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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/1564/2015

HARI MOHAN DHARIKAR
S/O- SOTELAL DHARIKAR, R/O- KRISHNA NAGAR, JALUKBARI, P.O. and
P.S.- JALUKBARI, DIST.- KAMRUP, ASSAM.

VERSUS

DISCIPLINARY AUTHORITY AND DEPUTY GENERAL MANAGER OandC-
NW-1 and 4 ORS
STATE BANK OF INDIA, UDALGURI BRANCH.

2:DISCIPLINARY AUTHORITY AND DY. GENERAL MANAGER
STATE BANK OF INDIA
HEAD OFFICE
GUWAHATI.

3:THE APPELLATE AUTHORITY AND CHIEF GENERAL MANAGER
STATE BANK OF INDIA
GUWAHAT HEAD OFFICE.

4:THE BRANCH MANAGER
STATE BANK OF INDIA
GITANAGAR BRANCH.

5:THE BRANCH MANAGER
STATE BANK OF INDIA
AMERIGOG
CRPF BRANCH

Advocate for the Petitioner : MR.A K PURKAYASTHA

Advocate for the Respondent : MR.L TALUKDARR-1 to 5



**BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

Date : 03-01-2023

JUDGMENT & ORDER (ORAL)

Heard Mr. D Mozumder, learned senior counsel for the petitioner. Also heard Mr. K K Dey, learned counsel for the respondents under the State Bank of India (for short, SBI).

2. The petitioner was a Deputy Manager in the respondent SBI. A disciplinary proceeding was initiated against the petitioner by the Deputy General Manager technically called the MMGS-II as per the show cause notice dated 14.08.2010 alleging that certain serious irregularities were committed by the petitioner while he was posted at Amerigog CRPF Branch during the period from 23.08.2006 to 10.12.2009. The said show cause notice was accompanied by the Article of Charges annexed as Annexure-1 and statement of imputation alleged against him. The article of charges framed against the petitioner is as extracted:

“Certain serious irregularities were alleged to have been committed by you by while you were working at Amerigog CRPF Branch during the period from 23/08/2006 to 10/12/2009. You had unauthorizedly overdrew your personal loan (OD) account No.30061685795 on 26.08.2008, in excess of limit sanctioned to you, and the overdrawn continued up to 19/06/2009. It is also alleged that you were involved in a fraudulent withdrawal of Rs.60,000/- perpetrated by Shri Pijush Kanti Biswas, Special Assistant of Gitanagar Branch, at Gitanagar Branch, as you received Rs. 30,000/- by way of credit to your Savings Bank Account No. 30036119592 on the same date of occurrence of fraud, that is on 23. 05.2009. Thus you did not discharge your duties with utmost integrity, honesty, devotion and diligence and also had failed to take all possible steps to ensure and protect the interest of the Bank thereby violating Rule No.50(1) and Rule No. 50(4) of State Bank of India Officers’ Service Rules which are applicable to



you. Imputation of lapses on the basis of which the aforesaid charges are based, are furnished in Annexure-II."

3. The statement of imputation annexed as Annexure –II contains seven allegations against the petitioner. The first allegation being that the petitioner had unauthorizedly withdrawn beyond the sanctioned limit of Rs.5 Lacs on various dates as indicated therein in his personal loan account No.30061685795. The second allegation is that the petitioner had posted and passed the cheques and debit vouchers under his own ID to conceal his malafide acts and the cheque numbers are stated therein. The third allegation is that by posting and passing the cheques and debit vouchers under his own ID, the petitioner had violated the Bank's instructions of "maker and checkers" system. The fourth allegation is that there were some deposits in the personal loan account that did not commensurate from his known source of income. The fifth allegation is that there were deposits in the savings bank account of the petitioner in his own ID that did not commensurate from his known source of income in respect of deposits of Rs.30,000/- on 23.05.2009 and Rs.16,959/- on 14.11.2009. The sixth allegation is that the petitioner was also involved in a fraudulent withdrawal of Rs.60,000/- perpetrated by one Pijush Kanti Biswas who was a Special Assistant of Gitanagar Branch and the petitioner had received the amount of Rs.30,000/- from the aforesaid fraudulent withdrawal from Pijush Kanti Biswas. The seventh allegation is that the petitioner had misutilised his power by posting and passing the cheques and debit vouchers under his own ID for personal gain.

