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

*Reserved on: 04.02.2026*  
*Date of decision: 23.04.2026*  
*Uploaded on: 23.04.2026*

+ W.P.(C) 6617/2008 & CM APPL. 12689/2008

INDIAN BANK (FORMERLY KNOWN AS ALLAHABAD BANK)

.....Petitioner

Through: Mr. Rajat Arora, Mr. Niraj Kumar &  
Mr. Sourabh Mahla, Advs.

versus

G.K. KAUSHIK

.....Respondent

Through: Mr. Umesh Singh, Mr. Ankit  
Bhandari & Mr. R.S. Saini, Advs.

**CORAM:**

**HON'BLE MS. JUSTICE SHAIL JAIN**

**JUDGMENT**

**SHAIL JAIN, J.**

1. The present Petition has been filed by the Petitioner herein under Article 226 of the Constitution of India, *inter alia*, challenging the Award dated 10th April, 2008, passed by the Presiding Officer, Central Government Industrial Tribunal Cum Labour Court-II in Industrial Dispute (ID) No. 15/2006, whereby the learned Tribunal directed the Petitioner to reinstate the Respondent herein, after stopping four (4) increments with cumulative effect, along with 40% back wages and continuity of service.

2. To begin with, the Respondent–Workman was appointed with the Petitioner Bank on 02nd July, 1973, as a Head Cashier and was a permanent



employee of the Bank. In the course of his service, Disciplinary Proceedings were initiated against him in respect of certain alleged irregularities. The said proceedings culminated in the passing of an Order dated 07th February, 1995, whereby the Respondent–Workman was dismissed from service pursuant to a departmental enquiry.

3. Aggrieved thereby, the Respondent–Workman preferred an Appeal before the Appellate Authority; however, the said Appeal came to be rejected, and the order of dismissal was affirmed. Thereafter, the Respondent–Workman sought to raise an Industrial Dispute, and upon failure of the Conciliation Proceedings, the appropriate Government made a Reference in the year 2006 to the Central Government Industrial Tribunal-cum-Labour Court-II for adjudication.

4. Upon consideration of the material on record and the submissions advanced by the parties, the learned Labour Court, by way of the Award dated 10th April, 2008, directed reinstatement of the Respondent–Workman with continuity of service, along with 40% back wages and stoppage of four increments with cumulative effect. The said Award is under challenge in the present Petition.

5. The relief sought in the present Petition is the setting aside of the impugned Award dated 10th April, 2008, passed by the learned Labour Court.

6. At the outset, it is further noted that the Petitioner was formerly known as ‘Allahabad Bank’. Subsequently, pursuant to its merger with Indian Bank, necessary steps were taken to reflect the change in the array of parties. In this regard, this Court, by way of Order dated 04th July, 2022, directed the Petitioner to bring on record the ‘Amended Memo of Parties’. Consequently, the Petitioner is now described as “Indian Bank”.



## **FACTUAL BACKGROUND**

7. The brief background of facts in the present Petition is as follows:
- A. The Respondent–Workman joined the services of the Petitioner Bank on 02nd July, 1973, as a Head Cashier and was a permanent employee thereof.
- B. In the course of his service, an order of suspension came to be issued against him on 12th September, 1992. Thereafter, FIR No. 348 dated 18th September, 1992 was registered against the Workman on the basis of the said suspension order.
- C. Subsequently, a Chargesheet dated 19th May, 1992, was issued to the Workman, containing, *inter alia*, allegations that he did not sign the registers maintained while taking cash, had a practice of taking cash from the receiving/paying cashier and permitting transactions between cashiers, failed to record cash payments made to cashiers/payment cashiers, and that there was a shortage of Rs. 500/- (Rupees Five Hundred only) notes in the packets sent to the Reserve Bank of India (also referred to as ‘RBI’) through the deposit of the currency chest. The Chargesheet is stated to have been received by the Respondent–Workman on 26th May, 1994, to which a reply was submitted on 02nd June, 1994.
- D. Pursuant thereto, a Departmental Enquiry was initiated and conducted in accordance with the prescribed procedure, culminating in an Enquiry Report dated 26th September, 1994. Based on the findings recorded therein, a Show Cause Notice (also referred to as “SCN”) was issued to the Workman *vide* Letter No. 2543 dated 26th November, 1994,



informing him of the proposed punishment. A Personal Hearing was fixed for 10th December, 1994; however, the Workman did not appear. Thereafter, *vide* Letter No. 4521 dated 07th February, 1995, the Respondent–Workman was dismissed from service, with reference to Clause 19.6(a) of the First Bipartite Agreement.

E. Aggrieved thereby, the Workman preferred an Appeal before the Appellate Authority (also referred to as ‘AA’) on 10th February, 1995, which came to be rejected and disposed of *vide* Letter No. NZO/VIG/F-16/217. Thereafter, the Workman made a representation before the Regional Labour Commissioner in relation to the present dispute; however, the Conciliation Proceedings also failed.

