



2026:DHC:8529-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment Reserved on: 08.09.2026

Judgment Delivered on: 30.09.2026

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CNR No. DLHC010329522024

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LPA 441/2024 & CM No. 32205/2024

**REGIONAL MANAGER, CENTRAL BANK OF
INDIA**

.....Appellant

versus

SH. KUNWAR PAL SINGH

.....Respondent

Advocates who appeared in this case

For the Appellant : Mr. Ashok Kumar Singh, Senior Advocate with Mr. Rajesh Sharma, Mr. Rajat Joshi, Ms. Eesha Garg and Ms. Saloni Singh, Advocates. Ms. Meenakshi Singh, from Central Bank of India.

For the Respondent : Mr. Lalta Prasad, Advocate.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

TEJAS KARIA, J

1. The present *intra court* Appeal has been preferred by the Appellant assailing the order dated 12.03.2024 (“**Impugned Order**”) passed in W.P.(C) 4235/2017 (“**Writ Petition**”), whereby the Writ Petition preferred by the



Appellant against the award dated 03.01.2017 (“**Award**”) passed by the learned Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court No. 1, Karkardooma Courts Complex, Delhi (“**Industrial Tribunal**”) in I.D. No. 153/2012, directing the reinstatement of the Respondent with all consequential benefits, was dismissed.

FACTUAL MATRIX

2. The Respondent was appointed as a Clerk by the Appellant in 1987. While he was posted at the Press Area Branch, New Delhi, the Appellant issued a chargesheet dated 02.02.2008 (“**Chargesheet**”) to the Respondent, alleging that, on 31.05.2007, he had credited the proceeds of a pay order of ₹4,139/-, prepared in favour of *M/s Om Stationery Mart* towards its bill for supply of table stationery, to his own overdraft account maintained at the Jyoti Nagar Branch, Delhi. It was also alleged in the Chargesheet that he had used the code and password of another passing official to authorise the corresponding debit voucher.

3. A domestic enquiry was conducted against the Respondent, and the Enquiry Officer submitted her report dated 14.06.2008 (“**Enquiry Report**”) holding that the charges against the Respondent stood fully established. Thereafter, the Disciplinary Authority imposed upon the Respondent the penalty of dismissal without notice by order dated 19.09.2008 (“**Dismissal Order**”). The appeal preferred by the Respondent against the Dismissal Order was dismissed by the Appellate Authority by order dated 18.03.2009.

4. The Respondent preferred W.P.(C) 11580/2009 before this Court assailing the Dismissal Order, which was dismissed as withdrawn on 30.11.2011 with liberty to approach the learned Industrial Tribunal under the



Industrial Disputes Act, 1947 (“**ID Act**”) and with an observation that the time spent would be excluded in computing the period of limitation. Thereafter, by order dated 18.10.2012, the Ministry of Labour and Employment, Government of India, referred the dispute to the learned Industrial Tribunal to determine as to whether the Dismissal Order was legal and justified, and the relief to which the Respondent was entitled.

5. The Respondent filed his statement of claim dated 03.12.2012 before the learned Industrial Tribunal, specifically challenging the Enquiry Report and the Dismissal Order. The Appellant filed its written statement on 01.02.2013 (“**Written Statement**”), which did not contain any prayer seeking leave to lead evidence to prove the charges, in the event the domestic enquiry was found to be vitiated. On the same date, the learned Industrial Tribunal framed the issues and treated the issue as to whether the domestic enquiry was just, fair and proper as a preliminary issue.

6. By order dated 29.02.2016 (“**Preliminary Order**”), the learned Industrial Tribunal decided the preliminary issue against the Appellant and held that the domestic enquiry was vitiated. It was held that the Appellant had not supplied certain documents demanded by the Respondent for his defence, which were withheld as being privileged, and that he had not been afforded an opportunity to cross-examine the witness of the Appellant after his re-examination.

7. Thereafter, the Appellant moved an application dated 02.03.2016 (“**Application**”) seeking leave to prove the misconduct of the Respondent on merits. The Respondent opposed the Application, which was rejected by the learned Industrial Tribunal by order dated 30.11.2016.



8. By the Award, the learned Industrial Tribunal held that the Appellant had forfeited its right to adduce evidence on merits, as it had not reserved such right in the Written Statement. It further held that, the domestic enquiry having been vitiated, nothing survived against the Respondent, and the question of proportionality of punishment did not arise. The Dismissal Order was, accordingly, held to be not legal and justified, and reinstatement of the Respondent with all consequential benefits was directed.