4. Against the allegations, the petitioner had submitted his reply that he



denies all the charges and requested that the proceeding be dropped. Based on the show cause notice, an enquiry was held and the enquiry report was served on the petitioner by the communication dated 15.03.2011. The communication itself provided a summary of the findings of the enquiry officer which provided that the allegations No. 1 and 2 were proved, but the allegations No.3 and 6 were not proved. A reading of the statement of allegation makes it discernible that if the allegations No.3 and 6 were not proved, it would also have to be understood that allegations No. 4 and 5 also were correspondingly not proved, as because all the four allegations are same or can be said to be intricately connected to each other. The disciplinary authority had agreed with the findings of the enquiry officer and accordingly it has to be understood that the allegations No.1 and 2 were proved against the petitioner. The allegations No. 1 and 2 as already referred hereinabove pertains to the petitioner having availed over drawal of his personal loan amount beyond the sanctioned limit of 5 Lacs. Accordingly, the notice dated 26.07.2011 was issued by the appointing authority General Manager NW-1 to the petitioner asking him to show cause as to why a major penalty of dismissal should not be imposed upon him. In his reply to the notice dated 26.07.2011 in Clause 8 thereof, the petitioner took the stand that over drawal account was within the limits prescribed by the authorities. By following the aforesaid procedure, the impugned order dated 19.08.2011 was passed by the Appointing Authority cum General Manager NW-1 by which the petitioner was dismissed from service. Being aggrieved, the petitioner also instituted a departmental appeal before the Chief General Manager on 06.03.2012. The Appellate Authority in response thereof passed the order dated 09.08.2012 and modified the order of dismissal passed by the disciplinary authority to that of removal from service. A reading of the appellate order goes

to show that the appellate authority had taken note of the various allegations against the petitioner. Thereafter, the appellate authority described the procedure that was adopted and thereafter arrived at its conclusion, the relevant paragraph of which is extracted as below:

“Shri Dharikar has not brought any new points in his appeal. The submissions made by him are devoid of any merit. He had put in more than 20 years of service and was an experienced officer in scale II. He was posted as accountant at Amerigog branch at the material time and also responsible for enforcement of bank’s systems and procedures. He should have been fully aware of the implications of violating banks’ instructions in regard to conduct of personal account and transactions in the account. Though the outstandings in his overdraft account were within Rs.7.00 lacs, the maximum overdraft permissible to an officer of his grade, the facts remains that sanction of appropriate was not obtained for increasing the limit from Rs.5.00 lacs to Rs.7.00 lacs. Posting and authorizing transactions in his own account was another grave violation of the laid down procedures and systems.”

5. A reading of the relevant paragraph of the order of the appellate authority makes it discernible that the appellate authority thought that no new point was brought in the appeal. The said approach by the appellate authority that as no new points were brought in and therefore the appeal is not maintainable is itself a dereliction of duty of an appellate authority, inasmuch as, an appellate authority in deciding an appeal is required to go through the entire materials made available as to whether the conclusion that was arrived by the original authority was right. Under the law there is no requirement that in an appeal only new points are to be brought which will make the appeal entertainable and otherwise not. In the instant case, the appellate authority also arrives at its conclusion that the petitioner while availing the overdrawal of Rs.7 Lacs had not opted for any sanction from the appropriate authority for increasing the limit from Rs.5 Lacs to Rs.7 Lacs.



6. Being aggrieved, this writ petition is instituted.

7. Mr. D Mozumdar, learned senior counsel for the petitioner has raised the contention by referring to the Circular No.CDO/P&HRD-IR/65/2007-08 dated 06.02.2008 pertaining to personal loan scheme of the employees of the respondent bank wherein in Clause 2 thereof it has been provided that considering the overall increase in the prices of consumer goods/durables etc., the availability of personal loans to the employees in the category of the petitioner stood increased from Rs.5 Lacs to Rs. 7 Lacs that as there was an increase in the limit of the personal loan, the petitioner thought that he was entitled to an over drawal upto a limit of Rs. 7 lacs and further that he did not cross the limit of Rs.7 lacs. By raising such contention, Mr. D Mozumdar, learned senior counsel for the petitioner submits that as it was permissible for the petitioner to avail an over drawal upto Rs.7 lacs in his personal loan account which he had done, and, therefore, there is no misconduct on the part of the petitioner and as such even if the allegations made against the petitioner are true, the same should not be construed to be a misconduct resulting in an order of dismissal from service which was reduced to removal from service by the appellate authority.