F. Consequently, on 23rd February, 2006, a Reference was made to the Central Government Industrial Tribunal-cum-Labour Court-II for adjudication of the dispute.

*"Whether the action of the Asstt. General Manager, Regional Office, Allahabad Bank, Parliament Street, New Delhi passing the order of dismissal of Sh. G.K. Kaushik, Ex. Hd. Cashier "E" w.e.f. 07.02.1995 is just, fair and legal? If not, to what relief the workman is entitled and from which date."*

G. Before the learned Labour Court, the Workman contended that the chargesheet and the suspension order were contradictory, and that changes were made by the Disciplinary Authority (DA) without prior intimation, in violation of law and the Bipartite Settlement, thereby vitiating the enquiry. It was further alleged that the Management failed to furnish the list of documents and witnesses along with the chargesheet. The Workman also contended that his request to engage a legal practitioner was denied, compelling him to cross-examine witnesses



without experience, as reflected in letters dated 25th July, 1994 and 18th August, 1994, one of which was denied while the other remained unaddressed. It was further submitted that he participated in the enquiry only to avoid *ex parte* proceedings, but he was not afforded an adequate opportunity to prove his claim. Further, it was contended that he had no proper knowledge of the proceedings, and that the Enquiry Officer exceeded his powers, and lastly, that the enquiry report was not communicated to him.

H. In response, the Management contended before the learned Labour Court that, being the Head Cashier and custodian of public money, the Workman was responsible for preventing such shortages. It was further submitted that the enquiry was conducted in accordance with the principles of natural justice, that the Workman cross-examined all witnesses, and that there was no requirement to provide a legal practitioner as defence assistance. The Management also contended that the proceedings were conducted through proper channels, that the orders of the Disciplinary Authority and Appellate Authority were reasoned and based on evidence. It was also submitted that no genuine attempts at settlement were made by the Workman, and that the charges stood proved, constituting a breach of trust.

I. Upon conclusion of the proceedings, the learned Labour Court, by way of the Award dated 10th April, 2008, directed reinstatement of the Workman, after stoppage of four increments with cumulative effect, along with 40% back wages and continuity of service.

J. Aggrieved by the said Award, the present Petition has been instituted seeking the following reliefs.



*“(a) issue a writ of mandamus or any other writ or direction to set aside the impugned Award dated 10th April, 2008, passed by the Presiding Officer, Central Government Industrial Tribunal Cum Labour Court-II in ID No, 15/2006, and/or  
(b) pass such other or further Writ(s) or order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”*

K. In addition to the reliefs sought hereinabove, the present Petition has been preferred on several grounds, which also constitute the principal contentions advanced on behalf of the Petitioner in support of the challenge to the impugned Award.

I. It is contended, in the first instance, that the impugned Award is contrary to settled principles of law, inasmuch as it does not disclose cogent or sustainable reasons for the conclusions arrived at. According to the Petitioner, the findings recorded by the learned Labour Court are not borne out from the material on record and, therefore, render the Award unsustainable in law.

II. It is further urged that the learned Labour Court has failed to return any finding on the issue of delay and laches, despite the industrial dispute having been raised after a lapse of nearly eight years from the date of dismissal of the Respondent–Workman. It is submitted that such delay ought to have been adjudicated, particularly when stale claims are liable to be rejected on settled principles.

III. It is further submitted that the learned Labour Court has interfered with the punishment imposed by the Disciplinary Authority without recording any finding that the departmental enquiry was vitiated, or that the principles of natural justice were violated, or even that the



charges levelled against the Workman were not proved. In the absence of such findings, it is contended that the interference with the order of dismissal was wholly unwarranted and beyond the permissible scope of adjudication.

IV. Lastly, it is submitted that the impugned Award is in teeth of the well-established principles governing judicial interference in disciplinary matters, which restrict such interference to cases of illegality, procedural impropriety, or perversity, none of which are made out in the present case.

L. It is also pertinent to note that during the pendency of the present Petition, *vide* Order dated 10th September, 2008, an interim stay was granted on the operation of the impugned Award, which was subsequently made absolute till the disposal of the present Writ Petition *vide* Order dated 28th September, 2011. Moreover, by the said Order dated 28th September, 2011, the Petitioner–Management was directed to pay wages to the Respondent–Workman under Section 17B of the Industrial Disputes Act, 1947 (also referred to as the ‘Act’).