9. The Appellant assailed the Award in the Writ Petition. The Respondent, during the pendency of the Writ Petition, filed an application seeking grant of benefits under Section 17B of the ID Act, which was allowed by order dated 26.09.2019.

10. By the Impugned Order, the learned Single Judge held that the learned Industrial Tribunal had rightly rejected the Application, and had correctly held the domestic enquiry to be vitiated for non-supply of documents to the Respondent. Accordingly, the Writ Petition was dismissed. Aggrieved thereby, the Appellant has preferred the present Appeal.

11. In the present Appeal, *vide* order dated 28.05.2024, this Court, while issuing notice, stayed the operation of the Impugned Order and the Award, subject to the Appellant depositing 50% of the amount payable under the Award with the Registrar General of this Court within six weeks. The Appellant thereafter sought one week's time to deposit the said amount, which was granted by order dated 29.07.2024.

12. Pursuant thereto, the Appellant deposited Demand Draft No. 476723 dated 20.07.2024 of ₹32,83,591/- drawn on Central Bank of India in the name of the Registrar General of this Court under Office Diary No. 19242 dated 31.07.2024.



SUBMISSIONS ON BEHALF OF THE APPELLANT

13. Mr. Ashok Kumar Singh, learned Senior Counsel for the Appellant, submitted that the learned Single Judge failed to appreciate that, even if the learned Industrial Tribunal was of the view that the domestic enquiry stood vitiated, liberty ought to have been granted to the Appellant to lead evidence to prove the charges against the Respondent. The proceedings before the learned Industrial Tribunal did not come to an end upon the decision of the preliminary issue, and the Appellant moved the Application within two days of the Preliminary Order.

14. Learned Senior Counsel for the Appellant submitted that the learned Industrial Tribunal misconstrued the decision in ***Karnataka State Road Transport Corporation v. Lakshmidevamma***, (2001) 5 SCC 433, wherein the Supreme Court clarified that the requirement of seeking leave in the written statement was not to be understood as placing fetters on the power of the learned Labour Court to require or direct the parties to lead additional evidence at any stage before the proceedings are concluded. Reliance was placed on ***Divyash Pandit v. Management, National Council for Cement and Building Materials***, (2005) 2 SCC 684, in which the Supreme Court held that, once the learned Labour Court found the enquiry to be *non est*, the management ought to have been given one opportunity to establish the charge, even though no such prayer had been made in its written statement.

15. Reliance was further placed on ***Delhi Transport Corporation v. Sunil Kumar***, 2010 SCC OnLine Del 1580 and ***Mohd. Azim v. Sarv UP Gramin Bank***, 2015 SCC OnLine Del 8345, to submit that, following ***Lakshmidevamma*** (*supra*), the Labour Court was competent to



permit the management to prove the misconduct, even in the absence of such a prayer in its written statement. In **Sunil Kumar** (*supra*), this Court remanded the matter because the Labour Court had rejected the management's application solely because no such prayer had been made, without examining whether the ends of justice required an opportunity to be granted. It was further submitted that, in any event, the Respondent was not entitled to all consequential benefits. The period from 19.09.2008 till 03.12.2012 was attributable to the Respondent, who had chosen to prefer a writ petition instead of raising an industrial dispute. The Respondent had neither pleaded that he was not gainfully employed nor performed any work during the intervening period, and the principle of “*no work, no pay*” ought to have been applied.

16. Learned Senior Counsel for the Appellant further submitted that the documents which were not supplied to the Respondent were not relied upon in the enquiry. Reliance was placed on **State Bank of India v. Bidyut Kumar Mitra**, (2011) 2 SCC 316, to submit that non-supply of documents which were not relied upon did not vitiate the enquiry where no prejudice was caused to the delinquent employee. Reliance was also placed on **State Bank of Patiala v. S.K. Sharma**, (1996) 3 SCC 364, to submit that, where a proper hearing is given and the violation alleged relates only to a facet of natural justice, such as non-supply of documents, the charged official must show how such violation prejudiced him. The Respondent had not shown any such prejudice. Further, the re-examination of the witness of the Appellant was only explanatory in nature, and no prejudice was caused to the Respondent by the denial of a further opportunity to cross-examine him.



