affirmation thereof,

rendered by order dated 06th April, 2016, also stands impugned.

23. The disciplinary action originates in the issuance of a charge memorandum bearing No. HO/PD/DIR/1616 (C)/7712/2011 dated 29.10.2011, which was subsequently supplemented by:
    i. Addendum No. HO/PD/DIR/1616 (C)/938/2013 dated 28.05.2013, and
    ii. Further Addendum No. PD/DIR/09/1616 (C)/3188/2013 dated 17.10.2013.
24. The respondent no. 1, a nationalised bank within the ambit of Article 12 of the Constitution, merged with United Bank of India with effect from 1st April, 2020, while respondent nos. 2 and 3 functioned as officers under the said establishment.
25. The petitioner entered service on 05th March, 1974 as a Direct Officer in the United Bank of India and, upon an uninterrupted tenure of thirty-seven years, superannuated on 31st October, 2011 while holding the office of General Manager. The pleadings emphasise the absence of any antecedent allegation during this prolonged period of service.
26. On 29th October, 2011, two days prior to superannuation, the petitioner was served with the charge-sheet. The allegations therein pertained to purported irregularities in sanctioning loan facilities to corporate entities, allegedly in deviation from the Bank's Lending Policy dated 06th May, 2009, and constituting misconduct under Regulation 3(1) and 3(3) read with Regulation 24 of the United Bank of India Officer Employees' (Discipline and Appeal) Regulations, 1976.

27. Immediately thereafter, the petitioner addressed communications dated 31st October, 2011 and 06th June, 2013 to the Chairman and Managing Director, articulating preliminary objections. By a communication dated 31st October, 2011, the Executive Director intimated that disciplinary proceedings would continue post-superannuation, with consequential withholding of salary, allowances and retirement benefits pending final adjudication.

28. The Disciplinary Authority, by letter dated 14th August, 2013, resolved to conduct an enquiry, appointing:

    i. Shri Naresh Kumar Kapoor, General Manager (RBD, Marketing & ADC), as Enquiry Officer; and

    ii. Shri Anil Kumar Sinha, General Manager (IT), as Presenting Officer.

29. In the interregnum, the petitioner submitted a detailed representation dated 17th May, 2013, wherein he adverted to the temporal delay in initiation of proceedings, emphasised that the transactions in question had been concluded one to two years prior to his retirement, and characterised the alleged deviations as technical aberrations devoid of any element of mala fide intent.

30. The enquiry proceedings culminated in the submission of the Enquiry Report dated 04th April, 2014, which was formally placed before the Disciplinary Authority on 04th June, 2014. Thereafter, the petitioner submitted his written representations on 30th June, 2014. It is also set forth that during the enquiry, the petitioner sought production of certain documents, which, according to the pleadings, were not furnished.

31. By order dated 25th November, 2014, the Disciplinary Authority recorded findings of reckless financial sanctioning and imposed the penalty of dismissal from service, entailing disqualification from future employment. The order further directed denial of terminal benefits, save for provisional pension already disbursed and provident fund contributions, specifically withholding:

    i. Pension under Regulation 22 read with Regulation 46 of the Pension Regulations, 1995;

    ii. Gratuity under Regulation 46(1)(e) of the Officers' Service Regulations, 1979;

    iii. Leave encashment under Regulation 38 of the said Regulations.

32. Aggrieved thereby, the petitioner preferred an appeal on 05th January, 2015, which came to be rejected by the Appellate Authority by order dated 06th April, 2016.

33. The petition thereafter delineates, with considerable granularity, the facets which, according to the petitioner, eluded due consideration during the disciplinary and appellate processes.

34. In relation to Charges 1.1, 1.2, 2.1, 2.2 and 3.1, it is recorded that no cognizance was taken of the discretionary power noting system, under which, upon sanction of a loan proposal, the entire process note was required to be forwarded to the next higher authority for noting. The pleadings advert to notings by superior authorities (DE-4, 6, 9 & 15), which did not register any reservation and, on the contrary, certified that the proposals had been scrutinised and found to be in consonance with the Lending Policy dated 04th May, 2009 and Circular No.

O&M/DP/2/OM-050/09-10 CPPMI/Lending Policy/15/OM-57/2009 dated 06.05.2009.

35. With regard to Charge 1.1, emphasis is placed upon the applicability of TEV Reports exclusively to large infrastructure projects. In Charge 1.2, reference is made to the prevailing policy permitting assessment based on the cash budget system. In Charge 1.4, it is recorded that joint inspections had been undertaken by senior functionaries.

36. In respect of Charges 2.1 and 2.2, the submissions are reflective of those advanced in relation to Charges 1.1 and 1.2. Under Charge 3.1, the observation predicated upon "common prudence" in computing ACR on actual assets is stated to be bereft of evidentiary underpinning. In Charge 3.3, the characterisation of the petitioner's statements is noted, while Charge 3.4 adverts to the fact that the loan accounts were regularly serviced and did not assume the character of stressed assets.

37. With regard to Charge 4.1, the aspect of burden of proof resting upon the Presenting Officer is emphasised, whereas Charge 4.2 refers to the improved financial indicators of the borrower as discernible from balance-sheet analysis.

38. In relation to Charges 5.1, 5.3 and 5.4, emphasis is placed upon the stipulation requiring certification by Chartered Accountants as a precondition for utilisation of funds, including the permissibility of engaging competent agencies. Under Charge 5.5, inspection conducted on 11.08.2009 by the Assistant General Manager, Bengaluru Cantonment Branch, is adverted to.

39. With respect to Charges 6.1 and 6.2, it is contended that the relevant policy provisions, including ME-30, were inapplicable in the absence of advance remittance. In Charges 6.3 and 6.4, the requirement of certification by Chartered Accountant firms is reiterated. For Charge 6.5, reliance is placed upon valuation conducted by an empanelled valuer, while Charge 6.6 refers to variations in valuation by different valuers.

