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

+ W.P.(C) 4775/2017 & CM APPL. 20708/2017
RAJBIR PHOGAT

.....Petitioner

Through: Mr. Nitish Chaudhary, Mr. Srikant
Singh and Mr. Abhijit Singh,
Advocates.

versus

DENA BANK

.....Respondent

Through: Mr. Arun Aggarwal, Mr. Lovelesh
Kukreja and Ms. Kajal Ashok Mishra,
Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

24.07.2026

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1. The Petitioner assails the order dated 30th December, 2015, whereby the Disciplinary Authority of the Respondent Bank imposed upon him the penalty of dismissal from service without notice, and the appellate order dated 21st March, 2017, which affirmed the said penalty.

Factual Background

2. At the relevant time, the Petitioner was posted as Senior Manager and thereafter Chief Manager at the Rohtak Branch of Dena Bank. The disciplinary proceedings arose out of the sanction and operation of a cash credit hypothecation facility of INR 30 crore in favour of M/s HRM Exports Pvt. Ltd. The facility involved the takeover of the borrower's existing credit facilities from Bank of India and enhancement of the credit limit.

3. By Charge-Sheet Memorandum dated 15th November, 2014, the



Petitioner was charged with several lapses in the appraisal, recommendation, disbursement, and monitoring of the aforesaid credit facility. Upon conclusion of the departmental inquiry, the Inquiry Authority, by an Inquiry Report dated 18th June, 2015, held the following three Articles of Charge to be proved:

- i. Violated/flouted the rules and procedures of the Bank in performance of his office duties and thereby exposed the bank to financial risk/loss;
- ii. Failed to discharge his duties with utmost devotion and diligence; and
- iii. Failed to take requisite steps to protect the interest of the Bank and thus exposed the bank to financial loss.

4. The fourth Article of Charge, i.e., doing acts unbecoming of an officer, was held “*not proved*”.

5. The Disciplinary Authority, by order dated 30th December, 2015, accepted the findings of the Inquiry Authority. It recorded, *inter alia*, that the Petitioner had failed to obtain complete credit information, permitted remittance of INR 18.05 crore to Bank of India against the stated takeover amount of INR 17.50 crore, allowed the entire sanctioned limit to be utilised within twelve days, failed to act upon the adverse observations contained in the stock audit report, and failed to monitor the end use of the funds. On that basis, the penalty of dismissal from service without notice was imposed.

6. The Appellate Authority considered the Petitioner’s objections to the findings and, by its order dated 21st March, 2017, reiterated the Petitioner’s responsibility as the Branch Head. On the question of punishment, it concluded that no cogent ground for interference had been made out and that the penalty of dismissal was commensurate with the misconduct.

Scope of the Proceedings



7. By order dated 14th February, 2023, counsel appearing for the Petitioner, on instructions, confined the challenge in the present writ petition to the proportionality of the punishment imposed. The findings of misconduct have, therefore, attained finality for the purposes of the present proceedings. This Court is neither called upon to reappraise the evidence nor to examine afresh whether the Articles of Charge stood proved.

8. During subsequent hearing, the Petitioner contended that seven other officers, including officers posted at the Regional Office and the Rohtak Branch, had also been proceeded against in relation to the same credit facility but were awarded substantially lesser penalties. By order dated 9th September, 2025, the Petitioner was permitted to place an additional affidavit on record, and the Respondent Bank was directed to disclose the inquiry reports and penalty orders pertaining to those officers. The said order also noticed that the recommendation for reduction in pay relied upon by the Petitioner pertained to a separate Charge Sheet dated 5th July, 2014.

Submissions

9. The Petitioner submits that he alone was dismissed, whereas each of the other seven officers proceeded against in relation to the HRM Exports account was visited with reduction of basic pay by one or two stages. It is argued that the impugned orders neither compare their respective roles nor explain this marked divergence in punishment. It is further contended that the Respondent Bank has failed to demonstrate how the Petitioner's culpability was qualitatively different from that of the other officers so as to warrant the severest penalty, and that difference in designation, by itself, cannot justify such disparity. Emphasis is also placed upon the absence of any finding that the Petitioner received illegal gratification, derived personal



gain, acted with *mala fide* intent, fraud or collusion, and upon the fact that the charge of conduct unbecoming of an officer was not proved.