17. It was submitted by learned Senior Counsel for the Appellant that the Respondent was guilty of misappropriation of public money, which constituted gross misconduct, and the Appellant had lost confidence in him. Reliance was placed on ***Suresh Pathrella v. Oriental Bank of Commerce***, 2007 LLR 144, to submit that, where a bank has lost confidence in its employee, the bank ought not to be directed to take him back unless the decision to remove him is tainted with *mala fides* or is in violation of the principles of natural justice causing prejudice to him. The co-delinquents were awarded lesser punishments, since the charges levelled against them were not similar to, and were less grave than, those proved against the Respondent.

18. Learned Senior Counsel for the Appellant submitted that the documents which were not supplied to the Respondent neither formed part of the Chargesheet nor were relied upon in the enquiry. Reliance was placed on ***Syndicate Bank v. Venkatesh Gururao Kurati***, (2006) 3 SCC 150, to submit that non-supply of documents which neither form part of the charges nor are relied upon by the prosecution does not cause prejudice to the delinquent so as to violate the principles of natural justice, even where the refusal to supply such documents on the ground of privilege is found to be untenable. It was further submitted that, even where the documents relied upon are not supplied, the prejudice caused by their non-supply must be established by the delinquent.

19. It was further submitted on behalf of the Appellant that reinstatement does not automatically entitle a workman to back wages. Reliance was placed on ***National Gandhi Museum v. Sudhir Sharma***, (2021) 12 SCC 439 and ***Ramesh Chand v. Management of Delhi Transport Corporation***, (2023)



19 SCC 97, to submit that whether a workman was gainfully employed after his dismissal is a fact within his special knowledge. Consequently, in view of Section 106 of the Indian Evidence Act, 1872, the burden lies on the workman to plead and prove that he was not gainfully employed during the relevant period. Since the Respondent had not pleaded before the learned Industrial Tribunal that he was not gainfully employed, he was not entitled to back wages for the period during which the proceedings remained pending.

20. Accordingly, it was prayed by learned Senior Counsel for the Appellant that the Impugned Order and the Award be set aside or, in the alternative, the matter be remanded to the learned Industrial Tribunal with a direction to permit the Appellant to adduce evidence to prove the charges against the Respondent.

SUBMISSIONS ON BEHALF OF THE RESPONDENT

21. Mr. Lalta Prasad, learned Counsel for the Respondent, submitted that the Respondent, who was a Clerk, and two Managers, namely, Mr. H.B. Johri and Mr. J.K. Sharma, were issued chargesheets on the same set of facts. However, the co-delinquents were awarded lesser punishments, and the Respondent was discriminated against and victimised.

22. Learned Counsel for the Respondent submitted that the Chargesheet was issued to the Respondent after 20 years of unblemished service, at a time when his promotion was due. The domestic enquiry conducted by the Appellant was unjust, unfair and contrary to the principles of natural justice. Once the domestic enquiry was vitiated, nothing survived against the Respondent in the form of misconduct, and the question of proportionality of the punishment did not arise. The gravity of the misconduct and the



punishment awarded would have been relevant only had the domestic enquiry had been upheld.

23. It was submitted by learned Counsel for the Respondent that the Appellant had neither made a prayer nor reserved its right in the Written Statement to adduce further evidence, and moved the Application only after the preliminary issue was decided against it. The Application was contested by the Respondent and was dismissed on merits by the learned Industrial Tribunal, which view was upheld by the learned Single Judge upon finding that the learned Industrial Tribunal had considered the entirety of the matter and the evidence on record. The Appellant, therefore, could not seek the same relief again in the present Appeal.

24. Learned Counsel for the Respondent further submitted that where the employer relies only on the domestic enquiry, and neither leads additional evidence nor seeks an opportunity to do so during the pendency of the proceedings, the Labour Court or the Industrial Tribunal is only required to consider the validity of the domestic enquiry and the findings recorded therein. It was further submitted that the decision of the Constitution Bench in *Lakshmiddevamma* (*supra*) could not be superseded by decisions rendered by Benches of lesser strength. Reliance was placed on *State of Uttar Pradesh v. Ram Prakash Singh*, Neutral Citation: 2025 INSC 555, in which the Supreme Court dismissed the appeal preferred by the employer on similar facts.

