

**HIGH COURT OF TRIPURA
AGARTALA**

W.A. No.35/2020

Sri Satyendra Bhattacharya, S/o- Lt. Ramesh Chandra Bhattacharya, resident of Nutanpally, Krishnanagar, P.O.-Agartala, District-West Tripura, State-Tripura, Pin-799001.

..... Appellant(s).

V E R S U S

1. The Tripura Gramin Bank represented by its Chairman, Head Office Abhoynagar, P.O.-Abhoynagar, P.S.-East Agartala, West Tripura, PIN-799005.

2. The Chairman, Head Office Abhoynagar, P.O.-Abhoynagar, P.S.-East Agartala, West Tripura, PIN-799005.

3. The General Manager, Tripura Gramin Bank, Head Office Abhoynagar, P.O.-Abhoynagar, P.S.-East Agartala, West Tripura, PIN-799005.

4. The Enquiry Officer (Sri Prabodh Kumar Bhowmik), Sr. Branch Manager, Tripura Gramin Bank, Presently posted at TGB- Bardowali Branch, P.O. & P.S.-A.D. Nagar, Agartala, West Tripura, PIN-799003.

.....Respondent(s).

For Appellant(s) : Mr. Arijit Bhaumik, Advocate,
Mr. Saugat Datta, Advocate.

For Respondent(s) : Mr. Amitabh Roy Barman, Advocate.

**HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA**

Date of hearing : **29.07.2025.**

Date of judgment : **06.08.2025.**

Whether fit for reporting : **YES.**

JUDGMENT & ORDER

(M.S. Ramachandra Rao, C.J.)

Heard Mr. Arijit Bhaumik, counsel for the appellant and Mr. Amitabh Roy Barman, counsel for the respondent-Tripura Gramin Bank.

2. This Writ Appeal has been preferred by the appellant challenging the judgment dt. 31.01.2020 in WP(C) No.1183 of 2016 passed by the learned Single Judge.

The background facts

3. The appellant was an employee of the Tripura Gramin Bank, Bishalgarh Branch (*hereinafter referred to as "the Bank"*).

The charge sheet

4. A charge-sheet was issued to him on 07.02.2012 leveling 14 (fourteen) charges.

5. Charge 1 is that the appellant had acted as In-charge of Bishalgarh Branch on 27.01.2010, that he passed illegal entries of debit for Rs.2,00,000/- in HBL A/c of Jagadbandhu Debbarma and credit to his SB account opened on the same day, but vouchers were not found in the day's voucher bundle.

Charge 2 relates to preparation of 2 irregular vouchers on 24.4.2010 as debit to SB a/c of Jagadbandhu Debbarma and credit to SB a/c of Chittaranjan Debbarma without any valid reason.

Charge 3 relates to withdrawal by Chittaranjan Debbarma of amounts up to Rs.2,00,000/- on 5.5.2010 and 11.5.2010 because of what was done by appellant on 24.4.2010.

Charges 4-13 relate to similar actions of the appellant from 3.7.2010 to 13.1.2011 transferring funds by passing fictitious entries, or encashing cheques, to benefit Chittaranjan Debbarma, but vouchers prepared by the appellant were not available in the Branch and sometimes vouchers

were not even prepared. On some of these occasions he acted as 2nd Officer in the Branch.

It is alleged that in all he misappropriated an amount of Rs.21,59,000/- with the help of Chitta Ranjan Debbarma,

Charge 14 related to availing 2 CDL Loans and 2 RHL loans contrary to Bank norms and irregular payments to those loans by him since the monthly installments were not covered by his pay bill.

According to the charges, the appellant did not serve the Bank honestly and had also indulged in misappropriation of the Bank's money and committed acts detrimental to the interest of the Bank.

The explanation to the charge sheet

6. The appellant submitted his written statement of defence dt. 16.2.2012 stating that the charges against him were concocted, fabricated and without basis, and that he was denying all the charges leveled against him. No specific stand on each of the charges was taken by him.

7. A criminal case was also lodged against him, which is said to be pending as on date.

The disciplinary inquiry

8. An Enquiry Officer was appointed on 07.02.2012. A presenting Officer was appointed by the Bank. The appellant also engaged a defence representative.

