

APHC010350602002

**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI**

[3506]



WRIT PETITION NO: 12156 of 2002

A.Rajasekhara Rao and Others ...Petitioner(s)
Vs.
The General Manager and Others ...Respondent(s)

Advocate for Petitioner: Mr.J SUDHEER
Advocate(s) for Respondent(s): GENERAL MANAGER,
ANDHRA BANK,
K LAKSHMI NARASIMHA
(SC FOR A P S AIDS)

CORAM : SRI JUSTICE CHALLA GUNARANJAN

DATE : 5th February, 2026

ORDER:

Present writ petition challenges the order of dismissal dated 23.01.2001 passed by 3rd respondent as confirmed by the appellate authority by order dated 11.04.2001 and consequently to set aside the same and to reinstate the petitioner into service with all attendant benefits. After filing of writ petition, the writ petitioner died, therefore, his wife and two children got impleaded to prosecute the case. In view of the subsequent development, the prayer to the extent of reinstatement would not survive.

2. (a) Petitioner was discharging duties as Cashier at Chandragiri Branch of respondent bank at relevant point of time. On the allegations that he had committed certain irregularities in

discharge of duties including that of misappropriation of cash, he was issued charge sheet dated 20.03.1999, calling upon him to submit explanation to the said charges as set out in detail therein. It is to be noted that even before issuance of said charge sheet petitioner was placed under suspension on 09.06.1998. After submission of the explanation, eventually enquiry came to be conducted and enquiry officer was appointed. The Enquiry Officer submitted report dated 26.08.2000 holding that all the charges were held to be proved. Thereafter, after issuing show-cause notice and calling for explanation, the 3rd respondent has passed orders dated 23.01.2001 removing petitioner from service.

(b) Aggrieved by the same, petitioner preferred appeal before 2nd respondent, who eventually dismissed the same by order dated 11.04.2001.

(c) Assailing the above orders, present writ petition is filed. Respondents have filed detailed counter opposing the writ petition.

3. Heard Ms.Shaik Neha Hassan, representing Sri J.Sudheer, learned counsel for petitioners on record and Mr.Lakshmi Narasimha, learned standing counsel for the respondent bank.

4. Learned counsel for petitioner contended that both the orders of disciplinary authority and as well as appellate authority suffer from severe infirmity inasmuch as the findings of fact recorded therein clearly suffer from glaring perversity. It is contended that the disciplinary proceedings are clearly vitiated for following reasons:

- a) that the charges so framed by disciplinary authority are clearly vague;
- b) the Enquiry Officer did not supply the charge sheet and the relevant documents immediately, enabling petitioner to respond to the same appropriately, thus, the procedure so adopted clearly denied petitioner right to participate in the enquiry effectively, which therefore amounted violation of principles of natural justice;
- c) the findings recorded with respect to the first charge clearly suffer from perversity inasmuch as the evidence on record was clearly insufficient to hold that shortage of cash of ₹10,000/- was sheerly on account of the act of misappropriation of the petitioner;
- d) the charge with regard to removal of gold bangles from the bank which otherwise were secured for extending loans

and stated to have been found in possession of petitioner, clearly stand unproved and the evidence of the bank was definitely insufficient in holding that the charge against the petitioner and that too when same set of charge in criminal case vide C.C.No.668/98 ended in honourable acquittal; and

- e) lastly, the charge relating to the petitioner leaving the bank without closure of cash account and being in intoxicated condition at home was also based on no evidence, therefore, the findings recorded to hold the said charge proved suffered from manifest error and perversity.

In support of aforesaid submissions, reliance has been placed on the following judgments:

1. Judgment of the Hon'ble Apex Court in **Chatrapal v. State of Uttar Pradesh and another**¹
 2. Judgment of the Hon'ble Apex Court in **Maharana Pratap Singh v. State of Bihar and others**²
5. Learned counsel appearing for the respondents, on the other hand, contended that the impugned order of disciplinary authority, as confirmed by appellate authority, really suffers from

¹ 2024 SCC OnLine SC 146

² 2025 SCC OnLine SC 890

no error or infirmity either of law or on facts, far less manifest error, hence, does not call for any interference. He further contended that the findings of fact recorded by enquiry officer, as reappreciated and concurred with by disciplinary authority and as well as appellate authority cannot be once again reappreciated before this Court in exercise of powers under Article 226 of Constitution of India. It is also well settled that this Court shall not go into the adequacy or reliability of the evidence and try to correct the error of fact, however, grave it may appear to be, therefore, urged to dismiss the writ petition.