25. It was further submitted by learned Counsel for the Respondent that over 18 years had elapsed since the dismissal of the Respondent, who is now over 60 years of age. Accordingly, it was prayed that the present Appeal be



dismissed with costs, with a direction to the Appellant to reinstate the Respondent with continuity of service and all service benefits, and to pay all retiral benefits to the Respondent along with interest.

ANALYSIS AND FINDINGS

26. We have heard learned Senior Counsel for the Appellant and learned Counsel for the Respondent as well as perused the material placed on record.

27. The principal questions that arise for adjudication are: (i) whether the domestic enquiry was rightly held to be vitiated; (ii) if so, whether the Appellant, having neither sought nor reserved leave in its Written Statement, was entitled to lead evidence before the learned Industrial Tribunal or is now entitled to a remand; and (iii) whether the Respondent was rightly granted consequential benefits.

28. The Appellant contends that the domestic enquiry was wrongly held to be vitiated. The learned Industrial Tribunal found that the Respondent had not been supplied certain documents demanded by him for his defence, which were withheld on the ground that they were privileged. It also found that he had not been permitted to cross-examine the Appellant's witness after his re-examination. The learned Single Judge, relying upon *A.K. Kraipak and Ors. v. Union of India and Ors.*, (1969) 2 SCC 262, observed that the principles of natural justice apply to judicial, quasi-judicial and administrative enquiries alike, and agreed with the learned Industrial Tribunal. We find no error in this approach.

29. The Appellant relies on *Syndicate Bank (supra)*, *Bidyut Kumar Mitra (supra)* and *S.K. Sharma (supra)*. These decisions hold that non-supply of documents which were not relied upon in the enquiry does not vitiate it unless prejudice is shown. The said principle does not assist the Appellant herein.



30. The charge against the Respondent included the allegation that he had used another official's code and password on 31.05.2007. The documents withheld were the attendance sheet of the branch dated 31.05.2007, the memoranda issued to the two co-delinquents, and Mr. Johri's reply to the memorandum issued to him. Mr. Johri was the only witness examined by the Appellant in the enquiry, and was himself a co-delinquent. The withheld documents, therefore, bore directly on the charge and on the credibility of the Appellant's sole witness. The Appellant was unable to point to any provision of law conferring privilege on them. Further, the Appellate Authority rejected the Respondent's plea that he had asked Mr. Johri to cancel the entry, on the ground that no evidence had been produced in support of it. Material that could have supported the defence was thus withheld, and the Respondent was then faulted for not producing evidence. The prejudice caused to the Respondent is evident from the record.

31. The enquiry is also vitiated on the ground that the Respondent was not permitted to cross-examine Mr. Johri after his re-examination. The learned Industrial Tribunal found that the questions put in re-examination were not confined to explaining answers given in cross-examination, but raised matters of a different nature. The Enquiry Officer declined the Respondent's request only because there was no provision for such cross-examination, and the Appellate Authority later relied upon the answers given in re-examination. The contention that the re-examination was merely explanatory, and caused no prejudice, is therefore not borne out by the record.

32. Each of the above two grounds is independently sufficient to sustain the finding that the enquiry was vitiated. We find no perversity or error of law in that finding.



33. The Appellant's primary grievance is that, once the enquiry was held to be vitiated, the learned Industrial Tribunal ought to have permitted the Appellant to lead evidence to prove the charges. We are unable to accept this contention. In *Shankar Chakravarti v. Britannia Biscuit Co. Ltd.*, (1979) 3 SCC 371, relied upon by the learned Single Judge, the Supreme Court held that it is for the employer to seek an opportunity to lead additional evidence by a specific pleading or request. If no such opportunity is sought, the learned Labour Court or the learned Industrial Tribunal is under no duty to call upon the employer to lead such evidence. In *Lakshmiddevamma* (*supra*), it was held that, to avoid delay and multiplicity of proceedings, the management must seek leave to lead additional evidence in the written statement itself, in the alternative and without prejudice to its contentions.