9. The Bank's Presenting Officer examined several witnesses and filed certain documents and the appellant also cross-examined the said witnesses.

10. An inquiry report was submitted on 14.08.2014 finding the appellant guilty of almost all the charges on the basis of the evidence produced and the witnesses examined in the inquiry.

11. On 26.08.2014, the appellant was furnished with a copy of the inquiry report, and he was asked to tender his written submissions on the findings recorded against him.

12. He submitted written submission on 08.09.2014 against the findings of the Enquiry Officer.

13. A final order of dismissal was passed on 22.11.2014 against the appellant.

14. The appellant herein filed an appeal before the Appellate Authority, i.e. the Board of Directors, but the said appeal was also rejected on 27.03.2015. This was communicated to the appellant on 26.05.2015.

The first round – W.P.(C) 299 of 2015

15. The appellant filed WP(C) No.299 of 2015 challenging the order dt. 22.11.2014 of the Disciplinary Authority and also the order dt. 27.3.2015 of the Appellate Authority.

16. The said Writ Petition was allowed by a Division Bench of this Court on 09.02.2016.

17. The Division bench held that both the order of the Disciplinary Authority and the order of the Appellate Authority did not contain any reasons.

18. This Court, therefore, set aside the order passed by the Disciplinary Authority as well as the Appellate Authority and remitted the matter back to the Disciplinary Authority for passing a fresh final order

directing that the appellant be reinstated in service but he shall be deemed to be under suspension from the date of his dismissal.

19. After such remand, the Disciplinary Authority again considered the matter including the grounds raised by the appellant and passed a reasoned order dt. 09.03.2016 imposing the punishment of dismissal from service on the appellant.

20. The appellant again filed an appeal to the Appellate Authority, i.e. the Board of Directors on 19.04.2016, but the same was rejected by another reasoned order on 20.07.2016. This was communicated to the appellant on 30.07.2016.

The second round – W.P (C) No.1183 of 2016

21. The appellant again filed WP(C) No.1183 of 2016 before this Court challenging the order of the Disciplinary Authority as well as that of the Appellate Authority.

22. A learned Single Judge of this Court dismissed the Writ Petition on 31.01.2020 through an elaborate order running into 21 pages holding that a High Court cannot sit as an Appellate Authority over the order passed by the Disciplinary Authority basing on the findings of the departmental enquiry; that the scope of Writ jurisdiction of the High Court is very limited; that the High Court cannot re-appreciate the evidence as if it was an Appellate Authority over the findings of the Disciplinary Authority; and the Enquiry Officer was entitled to draw his inference on the basis of materials on record, and the High Court would not interfere with it except when findings are perverse or based on no evidence.

23. The learned Single Judge adverted to the contentions of the appellant that certain documents were not supplied to him and held that though he had made an application for supply of certain documents on 04.12.2013, on 24.12.2013 the Enquiry Officer had informed the appellant that those documents were not available with the Bank.

24. The learned Judge held that the Enquiry Officer had given sufficient reasons to hold that Charges No.1 to 12 and 14 were fully proved and Charge No.13 was proved partially.

25. The learned Single Judge also rejected the stand of the appellant that the User ID Register and the password were not supplied to him by recording that those documents were *not available* with the Bank. The learned Single Judge also quoted from the enquiry report and held that the appellant could not establish the fact that vouchers and his User ID password were at any point of time handed over by him to the appropriate authority of the Bank, that the Disciplinary Authority had verified the transactions and had come to a finding that the transaction for the next working day using the appellant's User ID could have only been made by the appellant himself on the previous working day; and the appellant himself had admitted that his User ID is SKB.

26. The learned Single Judge held that charges in a departmental proceeding are not required to be proved like a criminal trial beyond all reasonable doubt and that the findings of the Enquiry Officer are based on substantive materials on record and it was not a case of the Enquiry Officer giving findings on mere hypothesis.

W.A. No.35 of 2020

27. Challenging the order of the learned Single Judge, the appellant filed W.A. No.35 of 2020 before a Division Bench of this Court.