### **SUBMISSIONS OF THE PARTIES**

8. In view of the aforesaid facts and circumstances, the following contentions were urged on behalf of the Petitioner/Management to strengthen their claim.

a. Learned Counsel appearing on behalf of the Petitioner submitted that the reference raised by the Respondent–Workman in the year 2006 is vitiated by delay and laches. Though the Industrial Disputes Act, 1947, does not prescribe a limitation period, the dispute is required to be raised



within a reasonable time. In the present case, the dismissal took place on 07th February, 1995, whereas the reference was raised after approximately 11 years, rendering it stale and liable to be rejected. Reliance is also placed by the learned Counsel on “*Nedungadi Bank Ltd. v. K.P. Madhankutty*” (2000) 2 SCC 455 (para 6) and “*U.P. State Road Transport Corporation v. Babu Ram*” (2006) 5 SCC 433 (para 10).

b. It is further submitted in this regard that the Tribunal erred in interfering with the punishment, which was commensurate with serious charges of misappropriation and cash shortage. Courts do not ordinarily interfere unless the punishment shocks the conscience. The Respondent was also named in FIR No. 348 of 1992, yet the Tribunal treated the misconduct as mere negligence.

c. It is submitted on behalf of the Petitioner that the issue of the fairness of the enquiry ought to have been decided as a preliminary issue, and upon finding any defect, the Management should have been granted an opportunity to prove the charges. Despite specific pleadings, such an opportunity was denied, rendering the finding of perversity unsustainable. Reliance is placed by the learned Counsel on *Neeta Kaplish v. Presiding Officer, Labour Court* (1999) 1 SCC 517 (Para 18) and *UCO Bank v. Presiding Officer ILR* (1999) IN Delhi 331 (Paras 10).

d. Lastly, it has been submitted that the Respondent attained superannuation in 2011, rendering reinstatement impossible. In addition, wages under Section 17B of the Industrial Disputes Act, 1947, in



pursuance of the Order dated 28th September, 2011, have been paid, and the awarded amount has also been duly deposited before this Court.

9. Upholding their contestation, the Respondent-Workman advanced the following submissions.

a. Learned Counsel appearing on behalf of the Workman submitted that the charges levelled against the Workman were vague and that the findings of the Enquiry Officer were perverse, as also observed by the learned Labour Court, which held that the enquiry was not conducted properly and that the alleged omissions, such as failure to sign registers, could not justify dismissal.

b. It is further submitted that the Enquiry Officer acted in a biased manner and failed to return separate findings on each charge with proper reference to supporting evidence and witness statements.

c. It is contended that the learned Labour Court rightly held that Charges Nos. 1 to 4 constituted mere negligence or omissions, and Charge No. 5 was also attributable to negligence either on the part of the cashier, Head Cashier, or officials of the Reserve Bank of India. It is further submitted that cash handling involved a chain of employees, including the cashier and Head Cashier, constituting shared responsibility; however, only the Respondent-Workman was proceeded against.

d. It is also contended on behalf of the Workman that, in view of the Workman's long service and appreciation, no mala fide intention to misappropriate a small amount can be attributed to him.



e. It is contended that the Labour Court correctly held that the alleged misconduct was minor in nature, without any intention to misappropriate funds, and that the punishment of dismissal was harsh and disproportionate, warranting interference with the findings of the Enquiry Officer as well as the orders of the Disciplinary Authority and Appellate Authority.

f. It is further submitted that the Labour Court rightly held that the charges, even if proved, did not constitute grave misconduct and that there was no allegation of misappropriation warranting dismissal.

g. It is contended that the Labour Court rightly granted reinstatement with stoppage of four increments, 40% back wages, and continuity of service, holding the dismissal of the Respondent herein to be unjustified.

h. It is lastly submitted that the present writ petition is devoid of merit, no error or perversity in the impugned Award has been shown, and it is liable to be dismissed with costs.

### **ISSUES INVOLVED**

10. Given the above, the following issues arise for this Court's consideration.

- I. Whether the learned Labour Court was justified in interfering with the findings of the Inquiry Officer and setting aside the order of termination?
- II. Whether the impugned Award suffers from any perversity, patent illegality or jurisdictional error warranting interference by this Court under Article 226 of the Constitution of India?



## ANALYSIS AND REASONING

11. This Court has heard the rival contentions of both parties and perused the documents placed on record and judgments relied upon by the parties.

12. At the outset, it is necessary to note the well-settled position of law governing the scope of interference by the High Court in matters arising from industrial adjudication. It is settled that while exercising jurisdiction under Articles 226 and 227 of the Constitution of India, the High Court does not act as an Appellate Authority over the findings recorded by the Labour Court or Industrial Tribunal. The High Court cannot re-appreciate evidence or substitute its own conclusions merely because another view is possible. Hon'ble Supreme Court has consistently held that interference with findings of fact recorded by the Labour Court is permissible only where such findings are perverse, based on no evidence, or suffer from manifest illegality.

13. The Apex Court in the judgement of *Syed Yakoob v. K.S. Radhakrishnan, 1963 SCC OnLine SC 24* categorically held that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an Appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as a result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. The relevant portion of the said judgment is extracted hereunder:

*“7. .... There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the*



*face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. ....”*

14. That being said, it may be noted that Issue No. 1 herein pertains to the scope of interference by the learned Labour Court with the findings recorded in the domestic inquiry, and the determination of Issue No. 2 herein, which is whether the impugned Award is perverse, is directly dependent upon the finding returned on Issue No. 1.