40. In relation to Charges 7.1 and 7.2, submissions analogous to earlier charges are reiterated, including reference to inconsistencies in the findings of the Enquiry Officer.

41. The subsequent pleadings further elucidate:

    Under Charge 7.3, it is stated that ME-30 had no application, as payments to vendors were contingent upon receipt and installation of software. In respect of Charges 7.4 and 7.5, it is recorded that the sanction conditions expressly mandated certification by Chartered Accountants prior to further disbursement, thereby ensuring proper utilisation of funds.

42. It is further delineated that the structuring of the charge-sheets did not reflect the multi-tiered scrutiny through which loan proposals were processed. The pleadings describe that proposals were examined at various levels, including the Regional Level Credit Committee comprising Senior Managers (Advance, Inspection, Administration) and Chief Manager (Credit), thereafter processed by a Senior Officer and recommended by the AGM/DGM before being placed before the petitioner. A similar hierarchical process is stated to have prevailed at the Head

Office level in respect of proposals sanctioned by the Board, CMD, ED and GM.

43. Further, reliance is placed upon the Bank's Circular No. CPPMI/ADV/398/O&M-0960 dated 30.03.2010, which mandated that staff accountability reports in respect of accounts with outstanding balances exceeding Rs. 50 lakhs be placed before the Committee of General Managers. In this regard, reports pertaining to three accounts, namely AGS Infotel Ltd., Ignis Technology and Nexxoft Infotel Ltd., were placed before the Committee on 20.10.2011, and the examination conducted by three General Managers did not disclose any lapse in processing and sanction (DE-3).

44. It is further recorded that the Appellate Authority, while disposing of the appeal, did not undertake an independent evaluation but reiterated the conclusions recorded by the Disciplinary Authority.

45. The pleadings also advert to the treatment accorded to other officers involved in the sanctioning process, noting that they were subjected to comparatively lesser consequences such as downgrading or voluntary retirement, without forfeiture of retiral benefits.

46. The Learned Advocate for the petitioner assails the impugned orders of the Disciplinary Authority, as affirmed by the Appellate Authority, as being vitiated by perversity, non-application of mind, and a manifest disregard of the evidentiary record, thereby rendering the conclusions legally unsustainable.

47. At the forefront of the challenge is the contention that the Appellate Authority has abdicated its independent adjudicatory function, merely

reiterating the findings of the Disciplinary Authority in a mechanical fashion, without undertaking a dispassionate reappraisal of the materials on record. Such an approach, it is urged, denudes the appellate process of its very purpose.

48. In this context, reliance is placed upon the judgment of the Hon'ble Supreme Court in Allahabad Bank & Ors. vs. Krishna Narayan Tewari, (2017) 2 SCC 308, wherein it has been enunciated that although a writ court ordinarily exercises restraint in interfering with findings of fact recorded in departmental proceedings, such restraint is not absolute. Where the findings are unsupported by any evidence whatsoever or are such as no reasonable person could have arrived at, judicial review not only becomes permissible but imperative.

49. The petitioner further submits that the decision-making process stands vitiated by selective consideration of evidence, inasmuch as relevant materials have been ignored while inconsequential aspects have been accorded undue weight. It is urged that the inference of misconduct must be founded upon legally admissible and cogent evidence, satisfying the threshold of rational probity. In aid of this submission, reliance is placed upon Moni Shankar vs. Union of India & Ors., (2008) 3 SCC 484, wherein it has been held that the High Court, in exercise of judicial review, is entitled to examine whether the authority has taken into account relevant evidence and excluded irrelevant considerations, and whether the conclusions drawn are consistent with established legal principles.

50. Further fortifying the challenge, the petitioner invokes the decision in Nand Kishore vs. State of Bihar, AIR 1978 SC 1277, to contend that

disciplinary proceedings, though not strictly governed by the rigours of criminal trial, are nonetheless quasi-judicial in character, and must be grounded in some evidence of a definite nature pointing towards guilt. A finding resting on mere suspicion or conjecture, bereft of evidentiary substratum, cannot be sustained.

51. The petitioner also assails the exercise of discretion by the authorities as being arbitrary and informed by extraneous considerations, thereby inviting judicial correction. In this regard, reliance is placed upon the seminal decision in Hindustan Steel Ltd., Rourkela vs. A.K. Roy & Ors., AIR 1970 SC 1401, wherein it has been held that where discretion is either not exercised at all or is exercised on irrelevant considerations, the High Court would be justified in intervening.

52. Based on these doctrinal foundations, it is contended that:

    i. The findings of misconduct are de hors the materials on record and hence perverse;

    ii. The evidentiary framework does not disclose any cogent basis for attributing culpability to the petitioner;

    iii. The authorities have misdirected themselves in law by misconstruing the applicable lending policy and by imputing liability in respect of matters beyond the petitioner's temporal and functional domain; and

    iv. The cumulative effect of such infirmities renders the impugned orders liable to be set aside.

53. In summation, the petitioner submits that the case is not one of mere error in appreciation of evidence, but of fundamental infirmity in the

decision-making process, attracting the well-recognised grounds of judicial review, and accordingly prays for the writ petition to be allowed.

54. The learned advocate appearing for the respondent Bank has, with structured particularity, sought to sustain the disciplinary action by placing reliance both on the factual matrix and settled principles governing judicial review in service jurisprudence.