6. Perused the record and considered the submissions advanced by respective counsels.

7. In order to appreciate aforesaid submissions, it is essential to look into the nature of charges set out in the charge memo and the enquiry report. Four charges have been levelled against petitioner, which are as under:

1. Misappropriation of cash of ₹10,000/-
2. Leaving the branch during the lunch period and not returning to the branch to balance the cash and to keep the same in the safe.

3. Removing of a gold loan bag containing gold ornaments (against which a loan was outstanding) and keeping it in your possession.
 4. Colluding with Sri E.Showrirayulu, Manager and allowing unauthorized removal of gold ornaments from the gold loan bag against which the loans were outstanding.
- 8.** The above said charges stated to constitute misconduct on the part of petitioner in terms of Clause 19.5(J) of Bipartite Settlement warranting appropriate punishment, if so proved. The petitioner was placed under suspension pending enquiry. After submission of explanation to the charge memo, the enquiry proceeded. In the process of enquiry, the respondent bank has marked as many as 53 documents as MEX – 1 to 53 and let in evidence of M.Ws.1 to 3 to prove the charges. For petitioner, neither any documents were marked nor anyone were examined. Enquiry report reveals that the enquiry was conducted in accordance with the procedure and due opportunity was given to the writ petitioner to cross-examine the witnesses of the bank and as well as to lead his own independent evidence. The Enquiry Officer has dealt with the four charges in extenso and has provided specific reasons in coming to conclusion that the same were proved.

9. Insofar as first charge of misappropriation of cash of ₹10,000/-, it was found that admittedly there was clear shortage of ₹10,000/- even according to the writ petitioner. However, it was pleaded by petitioner that the shortage was real in nature and not on account of any misappropriation, nevertheless as he could not justify the said version, and that he eventually repaid the said amount, the enquiry officer has formed an opinion that the shortage of cash was clearly an act of misappropriation.

10. Coming to the second charge, though the petitioner has taken a stand that there was no prohibition as such envisaged in any of banking norms for cashier to leave the bank during lunch hours, inasmuch the petitioner was found to have not closed the cash account and rather left bank, unreturned and such an act was found to be a clear misconduct and further the evidence of the co-officers revealed that the petitioner was in intoxicated status at home.

11. Three and four charges essentially related to removing of gold from the bank and being found at the residence of the writ petitioner on 04.06.1998, later endorsed in the register indicating that the same have been restored back to the bank safe. The petitioner along with other co-officer being joint custodians of the ornaments safe, the enquiry officer after analyzing the

documentary as well as oral evidence on record came to conclusion that the ornaments that were missing clearly related to gold loan account AGL 98/14 and that the same constituted an act of misconduct.

12. The disciplinary authority, after considering the explanation offered by the writ petitioner, has again gone into detail into the allegations levelled against petitioner vis-à-vis the findings of enquiry officer and has independently come to conclusion that there was enough and sufficient evidence on record to conclude all four charges proved. Considering the gravity and nature of the charges, the disciplinary authority therefore had come to conclusion to impose punishment of dismissal from service and accordingly, by order dated 23.01.2001, removed the petitioner from service.

13. A glance of aforesaid order goes to show that the disciplinary authority has independently applied its mind to the evidence on record and has come to conclusion that the charges were proved. Similarly, the appellate authority, after dealing with the grounds of appeal, has rendered its findings concurring with the findings and the decision of disciplinary authority. Two authorities below, on appreciation of evidence on record, have recorded concurrent findings.

14. After the orders of appellate authority confirming the punishment of dismissal of petitioner from service, the criminal proceedings initiated against the Assistant Manager and writ petitioner in C.C. No.668/98 ended in acquittal by judgment dated 31.12.2001 on the file of III Additional Munsif Magistrate, Tirupati. A perusal of the aforesaid judgment would go to show that the petitioner was charged with offences under Sections 406, 409 and 420 IPC on the allegations that petitioner and the co-accused Branch Manager being joint custodians of the ornaments safe, have connived to remove the jewellery from safe custody for their personal benefit and use in a dishonest manner and such act amounted to clear misappropriation. During the trial, the charges under Sections 406 and 420 of IPC, since not attracted, were dropped and the trial proceeded only with reference to the offence under Section 409 of IPC alone. Eventually, the learned court found that there were clear short comings in the prosecution, one being abnormal delay of nearly three months in reporting the incident to police, second that the verification of gold ornaments was in absence of first accused, the other being insufficient evidence to suggest the accused were guilt in undertaking such activity and also failure in examination of Krishna Rao, L.W.6,

who was present at the time of inspection and verification of gold ornaments that were missing.