15. A perusal of the impugned Award in the present matter shows that the Labour Court has examined the enquiry proceedings and recorded the following-

- a. The charges were vague,
- b. The findings of the Enquiry Officer were perverse and cryptic, and
- c. The misconduct, even if proved, amounted only to negligence.

16. Therefore, the Labour Court primarily proceeded on the premise that the charges constituted negligence rather than misconduct warranting dismissal. The Labour Court also concluded that the findings of misconduct were perverse and hastily arrived at, and were therefore liable to be set aside.

The relevant portion of the final impugned Award is extracted hereunder:

*“It is settled law that the inquiry is not an empty formality. It was the duty of the management to point out the dates on which this workman failed to sign different registers. In routine course of duty, there may be some omissions of*



*putting signatures. The workman should not be dismissed for such irregularities and omissions. The findings of the Inquiry Officer are perverse.*

*It was the duty of the Inquiry Officer to find every charge proved by giving separate findings and stating the statement of the witnesses supporting charges.*

*It appears that the Inquiry Officer has hastily concluded the inquiry and held the workman guilty of all the charges with his cryptic finding of one page.”*

*(emphasis supplied)*

17. The legal position governing the scope of interference by a Labour Court with the findings of a domestic inquiry is well settled. Once a domestic inquiry is held to be fair and in compliance with the principles of natural justice, the Labour Court does not sit as an appellate authority over the findings of the Inquiry Officer. Interference is permissible only where the findings are perverse, based on no evidence, or are such that no reasonable person could have arrived at.

18. To substantiate the aforesaid, reference may be taken from the judgment of the Hon'ble Supreme Court in ***B. C. Chaturvedi v. Union of India, (1995) 6 SCC 749***, wherein it has been held as under:

*“12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based*



*on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappraise the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.”*

*[emphasis supplied]*

19. Furthermore, the Hon’ble Supreme Court in the case of ***Standard Chartered Bank v. R.C. Srivastava, (2021) 19 SCC 281*** has held that in the disciplinary proceedings, the tribunal cannot convert itself into court of appeal and also cannot revisit the evidence and in excess of its jurisdiction conferred by Section 11-A of the Industrial Disputes Act, 1947. Relevant Paragraphs of the Judgment are extracted hereunder:

*“19. In the instant case, after we have gone through the record, we find that the Tribunal has converted itself into a court of appeal as an appellate authority and has exceeded its jurisdiction while appreciating the finding recorded in the course of domestic enquiry and tested on the broad principles of charge to be proved beyond reasonable doubt which is a test in the criminal justice system and has completely forgotten the fact that the domestic enquiry is to be tested on the principles of preponderance of probabilities and if a piece*



*of evidence is on record which could support the charge which has been levelled against the delinquent unless it is per se unsustainable or perverse, ordinarily is not to be interfered by the Tribunal, more so when the domestic enquiry has been held to be fair and proper and, in our view, the Tribunal has completely overlooked and exceeded its jurisdiction while interfering with the finding recorded during the course of enquiry in furtherance of which, the Respondent was dismissed from service and the High Court has also committed a manifest error while passing the judgment impugned. 20. The decision of the Labour Court should not be based on mere hypothesis. It cannot overturn the decision of the management on ipse dixit. Its jurisdiction under Section 11-A of the 1947 Act although is a wide one but it must be judiciously exercised. Judicial discretion, it is trite, cannot be exercised either whimsically or capriciously. It may scrutinise or analyse the evidence but what is important is how it does so.”*

20. Additionally, the Hon’ble Supreme Court in **General Manager (P), Canara Bank v. Ganganarasimhaiah [2025 SCC OnLine SC 1939]**, while dealing with a similar situation, where the Tribunal had re-appreciated the evidence after holding the inquiry to be fair, observed that courts and tribunals are required to examine and determine only the aspects as mentioned hereunder. The Court further reiterated that strict rules of evidence are not applicable to departmental proceedings and that charges can be proved on the principle of preponderance of probabilities.

*“(i) Whether the enquiry was held by the competent authority?*

*(ii) Whether the rules of natural justice have been complied with?*

*(iii) Whether the conclusions arrived at by the Disciplinary Authority are based on no evidence or the findings are perverse?”*



21. However, this Court takes note that in the present case, the learned Labour Court has interfered with the punishment of dismissal without returning a categorical finding that:

I.The domestic enquiry was vitiated on account of the violation of principles of natural justice; or

II.The findings of the Inquiry Officer were unsupported by evidence.