55. At the outset, it is submitted that the initiation of disciplinary proceedings was neither belated nor procedurally infirm. A charge-sheet dated 29 October 2011, followed by successive addenda dated 28 May 2013 and 17 October 2013, was issued delineating multiple acts of irregular sanctioning of loans in respect of several corporate entities, including M/s Ignis Technology Solutions Pvt. Ltd., M/s AGS Infotech Ltd., M/s Capture Systems Pvt. Ltd., M/s Nexxoft Infotel Ltd., M/s Binary Spectrum Softech Pvt. Ltd., M/s Acropetal Technologies Ltd. and M/s Kinfotech Technologies Ltd. These were not isolated aberrations but formed part of a pattern of financial impropriety spanning several transactions.

56. It is emphasised that the cumulative financial exposure of the Bank on account of such transactions stood at an alarming figure of Rs. 123.56 crores, thereby underscoring the gravity of the misconduct. The chronology of events further reveals that the said loan accounts, though sanctioned within a proximate timeframe prior to the petitioner's superannuation, turned non-performing assets within a remarkably short span, thereby lending credence to the inference that the sanctioning process suffered from serious irregularities attributable to the petitioner.

57. The respondents contend that the charge-sheet having been issued prior to the date of superannuation, the continuance and culmination of the disciplinary proceedings post-retirement is fully sanctioned by Regulation 20(3)(iii) of the United Bank of India (Officers') Service Regulations, 1979. By virtue of the said provision, the petitioner is deemed to be in service for the limited purpose of continuation of the proceedings. It is urged that the entire enquiry was conducted strictly in accordance with the prescribed procedure and no infraction of principles of natural justice can be discerned.

58. Turning to the merits of the findings, it is asserted that the conclusions arrived at by the Enquiry Officer, as affirmed by the Disciplinary Authority, are founded on cogent evidence and a rational appraisal thereof, and cannot be characterised as perverse. In support of the limited scope of judicial review, reliance is placed on Lalit Popli vs. Canara Bank, (2003) 3 SCC 583, wherein it has been held that the High Court, in exercise of jurisdiction under Article 226, does not sit as an appellate authority and cannot reappreciate evidence to substitute its own findings.

59. The respondents further draw sustenance from the principle articulated in B.C. Chaturvedi vs. Union of India, that judicial review is confined to examination of the decision-making process and does not extend to re-evaluation of factual conclusions where there exists some evidence in support thereof.

60. Reinforcing this limitation, reliance is placed upon Sub-Divisional Officer, Konch vs. Maharaj Singh, (2003) 9 SCC 191, to submit that

reappreciation of evidence by the High Court would amount to transgressing the bounds of supervisory jurisdiction under Article 226.

61. On the nature and gravity of misconduct, the respondents have invoked State Bank of India vs. T.J. Paul, (1999) 4 SCC 759, to contend that even likelihood of serious loss coupled with negligence is sufficient to constitute "gross misconduct" within the meaning of the service regulations. It is emphasised that the petitioner's failure to obtain adequate security and adherence to due diligence norms clearly brings the case within the ambit of major misconduct.

62. Further reliance is placed on Disciplinary Authority-cum-Regional Manager vs. Nikunja Bihari Patnaik, (1996) SCC (L&S) 1194, to underscore that actual proof of loss is not a sine qua non for establishing misconduct in banking operations; acting beyond authority and in derogation of prescribed norms is, by itself, sufficient to sustain disciplinary action.

63. The respondents also rely upon Union Bank of India vs. Vishwa Mohan, (1998) 4 SCC 310, to emphasise that in matters involving bank officials, integrity, diligence and adherence to financial discipline are of paramount importance, and any deviation therefrom erodes public confidence in the banking system.

64. On the question of institutional integrity and the broader societal implications of misconduct, reliance is placed upon Tara Chand Vyas vs. Chairman & Disciplinary Authority (1997 II LLJ 26), wherein it has been observed that bank officers are custodians of public funds and their conduct must align with constitutional and socio-economic objectives.

Any deviation, particularly involving financial impropriety, warrants stringent disciplinary response.

65. The respondents further contend that the petitioner's acts were not sporadic but constituted a continuous course of conduct involving multiple transactions over a period of time, reflecting a conscious disregard of the limits of authority. Acting beyond sanctioned powers, particularly in financial institutions, is characterised as a serious breach of discipline capable of destabilising institutional integrity.

66. Insofar as proportionality of punishment is concerned, reliance is placed upon Government of Andhra Pradesh vs. Mohd. Nasrullah Khan, (2009) 13 SCC 272 (as referred in substance), to submit that interference with punishment is warranted only when it is shockingly disproportionate.

67. Additionally, reliance is placed on Divisional Controller, KSRTC vs. A.T. Mane, (2005) 3 SCC 254, to emphasise that loss of confidence is a decisive factor in matters involving financial misconduct, and once such confidence is eroded, the punishment of dismissal cannot be said to be excessive.

68. It is, therefore, submitted that the charges having been duly established in the enquiry as constituting gross misconduct involving serious financial irregularities, and the punishment being commensurate with the nature of the delinquency, no interference is called for in exercise of writ jurisdiction.

69. In culmination, the respondents urge that the present case does not disclose any procedural illegality, perversity, or violation of natural justice. The findings are supported by evidence, the process is

unimpeachable, and the punishment is proportionate to the misconduct established. The writ petition, therefore, does not merit interference and is liable to be dismissed.

70. The present writ petition unfolds a narrative where the chronology of events speaks with a clarity more eloquent than the conclusions sought to be sustained. The petitioner, who devoted nearly four decades of service to the respondent Bank, finds himself visited with the gravest civil consequence at the twilight of his career—not upon a contemporaneous evaluation of his conduct, but upon a retrospective construction of alleged irregularities long after the transactions had been consummated and absorbed into the institutional fabric.

71. The Court is thus called upon to examine whether the disciplinary process, in its inception and evolution, retains the imprimatur of fairness, or whether it stands vitiated by delay, dislocation of responsibility, and an attempt to ascribe singular culpability within a manifestly collective enterprise can be sustainable.