8. Mr. KK Dey, learned counsel for the respondent bank by referring to Clause 4(i) of the same Circular submits that even though the limit of the personal loan had been increased to Rs.7 Lacs but to avail the same there is also a requirement for the employee concerned to make an application in the appropriate format and get it sanctioned. In the instant case, Mr. KK Dey, learned counsel for the respondent bank submits from the records that there



was neither an application to avail the enhanced personal loan limit nor there was any sanction from the bank authorities for the same. Accordingly, it is the submission of Mr. Dey, that as the petitioner had admittedly availed the over drawal beyond the sanctioned limit of Rs. 5 Lacs without there being appropriate sanction by the bank authorities there is a misconduct on the part of the petitioner.

9. Mr. KK Dey, learned counsel further submits that the respondent bank is a financial institution where strict discipline is to be maintained and the conduct of the employees must be such that it inspires confidence in bank to retain them further in service. From the point of view that the respondent SBI is a financial institution, where the faith on the employees are of paramount consideration of the bank, the punishment of dismissal from service which was later on reduced to removal from service is a justified and proportionate punishment to be given to the petitioner in the present facts and circumstances.

10. We have taken note of the submission of Mr. D Mozumdar, learned senior counsel for the petitioner that the Circular dated 06.02.2008 having provided for a sanctioned limit of Rs.7 lacs for the personal loan account of the employees in the category of the petitioner, the petitioner thought that he was entitled to an over drawal up to the limit of Rs.7 lacs, although inadvertently he may have not followed the procedure of making an application and getting it formally sanctioned. Accordingly, it is the submission of the learned senior counsel for the petitioner that it was only an inadvertent mistake on the part of the petitioner rather than it being a misconduct. On the other hand, we also take note of the submission of Mr. KK Dey, learned counsel for the respondent SBI

that there being a requirement under the law to make an application in the appropriate format to have the enhanced limit sanctioned, the conduct of the petitioner was contrary to the provisions of the prevailing Rules of the bank and therefore, it was a misconduct.

11. Misconduct is a wide connotation which cannot be put into a straight jacket formula so as to examine that a particular conduct is a misconduct or it is not a misconduct. But what we take note of is that if there is a requirement on the part of the employee to do certain act in a given particular manner and the employee behaves in a contrary manner i.e., the employee does an act which he ought not have done in the manner it was done, by taking the wider meaning of 'misconduct', it cannot be said that such an act would not be a misconduct.

12. In this respect, reference is made to Clause 50 of the State Bank of India Officers' Service Rules 1992 (for short, Rules of 1992) which is extracted as below:

“50(1) Every officer shall conform to and abide by these rules and shall observe, comply with and obey lawful and reasonable orders and directions which may from time to time be given to him by any person under whose jurisdiction, superintendence or control he may from the time being be placed.

50. (2) Every officer shall undertake and perform his duties as an official of the Bank in such capacity at such place as he may from time to time be directed by the Bank.

50. (3) No officer shall, in the performance of his official duties or in the exercise of powers conferred on him, act otherwise than in his best judgement except when he is acting under the direction of his office superior.

Provided whenever such directions are oral in nature the same shall be confirmed in writing by his superior officer.

50. (4) *Every officer shall, at all times, take all possible steps to ensure and protect the interests of the Bank and discharge his duties with utmost integrity, honesty, devotion and diligence and do nothing which is unbecoming of an officer.*

50. (5) *Every officer shall maintain good conduct and discipline and show courtesy and attention to all persons in all transactions and negotiations.*

50. (6) *Every officer shall take all possible steps to ensure the integrity and devotion to duty for the time being under his control and authority.*

50. (7) *Every officer shall make a declaration of fidelity and secrecy in the form set out in the Second Schedule to the State Bank of India Act, 1955 and shall be bound by the declaration.*

50. (8) *No officer shall take or give or attempt to take or give any unfair assistance or use or attempt to use any unfair methods or means in respect of any examination or test conducted or held by the bank or any other authority or institution.*

50. (9) *No officer shall abuse or fail to comply with any of the terms and conditions in respect of any loan, advance or other facility granted by the Bank either directly or indirectly to the officer or through any other agency, including loans for purchase of vehicles or construction of houses."*

13. The provisions of Clause 50 of the Rules of 1992 is under Chapter XI Section 1 of the Rules which is under the heading 'conduct'. An understanding can be arrived that if the conduct or act of an employee of the respondent bank is contrary to the provisions of Clause 50 and Clause 50 having provided for the conduct of the employees, any contrary conduct or act can be a 'misconduct'.