22. At this stage, it is apposite to mention the judgment of the Hon'ble Apex Court in the case of "***Neeta Kaplish vs Presiding Officer, Labour Court & Anr. (1999) 1 SCC 517***", wherein, while referring to several other judgments, the procedure to be followed by the Labour Court when a report of a domestic enquiry comes before it, has been clearly laid down. The relevant paragraphs of the judgment are extracted hereunder.

*"18. In 'Delhi Cloth & General Mills Co. v. Ludh Budh Singh' the Court held that where no enquiry was conducted by an employer or the enquiry itself was found to be defective, the employer shall have to be given a chance to adduce evidence before the Tribunal for justifying his action provided the employer asks for the permission of the Tribunal to adduce fresh evidence to justify its action. Such request has to be made "while the proceedings are pending" and not after the proceedings had come to an end.*

*The following propositions were laid down: (SCC pp. 615-17, para 61) (.....)*

*"(1) If no domestic enquiry had been held by the management, or if the management makes it clear that it does not rely upon any domestic enquiry that may have been held by it, it is entitled to straightaway adduce evidence before the Tribunal justifying its action. The Tribunal is bound to consider that evidence so adduced before it, on merits, and give a decision thereon. In such a case, it is not necessary for the Tribunal to consider the validity of the domestic enquiry as the employer himself does not rely on it.*



(2) *If a domestic enquiry had been held, it is open to the management to rely upon the domestic enquiry held by it, in the first instance, and alternatively and without prejudice to its plea that the enquiry is proper and binding, simultaneously adduce additional evidence before the Tribunal justifying its action. In such a case no inference can be drawn, without anything more that the management has given up the enquiry conducted by it.*

(3) When the management relies on the enquiry conducted by it, and also simultaneously adduces evidence before the Tribunal, without prejudice to its plea that the enquiry proceedings are proper, it is the duty of the Tribunal, in the first instance, to consider whether the enquiry proceedings conducted by the management are valid and proper. If the Tribunal is satisfied that the enquiry proceedings have been held properly and are valid, the question of considering the evidence adduced before it on merits, no longer survives. It is only when the Tribunal holds that the enquiry proceedings have not been properly held, that it derives jurisdiction to deal with the merits of the dispute and in such a case it has to consider the evidence adduced before it by the management and decide the matter on the basis of such evidence.

(4) When a domestic enquiry has been held by the management and the management relies on the same, it is open to the latter to request the Tribunal to try the validity of the domestic enquiry as a preliminary issue and also ask for an opportunity to adduce evidence before the Tribunal, if the finding on the preliminary issue is against the management. However elaborate and cumbersome the procedure may be under such circumstances, it is open to the Tribunal to deal with, in the first instance, as a preliminary issue, the validity of the domestic enquiry. If its finding on the preliminary issue is in favour of the management, then no additional evidence need be cited by the management. But if the finding on the preliminary issue is against the management, the Tribunal will have to give the employer an opportunity to cite additional evidence and also give a similar opportunity to the



*employee to lead evidence contra, as the request to adduce evidence had been made by the management to the Tribunal during the course of the proceedings and before the trial has come to an end. When the preliminary issue is decided against the management and the latter leads evidence before the Tribunal, the position, under such circumstances, will be that the management is deprived of the benefit of having the finding of the domestic tribunal being accepted as prima facie proof of the alleged misconduct. On the other hand, the management will have to prove, by adducing proper evidence, that the workman is guilty of misconduct and that the action taken by it is proper. It will not be just and fair either to the management or to the workman that the Tribunal should refuse to take evidence and thereby ask the management to make a further application, after holding a proper enquiry, and deprive the workman of the benefit of the Tribunal itself being satisfied, on evidence adduced before it, that he was or was not guilty of the alleged misconduct.*

*(5) The management has got a right to attempt to sustain its order by adducing independent evidence before the Tribunal. But the management should avail itself of the said opportunity by making a suitable request to the Tribunal before the proceedings are closed. If no such opportunity has been availed of or asked for by the management before the proceedings are closed, the employer can make no grievance that the Tribunal did not provide such an opportunity. The Tribunal will have before it only the enquiry proceedings and it has to decide whether the proceedings have been held properly and the findings recorded therein are also proper.*

*(6) If the employer relies only on the domestic enquiry and does not simultaneously lead additional evidence or ask for an opportunity during the pendency of the proceedings to adduce such evidence, the duty of the Tribunal is only to consider the validity of the domestic enquiry as well as the finding recorded therein and decide the matter. If the Tribunal decides that the domestic enquiry has not been held properly, it is not its function to invite suo motu the employer to adduce evidence before it to justify the action taken by it.*



(7) *The above principles apply to the proceedings before the Tribunal, which have come before it either on a reference under Section 10 or by way of an application under Section 33 of the Act.*

19. *These principles were adopted in **Workmen v. Firestone Tyre & Rubber Co. of India (P) Ltd.**, which was decided after the introduction of Section 11-A in the Act. In **'Cooper Engineering Ltd. v. PP Mundhe'**, in which *Workmen v. Firestone Tyre & Rubber Co. of India (P) Ltd.* was followed, the Court observed: (SCC pp. 666-67, para 21)*