72. The traversal of the record reveals that the transactions in question—sanction of credit facilities during 2009–2010—were not the product of an isolated or unilateral decision. It emerged from a carefully layered institutional mechanism, each tier of which bore defined responsibilities:

    i. The branch level, where documentation was initiated and preliminary verification undertaken;

    ii. The Regional Office, where appraisal encompassed technical feasibility, economic viability and risk assessment;

iii. The Deputy General Manager, who scrutinised and recommended the proposals;

iv. The Regional Level Credit Committee, comprising experienced officers entrusted with collective deliberation;

v. The petitioner, who, within delegated financial powers, accorded sanction upon the material so placed;

vi. Thereafter, the higher authorities, before whom the decisions were placed for noting of discretionary power.

73. The defence exhibits—particularly DE-4, DE-6, DE-9 and DE-15—stand as contemporaneous endorsements of this process, recording that the sanctions were accepted without reservation and certified to be in consonance with the prevailing Lending Policy.

74. To isolate the petitioner from this continuum and to ascribe to him an exclusive authorship of the decision is to truncate the institutional narrative and to convert a collective judgment into an individual indictment.

75. The charges, when stripped of their form and examined in substance, reveal a pattern of retrospective attribution rather than contemporaneous detection.

76. The insistence upon Techno-Economic Viability (TEV) reports, for instance, is predicated on an assumption that such reports were indispensable. Yet, the material indicated the accounts fell within the SME/MSME framework, where such requirement was neither shown to be mandatory nor insisted upon at the time of sanction.

77. Similarly, the allegations of inadequate verification of financial data and irregular valuation are couched in broad generalities, invoking standards of "prudence" without anchoring them to specific regulatory prescriptions demonstrably breached by the petitioner alone.

78. Most significantly, the record did not disclose that these alleged irregularities were flagged at the relevant time, either during sanction, post-sanction review, or supervisory oversight. The accounts were, in fact, subjected to periodic scrutiny by the Bank's Credit Department without adverse comment of the nature now alleged.

79. What emerges, therefore, is a post facto narrative of misconduct, constructed after the passage of time, rather than a contemporaneous identification of delinquency.

80. The temporal sequence bears reiteration:

    i. Transactions: 2009–2010

    ii. Charge-sheet: 29.10.2011 (two days prior to retirement)

    iii. Addenda: 2013 (post-retirement).

81. The delay is neither explained nor contextualised. It is not suggested that the alleged irregularities came to light belatedly due to any supervening discovery. On the contrary, the material indicates that the transactions were fully documented and subject to internal processes from inception.

82. The proximity of the charge-sheet to the petitioner's retirement is, therefore, not a mere coincidence of timing. It assumes a juridical significance, for it transforms what ought to have been a timely institutional response into a belated exercise of authority at the threshold of cessation of service. Delay, in disciplinary jurisprudence, is not a mere

lapse of time; it is a lens through which the fairness of the process is refracted; when such delay remains unexplained, it casts a shadow upon the bona fides of initiation.

83. Rule 20(3)(iii) of the Union Bank Of India (Officers') Service Regulations, 1979, is replicated as follows:-

> *"**20.(3)(iii)** – The Officer against whom disciplinary proceedings have been initiated will cease to be in service on the date of superannuation but the disciplinary proceedings will continue as if he was in service until the proceedings are concluded and final order is passed in respect thereof. The concerned Officer will not receive any pay and/or allowance, after the date of superannuation. He will also not be entitled for the payment of retirement benefits till the proceedings are completed and final order is passed thereon except his own contribution to CPF."*

84. It is beyond dispute that disciplinary proceedings may be initiated so long as the employer–employee relationship subsists. The Service Regulations may, in certain circumstances, permit continuation of such proceedings beyond retirement. However, this principle cannot be extended to legitimise a process where:

    i. The initiation itself is tenuous and belated, and

    ii. The charges are expanded or supplemented after retirement.

85. The addenda dated 28.05.2013 and 17.10.2013, issued after the petitioner had demitted office, do not merely clarify existing charges; they augment and elaborate them, thereby assuming the character of fresh imputation.

86. Once the jural relationship stands severed, the authority to initiate or substantively expand charges stands extinguished. The legal fiction of continuation cannot be invoked to breathe life into what is, in essence, a post-retirement initiation.

87. The respondents have placed reliance upon Lalit Popli, Nikunja Bihari Patnaik, T.J. Paul, and P.C. Kakkar, to emphasise the limited scope of judicial review and the gravity of misconduct in banking operations.

88. These authorities, however, operate within a distinct factual matrix:

    i. In Lalit Popli, the misconduct was direct, specific and evidenced by clear material, leaving little room for ambiguity;

    ii. In Nikunja Bihari Patnaik and T.J. Paul, the delinquent officers had acted in excess of authority or in manifest disregard of binding norms, thereby exposing the institution to risk through individualised acts;

    iii. In P.C. Kakkar, the process itself was unimpeachable, warranting judicial restraint.

89. The present case, in contrast, is marked by:

    i. Absence of individualised evidence, the decision being embedded in a collective process;

    ii. Endorsement by superior authorities at the relevant time, negating any immediate perception of irregularity;

    iii. Unexplained delay and post-retirement augmentation of charges, impinging upon the fairness of the process itself.

90. The precedents relied upon by the respondents, therefore, do not advance their case, for they presuppose a clear and contemporaneous establishment of misconduct, which is conspicuously absent here.

91. Conversely, the principles enunciated in Allahabad Bank vs. Krishna Narayan Tewari and Moni Shankar vs. Union of India—that findings unsupported by evidence or arrived at by ignoring relevant material warrant interference—resonate with the factual complexion of the present case.

92. Perhaps the most compelling infirmity lies in the disjunction between collective decision-making and singular liability.