14. The Supreme Court in its pronouncement in the State of Punjab Vs. Ram Singh Ex-Constable reported in (1992) 4 SCC 54 in paragraph 6 had provided as extracted:

"6. Thus it could be seen that the word 'misconduct' though not capable of precise definition, on reflection receives its connotation from the context, the delinquency in its performance and its effect on the discipline and the nature of the duty. It may involve moral turpitude, it must be improper or wrong behaviour; unlawful behaviour, wilful in character; forbidden act, a transgression of established and definite rule of

action or code of conduct but not mere error of judgment, carelessness or negligence in performance of the duty; the act complained of bears forbidden quality or character. Its ambit has to be construed with reference to the subject matter and the context wherein the term occurs, regard being had to the scope of the statute and the public purpose it seeks to serve. The police service is a disciplined service and it requires to maintain strict discipline. Laxity in this behalf erodes discipline in the service causing serious effect in the maintenance of law and order.”

15. Again in paragraph 26 of its pronouncement in *Dayal Singh Vs. State of Uttarakhand* reported in (2012) 8 SCC 263 the Supreme Court has been provided as extracted:

“26. This results in shifting of avoidable burden and exercise of higher degree of caution and care on the courts. Dereliction of duty or carelessness is an abuse of discretion under a definite law and misconduct is a violation of indefinite law. Misconduct is a forbidden act whereas dereliction of duty is the forbidden quality of an act and is necessarily indefinite. One is a transgression of some established and definite rule of action, with least element of discretion, while the other is primarily an abuse of discretion. This Court in *State of Punjab v. Ram Singh* [(1992) 4 SCC 54 : 1992 SCC (L&S) 793 : (1992) 21 ATC 435] stated that the ambit of these expressions had to be construed with reference to the subject-matter and the context where the term occurs, regard being given to the scope of the statute and the public purpose it seeks to serve. The police service is a disciplined service and it requires maintenance of strict discipline. The consequences of these defaults should normally be attributable to negligence. Police officers and doctors, by their profession, are required to maintain duty decorum of high standards. The standards of investigation and the prestige of the profession are dependent upon the action of such specialised persons. The Police Manual and even the provisions of CrPC require the investigation to be conducted in a particular manner and method which, in our opinion, stands clearly violated in the present case. Dr C.N. Tewari, not only breached the requirement of adherence to professional standards but also became instrumental in preparing a document which, ex facie, was incorrect and stood falsified by the unimpeachable evidence of the eyewitnesses placed by the prosecution on record. Also, in the same Bihar case, the Court, while referring to the decision in *Awadh Bihari Yadav v. State of Bihar* [(1995) 6 SCC 31] noticed that if primacy is given to such designed or negligent investigation, to the omission or lapses by perfunctory investigation or omissions, the faith and confidence of the people would be shaken not only in the law enforcement agency but also in the administration of justice.”

16. Further in paragraphs 13, 18 and 19 of its pronouncement in *Ravi*

Yashwant Bhoir Vs. District Collector, Raigad and Others reported in (2012) 4SCC 407, it has been provided as extracted:

“13. Mere error of judgment resulting in doing of negligent act does not amount to misconduct. However, in exceptional circumstances, not working diligently may be a misconduct. An action which is detrimental to the prestige of the institution may also amount to misconduct. Acting beyond authority may be a misconduct. When the office-bearer is expected to act with absolute integrity and honesty in handling the work, any misappropriation, even temporary, of the funds, etc. constitutes a serious misconduct, inviting severe punishment. (Vide *Disciplinary Authority-cum-Regl. Manager v. Nikunja Bihari Patnaik* [(1996) 9 SCC 69 : 1996 SCC (L&S) 1194] , *Govt. of T.N. v. K.N. Ramamurthy* [(1997) 7 SCC 101 : 1997 SCC (L&S) 1749 : AIR 1997 SC 3571] , *Inspector Prem Chand v. Govt. of NCT of Delhi* [(2007) 4 SCC 566 : (2007) 2 SCC (L&S) 58] and *SBI v. S.N. Goyal* [(2008) 8 SCC 92 : (2008) 2 SCC (L&S) 678 : AIR 2008 SC 2594] .)”