*"In our considered opinion it will be most unnatural and impractical to expect a party to take a definite stand when a decision of a jurisdictional fact has first to be reached by the labour court prior to embarking upon an enquiry to decide the dispute on its merits. The reference involves determination of the larger issue of discharge or dismissal and not merely whether a correct procedure had been followed by the management before passing the order of dismissal."*

*The Court further observed: (SCC p. 667, para 22)*

*"22. We are, therefore, clearly of opinion that when a case of dismissal or discharge of an employee is referred for industrial adjudication, the labour court should first decide as a preliminary issue whether the domestic enquiry has violated the principles of natural justice. When there is no domestic enquiry or defective enquiry is admitted by the employer, there will be no difficulty. But when the matter is in controversy between the parties, that question must be decided as a preliminary issue. On that decision being pronounced, it will be for the management to decide whether it will adduce any evidence before the labour court. If it chooses not to adduce any evidence, it will not be thereafter permissible in any proceeding to raise the issue."*

*[emphasis supplied]*

23. Therefore, in light of the aforementioned, this Court is of the opinion that the approach of the learned Labour Court in the present case suffers from a fundamental legal infirmity.



24. A perusal of the impugned Award reveals that, while the learned Labour Court has proceeded to interfere with the findings of the Enquiry Officer and the punishment imposed by the Disciplinary Authority, it has failed to return any clear, categorical, or reasoned preliminary finding on the foundational issue as to whether the departmental enquiry was vitiated on account of non-compliance with the principles of natural justice.

25. This omission assumes critical significance in view of the settled legal position that the validity of a domestic enquiry must first be examined before the adjudicatory authority embarks upon an evaluation of the findings or the proportionality of punishment. In the present case, despite specific contentions raised by the Respondent–Workman alleging denial of opportunity, non-supply of documents, and refusal of representation, and equally emphatic assertions by the Petitioner–Management that the enquiry was conducted in accordance with due procedure and that adequate opportunity was afforded, the learned Labour Court has not adjudicated this issue in a definitive manner.

26. Further, applying the principles laid down in *General Manager (P), Canara Bank v. Ganganarasimhaiah (supra)*, the approach adopted by the learned Labour Court is clearly not in consonance with the settled position of law. Time and again, it has been categorically held by the Hon’ble Supreme Court that, before interfering with the findings of a disciplinary authority, the adjudicatory forum must confine itself to examining, *inter alia*, whether the principles of natural justice have been complied with. In the present case, while proceeding to interfere with the findings of the Enquiry Officer, the learned Labour Court has failed to undertake a clear and reasoned determination on this essential limb.



27. Instead, the learned Labour Court has proceeded to re-appreciate the evidence and substitute its own conclusions without first determining whether the enquiry itself stood vitiated in law. Such an approach is contrary to the settled framework governing industrial adjudication, which mandates that the issue of fairness and validity of the enquiry be treated as a threshold issue. The failure to do so has resulted in the learned Labour Court bypassing the essential and foundational step of adjudication, thereby rendering its subsequent findings vulnerable in law.

28. In effect, the learned Labour Court has missed the base and foundational requirement of examining the legality of the enquiry before delving into the merits of the findings and the quantum of punishment. This deviation from the established legal framework has led to an improper exercise of jurisdiction, wherein conclusions have been drawn without addressing the jurisdictional preconditions.

29. Consequently, this omission goes to the root of the matter and vitiates the entire adjudicatory exercise undertaken by the learned Labour Court. The impugned Award, therefore, stands rendered legally unsustainable as the failure to determine the issue of compliance with the principles of natural justice strikes at the very foundation of the Award.

30. Though certain observations have been made by the learned Labour Court regarding alleged denial of opportunity, non-supply of documents, and refusal to permit legal representation, there is no categorical conclusion that the enquiry stood rendered invalid on account of violation of principles of natural justice. In fact, the record reflects that the Workman participated in the enquiry proceedings and cross-examined witnesses.



31. Further, despite the absence of any categorical finding on the issue of compliance with the principles of natural justice, the learned Labour Court interfered with the findings of the Enquiry Officer as well as the punishment imposed by the Disciplinary Authority. Once again, such an approach is clearly contrary to the settled position of law, which is, in cases where the enquiry is otherwise valid, the scope of interference by courts and tribunals is circumscribed and cannot extend to a re-appreciation of evidence or substitution of findings, save in situations where the conclusions are based on no evidence or suffer from perversity.

32. In the present case, in the absence of any finding that the enquiry stood vitiated or that the principles of natural justice were violated, the learned Labour Court could not have assumed jurisdiction to re-evaluate the evidence and interfere with the conclusions arrived at by the Disciplinary Authority. The course adopted by the Labour Court, therefore, travels beyond the permissible limits of judicial scrutiny and renders the impugned Award unsustainable in law.