93. The record reveals a continuum of responsibility, distributed across multiple officers, each entrusted with defined functions. The petitioner's role, though final in form, was derivative in substance, resting upon the appraisal, recommendation and concurrence of preceding tiers.

94. To attribute exclusive culpability to the petitioner is to abstract the final act from the process that produced it, and to impose liability distinct from context.

95. Disciplinary jurisprudence does not countenance such abstraction. Liability must be specific, attributable, and supported by evidence of individual delinquency. In its absence, the charge dissolves into a collective shadow without an identifiable source.

96. The cumulative effect of the foregoing is indelible:-

    i. The charges are retrospectively constructed rather than contemporaneously established;

    ii. The process is vitiated by unexplained delay and suspect timing;

iii. The proceedings are impermissibly expanded after retirement, beyond the reach of the employer's authority;

iv. The attribution of liability is incongruent with the collective nature of the decision-making.

97. The present writ petition does not merely traverse the terrain of disciplinary adjudication. It compels this Court to examine with a measure of care and judicial sensitivity whether the charges itselves when individually scrutinized bear the weight of sustainable culpability or whether it dissolved upon closer inspection into a pattern of retrospective inference drawn from a collective institutional process.

98. The enquiry, therefore, must proceed charge by charge, disentangling allegation from assumption, and these charges proceed on the premise that the petitioner failed to obtain Techno-Economic Viability (TEV) Reports and did not adequately examine the credentials of promoters. Upon a careful scrutiny of the record, it emerges that:

i. the loan proposals pertained to the SME/MSME segment where the requirement of TEV reports was not shown to be mandatory under the Lending Policy dated 06.05.2009;

ii. The proposals had undergone multi-tier appraisal, including financial analysis, technical scrutiny and risk assessment at the Regional Office level;

iii. No contemporaneous objection was raised by superior authorities when the sanction notes were placed before them.

99. The charge, therefore, appears to be founded upon an ex post facto elevation of standards, rather than an intentional breach of a binding

requirement applicable at the relevant time to the prejudice of the respondent-Bank and wrongful gain of the petitioner.

100. The allegation that the petitioner adopted an improper method of financial assessment by relying on the cash budget system is similarly attenuated. The material on record indicates that:

    i. The prevailing policy permitted such assessment within the SME framework;

    ii. The methodology adopted was not singular to the petitioner but formed part of the accepted appraisal practice at the relevant time.

101. The charge, thus, does not disclose any departure from an established norm, but rather questions a methodology that was institutionally accepted.

102. Charge 1.4 - Non-verification through inspection alleges failure to ensure proper inspection. However:

    i. The record reflects that joint inspections were conducted by officials at the branch and regional levels;

    ii. Inspection reports formed part of the appraisal material placed before the petitioner.

103. The allegation, therefore, overlooks the distributed nature of inspection responsibility, and seeks to attribute to the petitioner a function that had already been discharged by designated officers.

104. Charges 3.1, 3.3 and 3.4 - Prudential norms and classification of accounts. These charges invoke notions of "common prudence" and

question the petitioner's assessment of asset classification. A closer examination reveals:

i. The observations are generalised and not anchored to specific regulatory prescriptions;

ii. The accounts, at the relevant time, were regularly serviced and not classified as stressed assets;

iii. The conclusions are drawn from a retrospective assessment of subsequent developments, rather than contemporaneous indicators. Such reasoning, founded on hindsight, cannot sustain a finding of misconduct.

105. Charges 4.1 and 4.2 - Burden of proof and financial indicators. The allegation that the petitioner failed to establish due diligence is countered by:

i. The presence of financial statements, projections and appraisal notes forming part of the sanction record;

ii. Evidence of improved financial indicators at the time of sanction.

106. The charge appears to invert the burden, expecting the petitioner to anticipate future outcomes rather than assess present material.

107. Charges 5.3, 5.4 and 6.3, 6.4 - Certification by Chartered Accountants. These charges allege failure to ensure certification of utilisation of funds. The record indicates that:

i. The sanction terms themselves incorporated conditions requiring certification by Chartered Accountants;

ii. The monitoring of such compliance fell within the domain of post-disbursement supervision, involving multiple officers.

108. The petitioner's role, being confined to sanction, cannot be extended to continuous monitoring functions.

109. Charge 5.5 - Inspection dated 11.08.2009. This charge stands contradicted by the record itself, which shows that:

i. An inspection was in fact conducted on 11.08.2009 by the Assistant General Manager, Bengaluru Cantonment Branch.

110. The allegation, therefore, is factually unsustainable.

111. Charges 6.2 and 7.3 - Applicability of ME-30. The invocation of ME-30 is predicated upon the assumption of advance remittance. However:

i. The material indicates that no such advance remittance had occurred, rendering ME-30 inapplicable.

112. The charge, thus, rests on a misapplication of policy provisions.

113. Charges 6.5 and 6.6 - Valuation of securities The allegation of irregular valuation is sought to be sustained on the basis of variation in valuation figures. Yet:

i. The valuation was conducted by empanelled valuers, whose reports formed part of the record;

ii. Variations in valuation, by themselves, do not establish misconduct unless accompanied by evidence of deliberate manipulation or disregard of norms, which is absent.

114. Charges 7.4 and 7.5 - Disbursement conditions. These charges allege improper disbursement without ensuring compliance with sanction conditions. The material reveals that:

i. The sanction incorporated specific safeguards, including certification requirements;

ii. The actual disbursement and verification of utilisation involved operational officers at the branch level.

115. The attribution of liability to the petitioner overlooks the functional demarcation between sanction and execution.

116. The charge-wise scrutiny yields a consistent pattern:

i. The allegations are not anchored to specific, individualised acts of misconduct;

ii. They rely upon retrospective reinterpretation of decisions taken within an accepted institutional framework;

iii. They disregard the multi-tiered nature of responsibility, attributing to the petitioner functions discharged by others;

iv. Certain charges are factually contradicted by the record itself.