15. A conspectus view of the judgment reveal that the entire case merely revolved around missing of the gold ornaments alone in the bank safe and does not in any way deal with the other charges, in particular, missing of cash of ₹10,000/-. Therefore, the contention of petitioner that inasmuch as he has been acquitted by the criminal court, the punishment of dismissal in the present case is unwarranted in the teeth of judgment of Hon'ble Apex Court in **Maharana Pratap Singh²** is clearly misplaced. The impugned order of dismissal is not solely based on the charge that petitioner, being joint custodian of gold ornaments, was responsible for misuse of the same for his personal benefit, besides there was also another serious allegation of shortage of cash of ₹10,000/-, which stated to be misappropriated. Even otherwise, merely because the petitioner has been acquitted by criminal court in criminal case, the same *ipso facto* would not render the findings and conclusions arrived at by the disciplinary authority *void ab initio*.

16. In the facts and circumstances of the present case, as there is ample evidence on record which eventually has been appreciated by the enquiry officer and concurred by the

disciplinary authority in coming to conclusion that the writ petitioner indeed was found to be in possession of two bangles when the officers of bank visited his home on 04.06.1998, and that the gold ornaments so found related to the gold loan account No.AGL 98/14, the finding of fact so recorded as confirmed by appellate authority cannot be said to be a case of absolutely no evidence at all. The degree of proof required to be established in disciplinary proceedings merely being on touch stone of preponderance of probabilities and not beyond reasonable doubt. Law is now very well settled that an order of punishment as confirmed by appellate authority would not ordinarily subject to correction in judicial review under Article 226 of Constitution of India unless it is shown that the material on record satisfied that there has been violation of principles of natural justice, or that enquiry proceedings have been conducted contrary to statutory regulations prescribing the mode of such enquiry or that the decision of disciplinary authority is vitiated by considerations extraneous to the evidence and merits of the case or that the conclusion of disciplinary authority is *ex facie* arbitrary and capricious, so that no reasonable person could have arrived at such conclusion.

17. In the present case, there is enough material evidence on record that has been considered by the enquiry officer, disciplinary authority and the appellate authority in rendering definitive findings with respect to the charges levelled against petitioner. The decision so arrived at by these authorities, in the opinion of this Court, cannot be said to be ex facie arbitrary or capricious and the view so taken by them being a possible view, this Court cannot really venture to reappraise the evidence and sit in appeal on findings of facts so recorded.

18. The material on record, the enquiry report and the impugned orders clearly show that the charges framed against petitioner were definitive, the petitioner has been offered fair opportunity to participate in the enquiry and was allowed to not only cross examine the bank witnesses but also lead evidence on his side, therefore, the proceedings so conducted cannot be said to be in violation of principles of natural justice.

19. The Hon'ble Apex Court in **Chatrapal**¹, while reiterating the scope of judicial review in disciplinary proceedings, reiterated the principles set out in the judgment of Hon'ble Apex Court in **Union of India v. P.Gunasekaran**³. In the said judgment, it has been held that in disciplinary proceedings, the High Court cannot act as

³ (2015) 2 SCC 610

a second court of first appeal and shall not reappreciate the evidence to go into neither adequacy nor reliability of the evidence and correct the error of fact, however grave it may appear to be. Unless it is clear case of a finding of fact based on absolutely no evidence, nor no reasonable authority could have come to conclusion based on the evidence so available or such conclusion is based on some considerations extraneous to evidence on merits of the case, the court can step in. Clearly in the present case, none of the exceptions so provided shall apply.

20. Therefore, this Court does not find any merit in the writ petition to interfere with the orders of disciplinary authority as confirmed by appellate authority. Accordingly, this writ petition stands dismissed. No costs.

As a sequel, miscellaneous petitions pending in this case, if any, shall stand closed.

CHALLA GUNARANJAN, J

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