33. In furtherance of the aforesaid, under Section 11A of the Industrial Disputes Act, 1947, the Labour Court is empowered to reappraise evidence and interfere with the punishment imposed by the employer. However, such power is not to be exercised arbitrarily. The relevant provision reads as follows-

***“[11A. Powers of Labour Courts, Tribunals and National Tribunals to give appropriate relief in case of discharge or dismissal of workmen.—Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National***



*Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require:*

*Provided that in any proceeding under this section the Labour Court, Tribunal or National Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter.”*

34. Even assuming that the learned Labour Court intended to exercise its jurisdiction under Section 11A of the Industrial Disputes Act, 1947, to interfere with the punishment imposed by the Disciplinary Authority, such power is neither absolute nor unbridled. The discretion vested under Section 11A is required to be exercised judiciously and within the well-settled parameters laid down by judicial precedent.

35. It is settled that interference with the quantum of punishment is permissible only where the punishment is found to be shockingly disproportionate to the nature and gravity of the misconduct, or where the findings themselves are unsustainable in law. The Labour Court cannot, under the guise of exercising powers under Section 11A, substitute its own subjective assessment of the misconduct or dilute the gravity of the charges without adequate reasons.

36. In the present case, the learned Labour Court has treated the charges as mere negligence and has interfered with the punishment of dismissal without recording any finding that the punishment imposed was shockingly disproportionate. Further, it is reiterated that such interference has been



undertaken without first addressing the validity of the enquiry or establishing that the findings were vitiated.

37. Thus, the exercise of jurisdiction under Section 11A, in the facts of the present case, stands vitiated by the absence of proper reasoning and failure to adhere to the settled legal standards governing interference with disciplinary punishment.

38. Another one of the major infirmities in the Award is the complete absence of any finding on the issue of delay and laches. The factual matrix reveals that the Respondent–Workman was dismissed from service on 07th February, 1995, whereas the industrial dispute was raised only in the year 2006, after a lapse of approximately eleven years. The Petitioner had specifically raised this objection before the Labour Court, relying upon settled law that disputes must be raised within a reasonable time.

39. While it is true that the Industrial Disputes Act, 1947, does not prescribe any period of limitation, the Hon’ble Supreme Court in *Nedungadi Bank Ltd. v. K.P. Madhankutty*, (2000) 2 SCC 455, has held that stale claims ought not to be entertained, as they disturb industrial peace and defeat the very purpose of adjudication. Similarly, in *U.P. State Road Transport Corporation v. Babu Ram*, (2006) 5 SCC 433, it has been reiterated that long and unexplained delays may prove fatal to an industrial dispute. The relevant part of the judgment of the Hon’ble Supreme Court in *U.P. State Road Transport Corporation v. Babu Ram (supra)* is extracted hereunder.

*“In S.M. Nilajkar and Ors. v. Telecom District Manager, Karnataka (2003 (4) SCC 27) the position was reiterated as follows: (at para 17)*

*"17. It was submitted on behalf of the respondent that on account of delay in raising the dispute by the appellants the*



*High Court was justified in denying relief to the appellants. We cannot agree. It is true, as held in M/s. Shalimar Works Ltd. v. Their Workmen (supra) (AIR 1959 SC 1217), that merely because the Industrial Disputes Act does not provide for a limitation for raising the dispute it does not mean that the dispute can be raised at any time and without regard to the delay and reasons therefor. There is no limitation prescribed for reference of disputes to an industrial tribunal, even so it is only reasonable that the disputes should be referred as soon as possible after they have arisen and after conciliation proceedings have failed particularly so when disputes relate to discharge of workmen wholesale. A delay of 4 years in raising the dispute after even reemployment of the most of the old workmen was held to be fatal in M/s. Shalimar Works Limited v. Their Workmen (supra) (AIR 1959 SC 1217), In Nedungadi Bank Ltd. v. K.P. Madhavankutty and others (supra) AIR 2000 SC 839, a delay of 7 years was held to be fatal and disentitled to workmen to any relief. In Ratan Chandra Sammanta and others v. Union of India and others (supra) (1993 AIR SCW 2214), it was held that a casual labourer retrenched by the employer deprives himself of remedy available in law by delay itself, lapse of time results in losing the remedy and the right as well. The delay would certainly be fatal if it has resulted in material evidence relevant to adjudication being lost and rendered not available. ....”*

*[emphasis supplied]*

40. In view of the above, it is safe to say that the Labour Court has failed to even advert to this issue, much less render a finding thereon. This omission, in the opinion of this Court, as well, constitutes a serious jurisdictional error.