28. The Division Bench confirmed the order of the learned Single Judge and dismissed the appeal.

SLP(C) No.6659 of 2024

29. The appellant then questioned the order of the Division Bench passed on 05.02.2024 in the Supreme Court of India by filing SLP(C) No.6659 of 2024.

30. The Supreme Court allowed the SLP on 05.08.2024 and passed the following order:

"1. Leave granted.

2. After having heard the learned counsel appearing for the parties, we are satisfied that the contentions specifically raised by the appellant before the High Court which are recorded in paragraph 9 of the impugned judgment have not been dealt with by the High Court. All that the High Court does is quote the inquiry report on those aspects. There is no independent consideration by the High Court.

3. Hence, the impugned judgment dated 5th February, 2024 is quashed and set aside and the Writ Appeal No.35 of 2020 is restored to the file of the High Court which shall be heard afresh.

4. The appeal is partly allowed on above terms.

5. All contentions of the parties are left open to be decided by the High Court.

6. Pending application(s), if any, shall stand disposed of." (emphasis supplied)

The matter was thus remitted to the High Court for a fresh hearing.

Consideration by the Court

31. The matter was heard by this Court elaborately and the records were perused.

32. In paragraph-9 of the judgment dated 05.02.2024 of the Division Bench in W.A. No.35 of 2020 the following contentions of the appellant were recorded:

(a) That, non-supply of documents, as was asked for by his petition dated 16.10.2012 had caused serious prejudice to the appellant in taking his proper defence; and

(b) Withholding of User ID register and password in respect of the User ID allotted to the appellant had created a serious doubt as to the charges framed against the appellant in the disciplinary proceeding.

Since the Supreme Court in its order held that these were not dealt with in the judgment dt. 5.2.2024 by the Division Bench in this Writ Appeal, we shall deal with them.

33. The counsel for the appellant reiterated the said submissions.

34. We have already adverted to the defence taken by the appellant in the written reply dt. 16.2.2012 to the charge memo dt. 7.2.2012 given to him. It was a bald reply wherein he simply stated that the charges framed against him were concocted, fabricated and without basis, and that he denied the charges leveled against him and contended that the articles of charges deserved to be set aside. No specific charge wise explanation was offered by him.

35. No doubt, he sought for certain documents on 16.10.2012 through his defence representative. Among the 26 documents sought by him were “the User ID register” and the “sealed envelope” where his password has been recorded which is allegedly under the custody of the Branch Manager of the Bank’s Bishalgarh Branch.

36. His principal contention in the arguments made before the inquiry officer was that he was not issued the User ID and Password by the Bank and so he could not be accused of accessing the Bank accounts/Loan accounts of customers and so he has to be exonerated of the charges.

37. The record reveals that during the hearing before the Enquiry officer on 26.11.2012, the Presenting Officer stated that these two documents were not available.

38. MW-7 stated that when an employee newly joins the staff, a fresh User ID is allotted to him after authentication and after collecting the required information from the concerned employee; and though a manual register was also maintained normally, such register was not available. He also stated that the employee concerned would create his own password since the same would be confidential and multiple User ID creation was also possible in the Bank's software. The said witness stated that the User ID "SKB" had been created on 14.05.2009. The said witness had also stated that "SKB" stands for Satyendra Kumar Bhattacharya (appellant) and the User ID "BHATT" was also for him only.

39. The Bank relied on ME-20 and ME-21. M.E.-20 is a System Generated Employee Register "SKB" and M.E.-21 is a System Generated

Employee Register "BHATT". According to the Bank, both these pertain to the appellant – Satyendra Kumar Bhattacharya.

40. The inquiry officer held in the inquiry report that ME-20 and ME-21 show that the User ID 'SKB' and 'BHATT' are of the appellant and this is corroborated by the evidence given by MW-2,3,4 and 7 which was not challenged by the appellant in cross examination.

On charge no.1 he held that ME-1, the attendance register shows the presence of the appellant at the Branch on 27.1.2010, that ME-48, the key register shows that keys of the Branch remained with him, that he was the In-charge Branch Manager on that day, and that he signed in the cash register as a Branch Manager which is corroborated by ME-4. On that day a SB account was opened in the name of Jagadbandhu Debbarma, ME-47 which was the copy of the system generated account opening register shows that the account was verified by the User ID 'SKB' and ME-20 proves this fact. He held that ME-18 was the copy of the system generated account statement of the said SB account which shows a credit entry of Rs.2,00,000/- which was also verified by the User ID 'SKB'. It was also held that ME-49, copy of the system generated transaction entry details dt. 27.1.2010 shows that User ID –SKB i.e., the appellant, had authenticated the entry.

