

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

**The Hon'ble Justice Lanusungkum Jamir
And
The Hon'ble Justice Rai Chattopadhyay**

***MAT 737 of 2025*
With
I.A. No.: CAN 1 of 2025**

**The Chariman and Managing Director, Bank of Baroda & Ors.
Vs.
Sri Jyotirmoy Basu & Anr.**

For the appellants : Mr. Suchayan Bandhopadhyay
: Mr. S. K. Banerjee

For the respondent No. 1 : Mr. Suvadip Bhattacharjee
: Mr. Balaram Patra

For the Union of India : Mr. Ashok Prasad

Heard on : **29/10/2025**

Judgment on : **13/02/2026**

Rai Chattopadhyay, J. :-

- 1.** A judgment of the Hon'ble Single Judge dated April 2, 2025 in WPA No. 16216 of 2021 is under challenge in this intra-Court appeal. The said writ petition was filed by the present respondent/workman to challenge an Award by the Central Government Industrial Tribunal-cum-Labour Court, Kolkata in Reference Case No. 03 of 2006, which

has been set aside by the writ Court with other directions. Hence, the appellant/Bank being aggrieved has filed the instant appeal.

2. The respondent No. 1/workman, who has been an employee of the appellant bank, was initially posted at Bhawanipur branch from June 9, 1999 to January 15, 2000 and from there was transferred to Ballygunge branch with effect from January 17, 2000. The respondent's residence has been raided on November 6, 2000 and rubber stamp of Bhawanipur branch, along with blank letterheads with name and logo of Bhawanipur branch of the appellant bank and printed and blank passbooks of the bank were recovered and seized from there. The respondent was immediately arrested on the same date and a specific police case was started. Later on he has been released on bail.
3. The said respondent/workman was issued a chargesheet by the appellant/Bank on January 5, 2002. The respondent was charged with the following misconduct:

“doing acts prejudicial to the interest of the Bank”, gross misconduct under Clause 19.5 (j) Bi-partite Settlement...”
4. The Enquiry Officer was appointed, and the respondent/workman was directed to submit his written statement before the Enquiry Officer. On April 8, 2002, a preliminary enquiry was held. The respondent has replied to the charge sheet as above, vide his letter dated May 16, 2002. Ultimately, the Enquiry Officer submitted his

report on August 16, 2002, and the same was communicated to the respondent No.1 on August 21, 2002.

5. The Disciplinary Authority has passed an order dated February 9, 2004, imposing punishment of removal of the respondent from the bank's service with superannuation benefits and without disqualification from future employment. The Disciplinary Authority has recorded the reasons as follows:

"The Departmental Enquiry instituted against the CSE was independent of the criminal proceedings. Further the charges leveled against the CSE in Criminal Proceedings are different from that of the departmental Proceedings. The Departmental action was initiated against the CSE for violating the Conduct Rules applicable to him as an employee of the Bank. On conclusion of the departmental enquiry it has been established beyond any iota of doubt that the CSE is guilty of unauthorized possession of bank's property viz. rubber stamps, blank passbook and blank letter head pads. Further, the charges in the departmental enquiry and the criminal trial were different. Therefore, the acquittal of the CSE from the criminal charges by the Hon'ble Court does not have any bearing on the findings of the departmental enquiry.

Taking into consideration all relevant papers/documents and the evidence in relation to the departmental enquiry instituted against the CSE, I find that the CSE, by keeping Bank's letterhead pads, rubber stamps and blank pass book unauthorizedly in his possession, has acted prejudicially to the interest of the Bank and has thereby committed gross misconduct."