“18. The expression “misconduct” has to be understood as a transgression of some established and definite rule of action, a forbidden act, unlawful behaviour, wilful in character. It may be synonymous as misdemeanour in propriety and mismanagement. In a particular case, negligence or carelessness may also be a misconduct for example, when a watchman leaves his duty and goes to watch cinema, though there may be no theft or loss to the institution but leaving the place of duty itself amounts to misconduct. It may be more serious in case of disciplinary forces.”

“19. Further, the expression “misconduct” has to be construed and understood in reference to the subject-matter and context wherein the term occurs taking into consideration the scope and object of the statute which is being construed. Misconduct is to be measured in the terms of the nature of misconduct and it should be viewed with the consequences of misconduct as to whether it has been detrimental to the public interest.”

17. A reading of the aforesaid propositions make it discernible that although misconduct is not capable of a precise definition, but it may involve moral turpitude, it must be improper or wrong behavior, unlawful behaviour, wilful in character, forbidden act and a transgression of established and definite rule of action or code of conduct. But a mere error of judgment or carelessness in performance of the duty may not be a misconduct. A dereliction of duty or



carelessness is an abuse of discretion under a definite law, whereas misconduct is a violation of indefinite law. Further the expression misconduct has to be understood to be synonymous as misdemeanor in propriety and mismanagement and an action which is detrimental to the prestige of the institution and acting beyond authority may also amount to misconduct. But, however, conclusion about absence or lack of personal qualities in the incumbent do not amount to misconduct for holding the person concerned liable for punishment and a mere error of judgment resulting in doing of negligent act also does not amount to misconduct, although in exceptional circumstances, not working diligently may be a misconduct whereas, in a given particular case, negligence or carelessness may also be a misconduct.

18. From such point of view, we are in agreement with Mr. KK Dey, learned counsel for the respondent SBI that the petitioner having availed overdrawing beyond the sanctioned limit without appropriate sanction from the authority would also be misconduct in its wider concept.

19. Taking note of the proposition that acting beyond authority may be a misconduct, but at the same time having availed the overdrawing of personal loan which the petitioner was otherwise entitled, but had not made the requisite application for the sanction thereof, can also be construed to be a negligent act which may not amount to a misconduct in a more stricter term.

20. Having arrived at such a conclusion, we now examine as to whether for the nature of the misconduct that the petitioner may have done entails an

extreme punishment of either dismissal from service or to that of removal from service upon it being reduced by the appellate authority. In this respect, it is the submission of Mr. KK Dey, learned counsel for the respondent SBI that the bank being a financial institution it thrives on the faith it has on its employees and the conduct of the petitioner has led the bank authorities to arrive at a conclusion that no further faith can be bestowed on the petitioner by the bank authorities.

21. True, that in respect of a financial institution like that of a bank, the faith upon the employees is of paramount consideration, but such principle evolves from the concept that an unfaithful act having been performed by an employee, which in other words would mean that the employee had enriched himself certain financial benefits to which he is otherwise not entitled, by doing an act where the public money of the bank being dealt with by such employee have been incorrectly appropriated by such employee. If the alleged misconduct on the part of an employee is unconnected with any such unfaithful act or unauthorized usurping of public money dealt with by the bank employee, a view can also be formed that the principle of a bank employee to maintain complete faith of the employer bank would be inapplicable in such circumstances where the misconduct is of general nature which may be committed by any such employee in course of employment in any organisation and not specifically related to the duties as an employee of the bank. In the instant case, the act of the petitioner to avail the enhanced personal loan without making an application and without getting the appropriate sanction for it would have to be understood to be an act which was done in course of his service as an employee of the bank and not related to the duties as an employee of the bank and further it has nothing to do with the concept of being unfaithful towards the bank where

there is no allegation that the petitioner had misappropriated any public money, dealt with by him in furtherance of his duties as an employee of the bank.

22. In this respect reference is made to the proposition of law laid down by the Supreme Court in paragraph 42 of *Deputy General Manager (Appellate Authority) and Others Vs. Ajai Kumar Srivastava*, reported in (2021) 2 SCC 612, which is extracted as below:

“42. Before we conclude, we need to emphasise that in banking business absolute devotion, integrity and honesty is a sine qua non for every bank employee. It requires the employee to maintain good conduct and discipline and he deals with money of the depositors and the customers and if it is not observed, the confidence of the public/depositors would be impaired. It is for this additional reason, we are of the opinion that the High Court has committed an apparent error in setting aside the order of dismissal of the respondent dated 24.07.1999 confirmed in departmental appeal by order dated 15.11.1999.”