The inquiry officer rejected the plea of the appellant that no User ID was created in his name at the Bishalgarh branch because access to the computer system of the Bank was only through an allocated User ID and confidential password and the appellant could not have run the branch as In-charge Manager on 27.1.2010 and on the succeeding days without either of

them. He also held that MW2,3,4 categorically stated in their evidence that the User ID 'SKB' is that of the appellant.

He discussed elaborately the contentions of both sides on each of the charges and held charges 1-12 and 14 as fully proved and charge no.13 as partly proved.

41. The Disciplinary Authority in his order dt. 9.3.2016 agreed with the findings of the Inquiry Officer and held that documents available were furnished to the appellant, that non-supply of documents did not cause any prejudice to him as Bank had only relied on exhibits enclosed to the charge sheet which were supplied to him and had not relied on documents not supplied to him.

He also held that the appellant's claim that no User ID was created in the Branch in his name was not acceptable as he did not explain how he was working at the branch without creation of a User ID; that the appellant's password would be secret and only known to him, and none else will know it.

He also held that on 27.1.2010, he was in-charge of the Branch, and on that day User ID 'SKB' was used and obviously he was the person who used the said ID.

42. The Appellate Authority in its order dt. 20.7.2016 held that (i) even if manual registers were not available, since the appellant had not challenged M.E.No.20 and M.E.No.21 which were proved by the Management Witnesses, the appellant had used the User ID-"SKB" and "BHATT" mentioned in those MEs, (ii) the appellant could not establish his separate User ID, if any, used by him during his tenure at the Branch other

than these two User IDs, (iii) non production of manual register will not make the appellant innocent, (iv) and confidential pass word must have been known to him as he was the user and he was responsible for maintaining it's secrecy.

43. The learned Single Judge in the impugned judgment held that the Presenting Officer had produced good number of exhibits marked as M.E.-1 to M.E.-66 on different dates; an opportunity had also been given to the appellant and his defence assistant to verify the original documents to their satisfaction; in reply, the appellant and his defence assistant stated that they accepted all the management exhibits and need not require any further verification except Management Exhibits M.E.-20 and M.E.-21, i.e. the Employee Register for which they required some clarification; subsequently, on 09.01.2019, by producing required documents relating to the said exhibits, the Presenting Officer had clarified the matter and on a query by the Enquiry Officer, the appellant and his defence assistant confirmed their satisfaction.

44. The above narration is also not disputed by counsel for Appellant.

45. We see no reason to disbelieve the evidence of MW-7 with regard to the said User IDs being allotted to the appellant and the corroborative proof for the same as can be seen from M.E.-20 and M.E.-21. Also Management witnesses MW-2,3,4 and 7 in the departmental inquiry stated that the appellant was allotted the User ID 'SKB' and 'BHATT'. The non-production of the manual register of User ID therefore pales into insignificance in view of this evidence.

46. The fact that the appellant worked as In-charge Manager in Januray,2010 of the Branch and as 2nd officer in the Branch on 23.7.2010 and 26.10.2010 is not disputed by the appellant. Also his presence in the Branch

on those dates and other dates mentioned in the charges is proved by attendance registers ME-1 (January, 2010), ME-35 (April, 2010), ME-8 (July, 2010), ME-13 (September, 2010), ME-15 (October, 2010), ME-16 (November, 2010) and ME-17 (January, 2011).

47. When the transactions mentioned in the charge-sheet have emanated from the User ID which he was using, it is strange that he insisted the Bank to prove that such a User ID was allotted to him with the password. Admittedly, such a User ID and password would be given to him when he was the In-Charge Manager or the Second Officer in the Bank for use when he was discharging such functions. It is not his case that the User ID or passwords would lapse immediately after he ceases to do those functions. So, it is for him to explain what he did with the User ID and password after he ceased to be performing those functions. Not only such a defence was not taken by him at any point of time but even now there is no answer to the same.