6. The respondent preferred an appeal before the appellate authority on March 22, 2004. The appellate authority's decision is dated May 7, 2004, by dint of which the said authority has upheld the order of punishment of the respondent. Hence, an industrial dispute was

raised by the respondent before the appropriate government, which was ultimately adjudicated by the Central Government Industrial Tribunal-cum-Labour Court vide an Award dated August 7, 2020, directing the bank to pay the respondent a lump sum compensation of Rs. 2,00,000/-. According to the appellant, the said sum of money as directed by the tribunal has already been paid to the respondent vide cheque dated November 6, 2021. Being dissatisfied, the respondent/writ petitioner filed writ petition No. WPA 16212 of 2021 challenging the said Award. The judgment dated April 2, 2025, passed in the said writ petition is under challenge in the instant appeal.

7. Appellant's argument:-

The appellant contends that the respondent admitted to unauthorized possession of the articles in question for a period of eleven months, which were seized from the bedroom almirah during the course of a raid in a case involving offences of criminal conspiracy, cheating, and forgery. It is argued that the respondent's plea of mistaken possession is untenable, particularly in the absence of any intimation to the bank regarding such possession. The charges framed against the respondent were based on the likelihood of misuse of the articles, which was prejudicial to the interests of the bank, and not necessarily on actual misuse. It is further submitted that the Tribunal effectively upheld the validity of the domestic enquiry, as it merely reduced the punishment rather than setting it aside. Relying

on the decision in ***AAI v. Pradip Kumar Banerjee (2025 INSC 149)***, the appellant asserts that once the Labour Court has found and declared the domestic enquiry to be valid, the High Court ought not to interfere or substitute its subjective opinion. Additionally, placing reliance on ***MSRTC v. Mahadeo Krishna Naik (2025 INSC 218)***, it is contended that reinstatement with back wages is not an automatic consequence even in cases of wrongful dismissal, and that a lump sum compensation may be an appropriate alternative remedy.

8. The following judgments are referred by the appellant –

- i. ***AAI v. Pradip Kumar Banerjee*** (2025 INSC 149)
- ii. ***MSRTC v. Mahadeo Krishna Naik*** (2025 INSC 218)
- iii. ***Ramesh Chand v. Management of Delhi Transport Corporation*** (Civil Appeal no. 4208 of 2023)

9. Respondent's argument :-

It is contended that only a single preliminary enquiry was conducted and no material witnesses were examined in the process, thereby undermining the fairness and thoroughness of the proceedings. Further, it is alleged that all the written submissions made by the respondent were not duly considered, and that, at the appellate stage, no opportunity of hearing was afforded to the respondent before the findings of the Enquiry Officer were reserved. It is also emphasized that the respondent was ultimately acquitted in the criminal cases instituted against him, which, according to the

respondent, casts serious doubt on the basis of the disciplinary action.

10. The following judgments are referred by the respondent –

- i. ***SBI v. Arvind K. Shukla*** (2004) 13 SCC 797 para-2
- ii. ***Jagdish Prasad Saxena v. State of Madhya Bharat*** AIR 1961 SC 1070 para-13
- iii. ***Amulya Ratan Mukherjee v. Deputy Chief Mechanical Engineer, Eastern Rly.*** AIR 1961 Cal 40 para-4
- iv. ***PNB v. Kunja Behari Misra*** (1998) 7 SCC 84 para-17&18
- v. ***Jayantibhai Raojibhai Patel v. Municipal Council, Narkhed*** (2019) 17 SCC 184 para-4,6,13 to 17
- vi. ***State of Rajasthan v. Heem Singh*** (2021) 12 SCC 569 para-37
- vii. ***Roop Singh Negi v. PNB*** (2009) 2 SCC 570 para-17 to 23
- viii. ***State of U.P. v. Shyam Kewal Ram*** 2024 SCCOnline All 2716
- ix. ***Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya (D.Ed.)*** (2013) 10 SCC 324
- x. ***Bank of Baroda v. S.K. Kool (dead) through legal representatives*** (2014) 2 SCC 715 para-715
- xi. ***Parmar (R.M.) v. Gujarat Electricity Board, Baroda*** (1983) 2 LLN 278 para-9
- xii. ***Khem Chand v. Union of India*** AIR 1958 SC 300 para-19