10. The Bank submits that parity cannot be claimed merely because several officers were proceeded against in connection with the same account. Their functions, designations and responsibilities were distinct, and the quantum of punishment had to be determined with reference to the duties assigned to, and the misconduct proved against, each delinquent officer. The Petitioner, being the Branch Head, had a central role in the recommendation, disbursement and monitoring of the facility, and that the duties cast upon him were materially different from those of the other officers. The mere fact that other officers were awarded lesser penalties does not, by itself, render the penalty imposed upon the Petitioner disproportionate. Having regard to the seriousness of the misconduct found proved, the substantial financial exposure involved, and the high degree of prudence expected of a bank officer entrusted with public funds, the punishment of dismissal is justified.

Issue for determination

11. The sole question for determination is whether the penalty of dismissal imposed upon the Petitioner is liable to interference on the ground that, despite the gravity of the proved misconduct and the Petitioner's individual responsibility, the authorities failed to undertake a reasoned comparison with the treatment accorded to the other officers proceeded against in relation to the same transaction.

Analysis

Principles governing interference with the Punishment

12. The choice of punishment lies primarily within the disciplinary domain. A Court exercising judicial review does not sit in appeal over the



decision of the disciplinary or appellate authority, nor does it substitute its own conclusion on the question of penalty merely because another punishment may appear preferable. Interference is warranted only where the punishment is so disproportionate as to shock the conscience of the Court or where the decision on punishment is vitiated by failure to consider material circumstances. Ordinarily, in such a case, the appropriate course is to direct the disciplinary or appellate authority to reconsider the penalty, rather than for the Court itself to impose a different punishment.¹

13. Equally, the standards expected of a bank officer are exacting. Every officer is required to take all possible steps to protect the interests of the Bank and to discharge his duties with utmost integrity, honesty, devotion and diligence. Good conduct and discipline are inseparable from the functioning of a bank, which deals with public funds, and every officer is expected to act within the limits of the authority conferred upon him. Accordingly, serious departures from the prescribed safeguards governing the appraisal, disbursement or supervision of credit may warrant a stringent penalty notwithstanding the absence of personal enrichment or actual loss to the Bank.²

Nature and Gravity of the Petitioner's Misconduct

14. The challenge now survives only on the quantum of punishment. The findings of misconduct are not open to reappraisal. Those findings attribute to the Petitioner lapses across the full life cycle of the credit facility, namely,

¹ See: *Ranjit Thakur v. UOI & Ors.* (1987) 4 SCC 611; *B.C. Chaturvedi v. UOI & Ors.* (1995) 6 SCC 749; and *Chairman-cum-Managing Director, Coal India Ltd. & Anr. v. Mukul Kumar Choudhuri & Ors.* (2009) 15 SCC 620.

² See also: *Disciplinary Authority-cum-Regional Manager & Ors. v. Nikunja Bihari Patnaik* (1996) 9 SCC 69; *Chairman and Managing Director, United Commercial Bank & Ors. v. P.C. Kakkar* (2003) 4 SCC 364.



the processing of the proposal, compliance with the sanction terms, disbursement, response to the stock audit report, and post-disbursement monitoring. The Disciplinary Authority further found that the sanctioned limit was exhausted within a short span and that, as Branch Head, the Petitioner failed to exercise the supervision expected of him. This was, therefore, not a case of an isolated procedural lapse.

15. That conclusion, however, does not conclude the separate inquiry into proportionality. The higher responsibility attached to the office of the Branch Head is relevant, but it cannot, by itself, answer a plea of discriminatory treatment. The Bank was still required to show that the Petitioner's role and culpability were materially different from those of the other officers proceeded against in relation to the same account. Greater responsibility must emerge from the acts found proved and their consequences; it cannot be presumed merely from designation.

Parity and the Comparative Record

16. In ***Rajendra Yadav v. State of Madhya Pradesh & Ors***³, the Supreme Court held that the doctrine of equality applies even among persons found guilty. While parity does not require identical punishment, the disciplinary authority must ensure that punishment is not disproportionate when comparing the involvement of co-delinquents who are parties to the same transaction or incident.