48. In our view, he could not have functioned as In-charge Manager and 2nd officer without the User IDs and his own confidential password. It is not the case of the appellant that immediately after he ceased to be the In-charge Manager or 2nd officer, he had handed over the User ID or password to the Bank manager and that they had been rendered inactive. So it has to be presumed that he continued to use the same later too to pass entries, clear cheques etc sometimes without even vouchers or having removed the vouchers prepared.

49. In fact, in a hearing held in this Court after the remand, officials of the Bank had appeared on 18.02.2025 and informed that the system itself maintains the login IDs and passwords used by the employees of the Branch

operating the system and merely because the register containing the login ID and the password for that period got misplaced, it would make no difference. They also clarified that there cannot be a User ID in a fictitious name because the User IDs have to be authenticated by two officers and passwords have to be changed every fortnight and secrecy of the passwords is to be maintained. They also categorically stated that the appellant was entrusted with both field duty and duty in the office and he cannot say that he did not operate the system during the period of charge or earlier from the date of his joining.

50. Counsel for the appellant placed reliance on a circular dated 11.12.2008 issued by the Bank containing certain guidelines for access to the Bank's computer systems/software including issuance of User IDs and passwords. He sought to highlight the fact that register is to be maintained for recording the allotted User IDs and also another register for passwords.

But as pointed out by us, non-availability of such registers is not very significant since the system generated employee registers ME-20 and ME-21 corroborate the same.

There is a presumption that all the procedures prevalent at the time of these transactions were followed and that the User ID and password were issued to the appellant as per the norms prevalent then. Merely because the manual/physical register for the period in question was not available, the appellant cannot derive any advantage, when the other oral and documentary evidence, on preponderance of probabilities, proves his misconduct.

51. The appellant's argument that he was only doing Field duty and was not having access to the computer system of the Bank is raised for the first time in this Court and had not been pleaded in his defence to the charge

memo or before the Disciplinary Authority. It is simply an afterthought and cannot be allowed to be raised at this stage.

52. We disagree with the contention of the petitioner that the respondents had withheld the said registers since their plea was that the registers were not available for production. Where a document is not available, it is impossible to produce it.

53. In the case of *State Bank of Bikaner and Jaipur vrs. Nemi Chand Nalwaya*¹ the Supreme Court held that if the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries.

54. The Supreme Court reiterated in the case of *R.R. Parekh vrs. High Court of Gujarat and another*² that a disciplinary inquiry is not governed by the strict rules of evidence which govern a criminal trial; a charge of misconduct in a disciplinary proceeding has to be established on a preponderance of probabilities; and the High Court while exercising its power of judicial review under Article 226 has to determine as to whether the charge of misconduct stands established with reference to some legally acceptable evidence. If there is some legal evidence to hold that a charge of misconduct is proved, the sufficiency of the evidence would not fall for re-appreciation or re-evaluation before the High Court.

55. In the case of *Union of India and others vrs. P.Gunasekaran*³, the Supreme Court held that the High Court *shall not*;

¹ (2011) 4 SCC 584

² (2016) 14 SCC 1

³ (2015) 2 SCC 610

- (i) re-appreciate the evidence;
- (ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;
- (iii) go into the adequacy of the evidence;
- (iv) go into the reliability of the evidence;
- (v) interfere, if there be some legal evidence on which findings can be based;
- (vi) correct the error of fact however grave it may appear to be; or
- (vii) go into the proportionality of punishment unless it shocks its conscience.

56. The attempt in the instant case by the appellant is to persuade this Court to interfere with findings of fact arrived at by the Enquiry Officer and the Disciplinary Authority and confirmed by the learned Single Judge which findings are based on evidence. In judicial review proceedings such interference is not permissible.

57. We have also perused the detailed written submissions of the appellant and contentions therein have already been dealt with as above.

58. We, therefore, do not find any merit in the present Writ Appeal which is accordingly dismissed.

59. Pending application(s), if any, also stands disposed of.

(S. DATTA PURKAYASTHA, J) (M.S. RAMACHANDRA RAO, CJ)