41. On a different note, in the aforesaid backdrop, the Respondent–Workman was admittedly working as a Head Cashier, a position involving a high degree of trust and responsibility in handling public funds. The charges against him, as borne out from the record, include failure to maintain proper



records, irregular cash handling practices, and shortages in currency remitted to the Reserve Bank of India. The conclusion of the Labour Court that the misconduct did not warrant dismissal appears to be based on an oversimplification of the charges and a failure to appreciate the position of trust held by the Workman. The Labour Court, however, has failed to adequately consider this aspect while modifying the punishment.

42. Also, the Labour Court has observed that the responsibility for the alleged shortage could be attributed to multiple officials in the chain of cash handling. While this may be a relevant consideration, it cannot, *ipso facto*, absolve the Workman of his own responsibilities as Head Cashier. The existence of shared responsibility does not negate individual accountability, particularly when the employee occupies a supervisory or custodial role.

43. Therefore, the Labour Court has diluted these charges by categorising them as mere negligence without undertaking a deeper examination of the nature of duties discharged by the Workman and the standard of care expected of him. This ought not to have been done.

44. Further, the learned Labour Court accepted the contention regarding the denial of legal representation without examining whether any prejudice was caused. It is settled law that there is no absolute right to be represented by a legal practitioner in domestic enquiries, unless the rules so provide or the presenting officer is legally trained, thereby causing prejudice. No such finding has been returned by the learned Labour Court in the present case.

45. Another serious aspect which renders the validity of the impugned Award doubtful is the reliance placed by the learned Labour Court on certain observations pertaining to the enquiry report, despite the same not having been properly brought on record or examined in accordance with law. It is



evident that the Labour Court has proceeded to comment upon alleged deficiencies in the enquiry report without the report forming part of the evidentiary record in the manner required.

46. Such an approach is legally untenable. Once again, a quasi-judicial authority is required to base its conclusions on material that is duly proved and forms part of the record. In the absence of the enquiry report being properly exhibited or examined, any observations drawn therefrom would necessarily be speculative.

47. The learned Labour Court, instead of undertaking a scrutiny of the evidence available on record, appears to have proceeded on assumptions and presumptions, thereby departing from the settled principles of reasoned adjudication.

48. Lastly, the learned Labour Court failed to consider that the Disciplinary Authority and the Appellate Authority had recorded concurrent findings of guilt based on the enquiry report. In the absence of perversity or lack of evidence, such findings ought not to have been interfered with.

49. In essence, the learned Labour Court has substituted its own subjective assessment of the gravity of misconduct in place of that of the disciplinary authority, without first establishing any legal infirmity in the enquiry or the findings. Such an approach amounts to transgressing the limits of its jurisdiction.

50. The Award lacks a structured analysis of the evidence and submissions advanced by the parties. The conclusions are recorded in a cursory manner, without dealing with the specific contentions raised by the Management, particularly with regard to the fairness of the enquiry, the gravity of misconduct, and the proportionality of punishment.



51. Therefore, this Court is satisfied that the impugned Award suffers from patent illegality, perversity, and jurisdictional infirmities, thereby warranting interference under Article 226 of the Constitution of India.

52. The impugned Award is vitiated by manifest non-application of mind, since it fails to address the issue of inordinate delay and laches in raising the industrial dispute, grants back wages without assigning cogent reasons, and proceeds on generalised observations rather than a structured evaluation of the material on record. The failure to adhere to the procedure mandated in law, including the requirement of deciding the validity of the enquiry as a preliminary issue, also renders the Award legally unsustainable.

53. The reasoning adopted by the learned Labour Court does not meet the standard of a reasoned quasi-judicial determination and falls within the ambit of perversity, as it overlooks material considerations and proceeds on an erroneous understanding of the nature of misconduct involved, particularly in the context of a bank employee holding a position of trust.

54. In view of the foregoing discussion, this Court holds that:

**I. The learned Labour Court acted in excess of its jurisdiction in interfering with the findings of the Inquiry Officer and setting aside the order of termination,** in contravention of the settled law governing the scope of interference under Section 11A of the Industrial Disputes Act, 1947.

**II. The impugned Award suffers from patent illegality, perversity, and non-application of mind,** warranting interference under Article 226 of the Constitution of India.



55. The learned Labour Court was not justified in interfering with the findings of the Inquiry Officer in the absence of any finding that the enquiry was vitiated or that the findings were perverse.

56. Accordingly, the **impugned Award dated 10th April, 2008**, passed by the learned Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court-II in ID No. 15/2006, is hereby **set aside**.

57. As a result thereof, **the order of termination**, *vide* Letter No. 4521, dated 07th February, 1995, passed against the Respondent/Workman stands **restored**.

58. It is clarified that the amounts paid to the Respondent under Section 17B of the Act during the pendency of the present Writ Petition were paid pursuant to interim orders of this Court and shall not be recoverable from the Respondent.

59. The Writ Petition is accordingly allowed in the above terms. Pending applications, if any, stand disposed of. There shall be no order as to costs.

**SHAIL JAIN**  
**JUDGE**

**APRIL 23, 2026/MM**