17. The record placed by the Bank shows that eight officers were proceeded against in connection with the HRM Exports account. The Petitioner alone was visited with the penalty of dismissal. K.V. Singh was awarded reduction of basic pay by two stages for one year, whereas Rajeev



Sharma, Pankaj Mital, Arvind Kumar, Gautam Gyan, Tarun Chauhan and Kuldeep Singh were each awarded reduction of basic pay by one stage for one year. This is not a minor variation within the same range of penalties. Dismissal brings the employment relationship to an end and carries consequences of an altogether different order.

18. K.V. Singh is a significant comparator. He was senior to the Petitioner and functioned as the Zonal Head. The record shows that he dealt with the proposal at the Regional Office, replied to the queries raised by the Head Office, and participated in the pre-disbursement visit of the unit. The visit report preceded the disbursement of the credit facility. Of the three Articles of Charge levelled against him, only the charge that he *“failed to take requisite steps to protect the interest of the Bank and thus exposed the bank to financial loss”* was found proved. Yet, he was awarded reduction of basic pay by two stages for one year. His role was neither remote nor clerical; he occupied a level from which the proposal and the proposed disbursement were capable of further scrutiny.

19. Other officers at the Regional Office also performed material functions. Pankaj Mital and Rajeev Sharma, both Assistant General Managers at the Regional Office, were proceeded against for deficiencies in processing and recommending the proposal, including failure to verify and incorporate the borrower’s existing borrowing arrangements, failure to notice or comment upon the search report reflecting a charge of INR 7 crore in favour of SBI Global Factors Ltd., and failure to ensure appropriate action on the adverse remarks contained in the stock audit report. Similarly, Senior Manager Arvind Kumar was proceeded against for deficiencies in verifying

³ (2013) 3 SCC 73.



the borrower's existing borrowing arrangements and the material placed before the Regional Office while processing the proposal. These were not peripheral matters; they related to the borrower's existing exposure, appraisal of the proposal, and compliance with safeguards before or at the stage of disbursement. Nevertheless, each was awarded reduction of basic pay by one stage for one year.

20. Responsibility was also fixed upon other officers at the Petitioner's branch. Gautam Gyan was proceeded against for verifying and authorising several remittance transactions without ascertaining their genuineness and for facilitating diversion of Bank funds by mechanically authorising the transactions. Tarun Chauhan posted or verified several disbursement and RTGS transactions in the ordinary course of business. Kuldeep Singh, as the second-line officer in the branch, was proceeded against for deficiencies in monitoring the borrower's account and ensuring compliance with the Bank's guidelines after disbursement. Each was awarded reduction of basic pay by one stage for one year. The operational acts by which funds were released, and the subsequent monitoring of the account, were therefore not attributed to the Petitioner alone.

21. The Court recognises that these officers did not perform identical functions and that the Petitioner, as Branch Head, bore overarching supervisory responsibility. That circumstance does not, however, by itself explain the distance between dismissal and limited reductions in pay. The Bank's own disciplinary record fixes responsibility at every material stage of the transaction, namely, appraisal and scrutiny at the Regional Office, consideration of the sanction terms, pre-disbursement inspection, release and verification of funds, and post-disbursement monitoring. Some officers were



senior to the Petitioner; others directly processed or verified the very transactions by which the sanctioned amount was utilised. The record, thus, discloses substantial functional overlap and, in certain respects, responsibility of comparable gravity.

22. The Bank's response is that the Petitioner, being Branch Head, was required to maintain a higher standard of diligence. That proposition is correct, but incomplete. The Bank has not undertaken an officer-specific comparison of the findings, nor explained why K.V. Singh's proved lapse at the pre-disbursement stage, the Regional Office officers' appraisal and verification failures, and the branch officers' direct participation in the remittance transactions warranted only temporary reductions in pay, while the Petitioner alone was given the penalty of dismissal from service. A general reference to different posts and duties cannot substitute for the required comparative exercise.

Deficiency in the Decision on Punishment

23. The comparative record was available before the Appellate Authority. The penalties imposed upon Pankaj Mital, Rajeev Sharma, Arvind Kumar, Gautam Gyan, Tarun Chauhan and Kuldeep Singh all preceded the appellate order dated 21st March, 2017. The penalty concerning K.V. Singh was imposed later, on 26th July, 2017, and has emerged from the record subsequently placed before this Court. Even so, the Appellate Authority did not examine the comparative culpability of the officers whose penalty orders were already available. Its conclusion on punishment rests only on the observation that "*ends of justice would be met*" if the penalty of dismissal from service is imposed upon the Petitioner. It contains neither a comparison of roles nor any reason why the other officers were not valid comparators.