117. The charges, when examined individually and collectively, fail to establish a coherent, legally sustainable case of misconduct attributable to the petitioner alone. They are, at best, expressions of institutional dissatisfaction articulated with the benefit of hindsight. The law does not permit disciplinary liability to be fastened upon assumptions and conjectures.

118. The writ petition before this Court is not merely an invocation of constitutional jurisdiction against an adverse disciplinary outcome. It is, in its truest sense, a plea that the exercise of power be tested against the touchstone of fairness, that the discipline of procedure be not divorced

from the ethics of justice, and that institutional authority remain anchored to reason rather than retrospective apprehension.

119. For, when the edifice of disciplinary action is erected not upon contemporaneous scrutiny but upon a belated reconstruction of events, the Court is called upon to ask-not only whether the conclusion is sustainable-but whether the process itself has retained its legitimacy.

120. In essence, the charges appear to be retrospective reflections, shaped by subsequent developments, rather than contemporaneous indictments grounded in identifiable misconduct.

121. Delay as a juridical indicator of time, in matters of disciplinary jurisdiction, is not a neutral bystander. It is a witness to institutional response, and at times, to its absence.

122. The transactions in question were concluded in 2009-2010. The accounts were subject to internal review. Yet, no action was initiated until 29th October, 2011, when the charge-sheet was served upon the petitioner two days before his retirement.

123. The delay stands unexplained. It is not suggested that the alleged irregularities were discovered belatedly. Nor is there any indication of intervening circumstances that impeded earlier action.

124. The proximity of the charge-sheet to retirement, therefore, assumes a significance that cannot be ignored. It transformed delay into design, and raised a legitimate concern whether the initiation was motivated less by contemporaneous necessity and more by the impending cessation of service.

125. The law does not prohibit delay; but it does insist that delay be explained, justified, and fair. Where it is not, it casts a shadow upon the very foundation of the proceedings.

126. The conduct of the Disciplinary Authority, when viewed in its entirety, reveals a process that is incremental rather than cohesive.

127. The initial charge memorandum, issued at the cusp of retirement, is followed by addenda in 2013, which expand and elaborate the allegations. These are not mere clarifications; they are extensions of the narrative, introduced after the petitioner had ceased to be in service.

128. Such a course is difficult to reconcile with the principles governing disciplinary jurisdiction. For while the law permits continuation of proceedings validly initiated, it does not countenance post-retirement reconstruction of charges, nor does it permit the authority to refine its case in stages until it attains a form capable of sustaining punishment.

129. The process, thus, appears less as a determination founded on settled material, and more as an evolving attempt to justify an already conceived conclusion.

130. The most disquieting aspect, however, lies in the attribution of liability.

131. The record speaks of a collective enterprise-of decisions shaped by multiple hands, scrutinised by multiple minds, and endorsed at multiple levels. Yet, the disciplinary process seeks to distil this collective exercise into a singular culpability, fastening responsibility upon the petitioner alone. Such attribution is not merely selective; it is structurally incongruent.

132. In an institutional framework where roles are defined and functions distributed, liability must be correlative to responsibility. To impose singular liability in the absence of singular control is to sever accountability from context, and to substitute reason with expediency.

133. It is well-settled that disciplinary proceedings may be initiated so long as the employer-employee relationship subsists. The regulations may, in certain circumstances, permit continuation beyond retirement. But this principle is not without boundary.

134. Where initiation is belated and infirm, and where charges are expanded after retirement, the proceedings cease to be a continuation and assume the character of a fresh assertion of authority without jurisdictional foundation.

135. The addenda issued in 2013, therefore, cannot be sustained. They traverse beyond the permissible limits of continuation and enter a domain where the authority no longer retains the power to act.

136. The authorities relied upon by the respondents, emphasising limited judicial review and the seriousness of banking misconduct, are not in dispute. But precedent, like principle, must be applied with regard to context. Those decisions proceed on the basis of:

    i. clear, individualised misconduct;

    ii. prompt and proximate action;

    iii. processes free from infirmity.

137. The present case, marked by diffuse charges, delayed initiation, collective decision-making, and post-retirement expansion, stands on an entirely different footing.

138. Conversely, the principles that permit judicial interference where findings are unsupported by evidence or where relevant material is ignored, find resonance in the present factual landscape.

139. In the ultimate analysis, the Court is not persuaded that the disciplinary proceedings represent a fair and reasoned exercise of power. They are marked by:

    i. delay that remains unexplained;

    ii. charges that are retrospective and inferential;

    iii. attribution that is selective and contextually dissonant;

    iv. expansion that transgresses jurisdictional limits.

140. The law does not permit such a process to culminate in civil consequences of the gravest kind. For discipline, to be just, must be timely, transparent, and tethered to evidence.

141. Retirement is not merely an administrative event. It is the constitutional moment when the covenant between employer and employee reaches its natural fulfillment — when a life spent in service finds its earned resolution in the dignified repose of pension, gratuity, and leave encashment. The law does not contemplate that this threshold should become a site of ambush. And yet, the facts that animate the present analysis present precisely such a tableau: a chargesheet issued on 29th October, 2011 — two days before the petitioner's retirement — arising from loan transactions that occurred in the years 2009 and 2010, left unaddressed by the Bank Authority for the better part of two years, and suddenly activated at the penultimate moment of an entire career.

142. The existence of jurisdiction to issue the charge-sheet is only the first question. The second — and in the circumstances of this case, the more searching — question is this: what led the Bank Authority to remain silent from 2009 to 2011 over alleged irregularities in a loan approval process that involved an entire institutional hierarchy, and to discharge its charge-sheet only two days before the petitioner's departure from service? The third question — perhaps the most consequential for the petitioner — is whether charges that reflect no malice, no personal gain, and no wrongful intention — charges that are, in their essential character, technical process deficiencies — can justify the withholding of pension, gratuity, and leave encashment from a person who gave his career to the institution.