34. The Appellant relies on *Lakshmiddevamma* (*supra*), *Divyash Pandit* (*supra*), *Sunil Kumar* (*supra*) and *Mohd. Azim* (*supra*) to contend that the requirement of seeking leave in the written statement does not fetter the power of the Labour Court to direct the parties to lead additional evidence at any stage before the proceedings conclude. These decisions recognise a power, exercisable in an appropriate case. They do not confer a right on the management to such an opportunity where it did not seek one in its written statement. Whether the power should be exercised depends on the facts of each case. In *Sunil Kumar* (*supra*), the matter was remanded because the Labour Court had rejected the application solely for want of a prayer, without considering whether the ends of justice required an opportunity to be granted. In *Mohd. Azim* (*supra*), the Industrial Tribunal in that case had itself chosen to permit the management to lead evidence.



35. In the present case, the Written Statement contained no prayer for leave to lead evidence, even though the Respondent had specifically challenged the enquiry in his statement of claim dated 03.12.2012. On the same date, the learned Industrial Tribunal directed that the validity of the enquiry be decided as a preliminary issue. During the roughly three years that followed, the Appellant made no such request. The Application was moved on 02.03.2016, only after the preliminary issue was decided against it, and did not explain why leave had not been sought earlier. That is precisely the delay and multiplicity of proceedings that the ruling in **Lakshmiddevamma** (*supra*) seeks to prevent. The Application was rejected by order dated 30.11.2016, and the learned Single Judge held that the learned Industrial Tribunal had rightly relied upon **Lakshmiddevamma** (*supra*) in rejecting the same. We find no infirmity in the finding of the learned Single Judge.

36. The alternative prayer for remand stands on the same footing and fails for the same reasons. Remand is discretionary. It is not warranted over 18 years after the Chargesheet, with the Respondent having reached superannuation and the Appellant offering no explanation for the delay.

37. Since the enquiry was vitiated and the Appellant led no evidence to prove the charges, no finding of misconduct survives against the Respondent. The Appellant's submissions on the gravity of the misconduct, loss of confidence and the lesser punishments awarded to the co-delinquents presuppose that misconduct stands proved, and therefore do not arise for consideration. The decision in **Suresh Pathrella** (*supra*) applies only where removal follows a fair procedure. It does not extend to a removal effected in violation of the principles of natural justice causing prejudice to the employee.



38. On consequential benefits, the Respondent had approached this Court by way of W.P.(C) 11580/2009, which was withdrawn with liberty to approach the Labour Court, with an observation that the time taken would be excluded in computing the period of limitation. The period from 19.09.2008 to 03.12.2012, therefore, cannot be held against the Respondent.

39. In *National Gandhi Museum* (*supra*), the Supreme Court held that the initial burden of establishing that an employee was not gainfully employed rests upon the employee. In *Ramesh Chand* (*supra*), the Supreme Court further held that, since the employee is required to establish a negative fact, a statement to that effect on oath would suffice in the absence of material to the contrary adduced by the employer. Upon such a statement being made, the burden shifts to the employer to rebut it by cogent evidence. In the present case, the Respondent stated on oath, in the affidavit dated 13.11.2017 filed in support of his application under Section 17B of the ID Act, that he had been unable to secure alternative employment. The Appellant merely denied the said assertion, and the application was allowed by order dated 26.09.2019. The Appellant neither pleaded before the learned Industrial Tribunal that the Respondent was gainfully employed nor placed any material to that effect before this Court. In these circumstances, we find no ground to interfere with the grant of consequential benefits.

40. Accordingly, we find no infirmity in the Impugned Order dated 12.03.2024 that warrants interference in the present Appeal. However, since the Respondent attained the age of superannuation during the pendency of the proceedings, the direction for reinstatement is no longer capable of implementation. The Respondent shall, therefore, be deemed to have continued in service until the date of his superannuation.



41. The interim stay granted *vide* order dated 28.05.2024 is hereby vacated. The Registry is directed to release the amount of ₹32,83,591/- deposited by the Appellant by way of Demand Draft No. 476723 dated 20.07.2024 to the Respondent within four weeks from the date of this Judgment together with the interest accrued thereon.

42. The Appellant shall compute and pay all consequential benefits, including arrears of wages and retiral benefits, within eight weeks from the date of this Judgment, after adjusting the amount directed to be released to the Respondent in terms of Paragraph No. 41 of this Judgment. No interest is awarded on the arrears to be paid by the Appellant to the Respondent.

43. Accordingly, the present Appeal is dismissed in the aforesaid terms. The pending Application is disposed of. There shall be no order as to costs.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, CJ

SEPTEMBER 30, 2026

N/Sz