24. Further, the charge of “*doing acts unbecoming of an officer*” was not proved. The impugned orders do not record that the Petitioner received illegal gratification, derived personal gain, acted in collusion, or was actuated by dishonest motive. They also do not explain why dismissal remained necessary despite the Petitioner’s service record and the availability of lesser penalties under the governing Regulations. The seriousness of the lapses and the high standards expected of bank officers remain relevant; but they do not dispense with an individualised and comparative assessment of punishment.

25. In ***M.C. Aggarwal v. UOI & Ors.***⁴, this Court, while dealing with the dismissal of a bank officer, held that where the comparative record disclosed substantially lighter punishment imposed upon co-delinquents connected with the same transactions, the quantum of penalty warranted reconsideration on the touchstone of parity and proportionality. The Court did not substitute its own assessment of the appropriate penalty, but remitted the matter to the Appellate Authority for fresh consideration. The same course commends itself in the present case.

26. The principle reiterated by the Supreme Court in ***Surekha Domaji Bele v. Executive Engineer, Testing Division, MSEDCL***⁵ is also apposite. While the finding of misconduct may stand undisturbed, the question of punishment stands on a different footing. The disciplinary authority is required to independently apply its mind to the appropriate punishment, having regard to the gravity of the misconduct, the nature of the charges proved, the employee’s past service record, the presence or absence of

⁴ 2024 SCC OnLine Del 9618.

⁵ 2026 SCC OnLine SC 1109.



financial loss or dishonesty, and whether a lesser penalty would meet the ends of justice. The same principle applies in the present case.

Conclusion and Relief

27. The authorities selected the severest penalty for the Petitioner without a reasoned explanation for treating him differently from every other officer proceeded against in relation to the same account, including officers senior to him and officers who acted at material stages of the transaction. In the absence of such an exercise, the affirmation of the penalty by the Appellate Authority cannot be sustained.

28. Accordingly, the writ petition is allowed to the following limited extent:

- a. The order dated 21st March, 2017 passed by the Appellate Authority is set aside only to the extent that it affirms the penalty imposed upon the Petitioner. The departmental appeal dated 9th February, 2016 is restored to the file of the competent Appellate Authority for fresh consideration confined to the quantum of punishment.
- b. The findings of misconduct recorded by the Inquiry Authority and accepted by the Disciplinary Authority shall remain undisturbed and shall not be reopened.
- c. The Petitioner may file a representation, confined to the question of punishment, within a period of two weeks from today. The Appellate Authority shall afford him an opportunity of personal hearing.
- d. In reconsidering the quantum of punishment, the Appellate Authority shall specifically examine:
 - i. The precise acts held proved against the Petitioner and the responsibility attached to his position as Branch Head;



- ii. The inquiry findings and penalties concerning each of the other seven officers, including the stage at which each officer intervened and the authority available to him to prevent or arrest the transaction;
 - iii. The role and penalty of K.V. Singh, and the roles of officers in the Regional Office in appraisal, verification and the pre-disbursement process;
 - iv. The roles of the branch officers in posting, verifying and monitoring the transactions;
 - v. Whether the Petitioner's culpability is materially and demonstrably greater than that of the other officers and, if so, the reasons for that conclusion;
 - vi. The absence or presence of any finding of personal gain, illegal gratification, collusion or dishonest motive;
 - vii. The effect of the charge alleging conduct unbecoming of an officer having been held not proved;
 - viii. The Petitioner's service record, provided that any adverse material relied upon is concluded, identified and disclosed to him; and
 - ix. Whether the disciplinary purpose can be adequately achieved by a penalty other than dismissal.
- e. The Appellate Authority shall pass a reasoned order within a period of eight weeks from the date of receipt of the Petitioner's representation.
- f. Until the appeal is decided afresh, the order of dismissal shall continue to operate. No right to reinstatement, back wages or other monetary benefits shall arise merely by reason of this order. All consequential questions shall abide by the fresh order of the Appellate Authority.



29. The writ petition is allowed to the limited extent indicated above and is, accordingly, disposed of. Pending applications, if any, also stand disposed of.

SANJEEV NARULA, J

JULY 24, 2026/hc