xiii. ***Surath Chandra Chakrabarty v. State of West Bengal*** (1970) 3 SCC 548 para-6

xiv. ***Narain v. State of Punjab*** AIR 1959 SC 484

xv. ***Hardwari Lal v. State of U.P.*** (1999) 8 SCC 582

- 11.** It appears that, the respondent/workman has been charged with a misconduct as per Clause 19.5 (j) of the bipartite settlement dated October 19, 1966 which is as follows:- “doing act prejudicial to the interest of the bank”.
- 12.** Allegation against the petitioner is of unauthorizedly holding bank’s stamp, letter head and passbooks for a prolonged period of about 11 months in his exclusive custody and beyond the bank premises to which those materials belonged that is, Bhawanipur Branch. This is, however, a fact not disputed in this case and the respondent has also conceded to the fact that those materials were kept in and recovered from his almirah at his residence. Now, to prove the charge, the appellant had to show any action done on part of the delinquent which ultimately stands as prejudicial to the interest of the bank. Admittedly also, in the enquiry as well as before the Tribunal, no evidence has come on record to show that, the respondent holding the bank’s properties as above, has caused any prejudice either to the bank’s business or its reputation. On the contrary, it has come on record with sufficient precision that, the respondent has pleaded about his innocence and lack of knowledge as regards those

materials be carried with his other articles at the time of departing from the Bhawanipur branch on transfer. There is no convincing material available or shown by the appellant why such statement of the respondent/workman should not be believed.

- 13.** This aspect was considered by the enquiry officer though subsequently, discarded by the disciplinary authority and the appellate authority. Conversely, the disciplinary as well as an appellate authority have found that mere recovery of those materials from the residence and exclusive custody of the respondent makes him liable for the misconduct as envisaged in Clause 19.5 (j) of the bipartite settlement that is, an act prejudicial to the interest of the bank. However, in no certain terms the appellant has ever produced any fact or figure or material either before the enquiry officer or before the Tribunal or the Court as regards the prejudice, if any, having been caused to the same, due to the alleged misconduct of the respondent.
- 14.** As a matter of fact, the Tribunal in its Award dated August 7, 2020 has found the decision of the disciplinary as well as appellate authority in terminating service of the respondent to be illegal. It has compensated the respondent not by way of reinstatement but with a lump sum compensation amount. This being the point of grievance of the respondent, he challenged the said Award seeking redress and the Hon'ble Single Judge in the impugned judgment has upheld the

decision of the Tribunal about the illegality of the termination of the respondent. However, the Hon'ble Single Judge has set aside the directions of the Tribunal granting lump sum compensation to the respondent/workman and instead modified the Award of the Tribunal by directing that the workman should be reinstated with full back wages.

15. It is the trait law that, an order of the Hon'ble Single Judge may not be interfered into by the Appeal Court in an intra-Court appeal unless and until the same suffers from palpable illegality or gross miscarriage of justice. So far as the impugned judgment of the Hon'ble Single Judge dated April 2, 2025 in WPA No. 16216 of 2021 is concerned, this Court is unable to find any such gross, apparent and palpable illegality in the same, on the basis of the reasons as discussed above. Therefore, the Court finds no justifiable ground to interfere with the said judgment and order of the Hon'ble Single Judge.

16. For the reasons as discussed above, the present appeal being No. MAT 737 of 2025 along with pending applications, if any, stands dismissed. The judgment of the Hon'ble Single Judge dated April 2, 2025 in WPA No. 16216 of 2021 is hereby upheld subject to the modification that, the amount of superannuation benefit and mandatory compensation, if any, already received by the concerned respondent should be adjusted from the amount of backwages

payable to him. Rest of the judgment and findings of the Hon'ble Single Judge remain as it is.

- 17.** Urgent certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all the requisite formalities.

(Lanusungkum Jamir, J.)

(Rai Chattopadhyay, J.)