23. Further reference is made to the proposition laid down by the Supreme Court in paragraph 21 of *State Bank of India and Others Vs. Ramesh Dinkar Punde* reported in (2006) 7 SCC 212 which is extracted as below:

“21. Confronted with the facts and the position of law, learned counsel for the respondent submitted that leniency may be shown to the respondent having regard to long years of service rendered by the respondent to the Bank. We are unable to countenance such submission. As already said, the respondent being a bank officer holds a position of trust where honesty and integrity are inbuilt requirements of functioning and it would not be proper to deal with the matter leniently. The respondent was a Manager of the Bank and it needs to be emphasised that in the banking business absolute devotion, diligence, integrity and honesty needs to be preserved by every bank employee and in particular the bank officer so that the confidence of the public/depositors is not impaired. It is for this reason that when a bank officer commits misconduct, as in the present case, for his personal ends and against the interest of the bank and the depositors, he must be dealt with iron hands and he does not deserve to be dealt with leniently.”

24. A reading of the afore-extracted propositions of law go to show that

although emphasis is that in banking business absolute devotion, integrity, honesty is *sina qua non* for every bank employee and it requires the employee to maintain good conduct and discipline and as he deals with the money of the depositors and the customers and if the good conduct and discipline is not maintained, the confidence of the public/depositors would be repaired. From the said proposition, it is discernible that the principle of complete faith in respect of a bank employee is related to his overall duty as a bank employee in dealing with the money of the public/depositors and a distinction can be drawn that when the alleged misconduct do not relate to the duty of the bank employee in dealing with the money of the public/depositors, but related to some other aspects of his service conditions, the strict principles of complete faith in respect of a bank employee may not be applicable to examine the proportionality of the punishment that may be imposed.

25. A further question would remain as to whether having obtained the enhanced limit without an appropriate application would be an act of misconduct or it would be an act otherwise by an employee, we are not answering the said issue, but we accept the contention of the respondent SBI that the conduct of the petitioner is also a misconduct in terms of the wider concept of the expression 'misconduct'. Even it was a misconduct, but it has to be understood that it is a misconduct of a general nature of a much lesser gravity than a bank employee in furtherance of his duties as an employee of the bank doing an unfaithful act to usurp public money in a given manner. From such point of view, the punishment of removal from service also appears to be disproportionate.



26. Accordingly, we remand the matter back to the appellate authority of the respondent SBI for a consideration as to what appropriate punishment can be meted to the petitioner for the conduct which had been proved against him that he had availed personal loan beyond the sanctioned limit of Rs.5 Lacs, without obtaining any sanction for the purpose, although availing personal loan beyond Rs. 5 Lacs was within the otherwise enhanced limit granted by the Circular dated 06.02.2008. In doing so, the appellate authority shall also take note that the further charge that the petitioner had fraudulently misappropriated public money was disproved in the enquiry itself.

27. The petitioner accordingly to appear before the appellate authority for further consideration as to what lesser punishment can be meted to him in view of the conclusion arrived that even the punishment of removal from service would be disproportionate to the charges proved against the petitioner. If the appellate authority takes any view that there can be a reduction in the punishment which may require the petitioner to remain in service, a further enquiry be made as to in what manner the petitioner had led his life for the last 8 years after the order of dismissal from service and the respondent authorities may take their own decision as to in what manner the petitioner may be dealt with and for the purpose, the petitioner be also given an adequate opportunity to explain as to how he carried forward his life till present after his dismissal.

28. It is also the submission of Mr. D Mozumder, learned senior counsel that the act of availing over drawal beyond the sanctioned limit in a personal loan entails a much higher interest to be paid for the overdrawal as well as imposition of certain penalties and in the present case, the petitioner had paid



all such higher interest that was imposed on him.

29. We also put it on record the statement of Mr. D Mozumdar, learned senior counsel that during the intervening 8 years, the petitioner has led his life taking help from the income of his wife who is a working person and his daughter who is also employed in a private firm. The bank authorities shall also take note of the present status of the petitioner while considering as to what appropriate punishment would be suitable for the petitioner if the punishment of dismissal from service or removal from service would be unacceptable. Accordingly the order of removal from service dated 09.08.2012 stands interfered and the respondents through the appellate authority may pass a fresh order taking note of the entire aspect as indicated above. The reasoned order be passed within a period of six weeks from the date of receipt of a certified copy of this order.

30. Writ petition stands allowed in the above terms.

JUDGE

Comparing Assistant