143. Once the charge-sheet has been issued before the date of retirement — even if only by a day, or in the present case, two days — the proceeding is validly initiated. The employer-employee relationship was then alive. The jurisdiction of the disciplinary authority was then extant. The chargesheet of 29.10.2011 stands on legally firm ground insofar as the question of initiation is concerned.

144. The disciplinary proceedings, once validly initiated before retirement, may — subject to applicable service rules — be continued and concluded even after the petitioner's superannuation, by operation of the legal fiction of deemed continuance in service. Under such fiction, the petitioner is treated as if still in service, but solely for the purpose of concluding those proceedings, and for no other purpose whatsoever.

145. The alleged irregularities in loan transactions concern the years 2009 and 2010. The chargesheet was issued on 29th October, 2011. Between the alleged acts and the chargesheet, there lies a chronological distance of approximately one to two years. This distance is not merely a sequence of dates. It is a statistical testament to something deeply disquieting — the Bank's own prolonged acquiescence in a state of knowledge without action.

146. The loan transactions of 2009-2010 did not occur in a vacuum. They were conducted through a hierarchical institutional process — a process in which the staff at the lower levels were required to comply with distinct formalities, documentation requirements, and internal protocols, before the matter ascended through the chain to the petitioner for final endorsement. Every rung of this ladder was visible to the Bank's supervisory machinery. Every disbursement passed through institutional channels. yet, the Bank — possessed of all the knowledge that an institutional lender possesses of its own processes — remained silent for the better part of two years.

147. The silence of the institution is not neutral; it is acquiescence. An acquiescence, extended across two years, raises the most searching questions about the bona fides of a chargesheet issued forty-eight hours before retirement.

148. The Writ Court is not a passive certifier of disciplinary proceedings. It is not required to accept the bare fact of a chargesheet as conclusive of the institution's good faith. The Hon'ble Supreme Court has, through a rich body of jurisprudence, recognised that the Writ Court may and must

examine the circumstances surrounding the initiation of disciplinary proceedings when those circumstances raise a reasonable apprehension of mala fide, selective prosecution, or disproportionate action.

149. In the present context, the Writ Court is called upon to ask — and is entitled to insist upon an answer to — the following questions:

a) Why did the Bank Authority, possessed of knowledge of the loan transactions of 2009-2010, remain silent for two years before issuing the chargesheet? What delayed the application of institutional mind?

b) The loan sanction process in the Bank involved a hierarchical chain of approvals, beginning with staff at lower levels who were required to comply with distinct formalities before the matter reached the petitioner for endorsement. If there were irregularities in the process, those irregularities pervaded the entire chain. Why was the chargesheet directed solely or principally against the petitioner at the apex of that chain, and what action — if any — was taken against those at the lower levels who were equally or more directly involved in the compliance formalities?

c) The timing of the chargesheet — two days before retirement — coincides almost precisely with the moment at which the Bank stood to gain the maximum procedural advantage by ensuring that disciplinary proceedings would be subsisting at the date of superannuation, thereby creating a basis for withholding

pension, gratuity, and leave encashment. Was this coincidence, or calculation?

d) Selective prosecution is the antithesis of institutional fairness. When a hierarchical process of loan approval involves multiple participants across multiple levels, and the chargesheet arrives only at the door of the final endorser — two days before his retirement — the Writ Court is not merely entitled to raise its eyebrows. It is constitutionally obligated to raise its voice.

149. The loan transactions of 2009-2010 were not the unilateral acts of the petitioner. They arose from a hierarchical institutional procedure in which the staff at lower levels were required to comply with distinct formalities — preparation of loan proposals, verification of documentation, initial assessment of creditworthiness, compliance with internal norms — before the matter was finally endorsed by the petitioner.

150. In the present case, the Writ Court is entitled — indeed, obligated — to inquire: what action did the Bank take against those at the lower levels of the hierarchy who were required to comply with the initial formalities? Were those formalities complied with? If not, who bore the primary responsibility for that non-compliance? If the deficiency lay at the lower levels, how did the endorsement by the petitioner — the final signatory in a chain of institutional approvals — constitute the primary or sole delinquency?

151. Authority at the apex of a hierarchical process is not the same as exclusive culpability for every deficiency that arose within it. The final endorser is entitled to rely — within reason — on the compliance work of

those who preceded him in the institutional chain. To hold him solely responsible for the failures of an entire hierarchy, while those who first failed remain uncharged, is not discipline. It is scapegoating dressed in the garb of institutional accountability.

152. There has to be a critical distinction — one that the Writ Court must apply with care and constitutional conscience — between charges that reveal a genuine delinquency of character (fraud, misappropriation, deliberate falsification, personal enrichment at institutional expense) and charges that amount to technical process deficiencies, administrative oversights, or failures of supervision.

153. The charges framed against the petitioner on 29th October, 2011, as this analysis understands them, relate to alleged irregularities in the issuance of loans to customers during 2009-2010 — in the context of a hierarchical approval process in which the petitioner's role was that of the final endorser, not the primary processor. The charges do not, on their face, allege:

i. that the petitioner personally benefited from the loan transactions;

ii. that the petitioner deliberately falsified any records or documents;

iii. that the petitioner acted with mala fide intent or in collusion with any borrower or fellow employee;

iv. that the petitioner caused pecuniary loss to the Bank by any act of commission attended by dishonesty.

154. What the charges appear to indicate — and this is a finding that the Writ Court must scrutinise with care upon a perusal of the actual chargesheet

— is that the petitioner, as the final endorser in a multi-layered institutional process, failed to detect, question, or remedy certain formality-based deficiencies that had originated at lower levels of the hierarchy. This is a charge of supervisory insufficiency. It is a charge of institutional process non-compliance. It is, in its essential character, a charge of technical deficiency — not of moral turpitude, not of deliberate wrongdoing, not of personal gain.

155. The disciplinary law of this country does not treat all lapses with the same gravity. Between the officer who steals and the officer who overlooked, between the employee who defrauded and the employee who failed to supervise a formality, there is a chasm that the law of proportionality insists must be reflected in the disciplinary consequence. To treat technical process deficiency as if it were personal delinquency is not discipline — it is the use of a sledgehammer to crack a nut.

156. The Hon'ble Supreme Court has consistently held — and this position is now beyond controversy — that the punishment imposed in disciplinary proceedings must be proportionate to the gravity of the misconduct proved. In cases involving banking irregularities, the Court has drawn a careful distinction between misconduct that warrants the severest penalties (dismissal, removal, forfeiture of pension) and misconduct that amounts to a lapse of oversight which, at most, warrants a minor or moderate penalty.

157. In the present case, the Writ Court must apply this principle of proportionality not merely to the quantum of any punishment but to the very consequence of withholding terminal benefits. Pension, gratuity, and

leave encashment are not bounties that the institution may withhold at will. They are constitutionally protected rights — the earned deferred wages of a lifetime of service — which cannot be denied without strict legal justification.

158. For the purpose of withholding or forfeiting terminal benefits, the applicable service rules and the Payment of Gratuity Act, 1972 draw a sharp and deliberate distinction. Gratuity, under Section 4(6) of the Payment of Gratuity Act, 1972, may be forfeited only where the employee has been terminated for misconduct involving acts of wilful omission or negligence causing damage or loss, or for riotous or disorderly conduct or any violent act, or for an offence involving moral turpitude. Pension may similarly be withheld only where the misconduct is of a character that the applicable Pension Regulations sanction as a ground for such withholding — typically, grave misconduct, criminal breach of trust, forgery, or fraud.

159. The charges against the petitioner — technical deficiencies in a hierarchical loan sanction process, attended by no evidence of personal gain, malice, or deliberate fraud — do not, on their face, satisfy the threshold for the forfeiture or withholding of terminal benefits. To withhold pension, gratuity, and leave encashment on the basis of such charges is to visit upon the petitioner a consequence disproportionate to and unsupported by the character of the alleged delinquency.

160. The institution that withholds pension from a retired employee on the strength of charges that reveal no fraud, no dishonesty, and no personal enrichment, is not exercising discipline. It is administering financial punishment by another name — and it is doing so, conspicuously, at a

time when the employee can no longer defend himself from within the service. This the constitutional conscience of the Writ Court cannot endorse.

161. The Writ Court is not empowered to act as an Appellate Court nor can reassess evidence and such syntax is indomitable in service jurisprudence. However will it not be menacing for a Writ Court to be a mute spectator where an employee is subjected to sheer brutality being thrust with a charge-sheet on the eve of his retirement having served the respondent-Bank with unwavering loyalty only to be subjected to brazen autocratic despotism, where the entire service career, reputation and future life of the employee are disarrayed and sullied in the garb of a disciplinary proceeding predominantly devoid of explicit misconduct on the part of the petitioner, if at all technical deficiencies which formed a broader perspective of collective responsibility.

150. The petitioner robbed of and deprived of claim of retiral benefits at the end of nearly four decades of uninterrupted service has to fight for his legitimate claims to combat against abominable act on the part of the respondent-Bank, disregarding the plausible explanation through representation by the petitioner which fell on deaf ears, frenzied by authority and power to condemn the petitioner. Moreover, a charge was framed against him in the context of a grant after his transfer, a ridiculous embodiment of display of authoritative power unacceptable under the stretch of any legal principles. The Writ Court is, therefore, compelled to exercise its jurisdiction to abide by the constitutional principles to safeguard and sanctify the rights of the petitioner whose

mala fide intention and wrongful gain could not be established by the respondent-Bank which had been in slumber for nearly two years from the date of sanctioning of loan only to awaken at the opportune moment to assassinate and annihilate the petitioner to his material devastation and life destruction. Therefore in case where the process itself is initiated, judicial restraint must yield to constitutional responsibility.

151. Since the petitioner had been deprived of his lawful entitlements and both the Disciplinary Authority and Appellate Authority had expressed the respective opinion of imposition of punishment upon the petitioner, constructive purpose beneficial to the petitioner would hardly enure if the misery of the petitioner was asked to be reconsidered by the aforesaid Authorities. Moreover, the petitioner presently a septuagenarian person must not be subjected to ignominy and hardship to face further dictum of the aforesaid Authorities. The Writ Court in such an exceptional circumstances considers it arduous to restore judicial faith and instil constitutional values in favour of the petitioner and believes it onerous to relieve the petitioner from any procedural entanglements at the behest of the respondent-Bank.

152. Accordingly:

i. The charge memorandum dated 29.10.2011 and addenda dated 28.05.2013 and 17.10.2013 are set aside;

ii. The order dated 25.11.2014 passed by the Disciplinary Authority and the Appellate Order dated 06.04.2016 are quashed.

iii. The petitioner shall be entitled to all consequential retiral benefits including pension, gratuity and leave encashment, which shall be released from a period of 12 weeks from the date of communication of this Order. The respondent-Bank is also to pay an interest of 6% per annum on the amount of gratuity and leave encashment from the date of superannuation till the date of disbursal of such benefits in favour of the petitioner.

153. In view of the above discussion, the instant writ petition being WPO No.59 of 2017 is allowed.

154. Accordingly, the instant writ petition stands disposed of.

155. There is no order as to costs.

156. All parties shall act on the server copy of this judgment duly downloaded from the official website of this Court.

(Ananya Bandyopadhyay, J.)