IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15893 OF 2025

Bank of India ***...Petitioner***

V/s.

Sharad Rajaram Khadtare ***...Respondent***

Mr. Lancy D'souza *with Ms. Deepika Agarwal i/b. Mr. V.M. Parkar, for the Petitioner.*
Mr. Nitin Kulkarni, *for the Respondent.*

CORAM: SANDEEP V. MARNE, J.

Reserved On : 12 June 2026.

Pronounced On: 22 June 2026.

Judgment:

1) The issue that arises for consideration in the present Petition is whether an employee dismissed from service on commission of grave misconduct, who raises belated industrial dispute, can be permitted to take advantage of his own wrong and whether his dismissal can be set aside only on account of employer's inability to produce complete enquiry proceedings before the Industrial Tribunal.

2) The Respondent-employee was dismissed from service on 18 October 2000 but raised industrial dispute 13 years later on 14 October 2013 leading to making of reference by the appropriate Government. The

Bank had destroyed records relating to disciplinary enquiry and was unable to produce the same before the Industrial Tribunal. Inability of the Bank to produce evidence recorded in the enquiry has led to a situation where the Industrial Tribunal has held the findings of the enquiry officer to be perverse. Due to long passage of time, the Bank was also not able to prove the charges before the Industrial Tribunal. The Tribunal has accordingly held Respondent's dismissal order to be illegal.

3) The issue arises in the light of challenge raised by the Petitioner-Bank of India to Part-I Award dated 9 August 2024 and final Award dated 23 January 2025 passed by the learned Member, Industrial Tribunal Pune, in Reference (IT) No.26 of 2014. By the Part-I Award, the Industrial Tribunal has held the enquiry to be fair, proper and legal. However, the findings of the Enquiry Officer are held to be perverse. By the Final Award dated 23 January 2025, the Tribunal has declared termination of the Respondent to be illegal and has directed the Petitioner-Bank to pay full backwages to the Respondent from the date of termination i.e. 18 October 2000 till attaining the age of superannuation with consequential benefits and continuity of service.

4) ***Rule***. Rule made returnable forthwith. Since pleadings in the Petition are complete, the same is taken up for final hearing with the consent of the learned counsel appearing for parties.

5) A brief narration of facts would be necessary for better understanding of the issue involved in the Petition. The Petitioner is a Nationalized Bank engaged in banking operations. The Respondent was

appointed as a Clerk in the Petitioner-Bank on 11 January 1979. At the relevant time in 1997, he was posted as a Clerk at Chakan Branch of the Petitioner-Bank. He was placed under suspension vide order dated 13 February 1997 in contemplation of conduct of disciplinary enquiry on allegation of misappropriation of monies of Bank's customers. It appears that a criminal prosecution was lodged against the Respondent by registering FIR dated 27 January 1999 alleging withdrawal of amount of Rs.65,000/- from Bank's account of Mr. Kaluram Tupe and other related allegations. This led to registration of R.C.C. No.59 of 1999 against the Respondent in the Court of JMFC, Khed, Rajgurunagar. On 16 October 1999, a chargesheet was issued by the Petitioner for conducting departmental enquiry alleging four charges. Charges related to acts of the Respondent in committing fraud in accounts of Bank's customers, Mr. Kaluram Tupe, Pratidnya Transport (Prop. M.K. Shinde), S.N. Chavan, M/s. S.K. Karpe and Sons. It was alleged that the Respondent made fraudulent withdrawals from the Bank account of the said customers of Rs.1,46,000/-, Rs.99,200/-, Rs. 1,07,000/- and Rs.57,500/-.

6) A domestic enquiry was conducted into the chargesheet during 2 March 2000 to 16 May 2000. The Respondent was defended by a defence representative. 11 management witnesses were examined, who were offered for cross-examination by the Respondent. At the end of the enquiry, the enquiry officer submitted his report and findings on 11 July 2000 holding that the charges leveled against the Respondent were proved. A show cause notice was issued to the Respondent on 3 August 2000. The Respondent was granted personal hearing. He submitted two

replies to the show cause notice. The Disciplinary Authority thereafter proceeded to pass order dated 18 October 2000 imposing the punishment of dismissal from service on the Respondent. The Respondent filed Appeal before the Appellate Authority, which was dismissed by order dated 19 September 2001.

7) The criminal prosecution lodged against the Respondent resulted in his acquittal vide judgment and order dated 19 June 2013 passed by the Judicial Magistrate, First Class, Khed, Rajgurunagar, District-Pune. Thereafter the Respondent raised a demand for reinstatement on 10 August 2013. The Respondent addressed letter dated 14 October 2013 to the Conciliation Officer seeking his intervention. The dispute was admitted in conciliation and the Conciliation Officer submitted his failure report on 12 March 2014. The Central Government thereafter made a Reference to the Industrial Tribunal, Pune, on 26 June 2014 in relation to dismissal of services of the Respondent.

8) After lapse of period of four years from the date of order of Reference, the Respondent filed his Statement of Claim on 4 April 2018. The Petitioner-Bank filed its written statement opposing the claim. Based on the pleadings, the Industrial Tribunal framed issues vide order dated 18 January 2019. The Petitioner did not produce the entire records of enquiry before the Industrial Tribunal and filed Application dated 15 July 2021 seeking direction against the Respondent for production of records of enquiry. The Respondent gave handwritten reply on the said application contending *inter alia* that he also did not have the enquiry

papers. The Industrial Tribunal passed order dated 13 September 2022 on Petitioner's application directing the Petitioner to produce whatever documents available in original and to produce photocopies of the remaining documents available with it. The Respondent was also directed to produce the original documents available with him. However, neither the Petitioner nor the Respondent was able to produce the depositions of witnesses and other documents produced during the course of enquiry.

9) The Industrial Tribunal proceeded to decide preliminary issues relating to fairness in the enquiry and perversity in the findings of the Enquiry Officer. In absence of availability of all proceedings of the enquiry, by Part-I Award dated 9 August 2024, the Industrial Tribunal held that the enquiry against the Respondent was fair, proper and legal and was held as per principles of natural justice. However, Industrial Tribunal held that findings given by the Enquiry Officer against the Respondent were not legal or proper and were perverse.

10) The Industrial Tribunal thereafter granted an opportunity to the Petitioner to lead evidence to prove the charges. The Petitioner examined Mr. Mangesh Shengale, Senior Manager at Chakan Branch. The witness deposed that the Bank was unable to produce bank customers and employees, who were examined in the domestic enquiry. Since they were not traceable, the Respondent filed a pursis that he did not wish to lead any oral evidence. The Industrial Tribunal thereafter proceeded to make final Award dated 23 January 2025 answering the Reference in the affirmative. The Industrial Tribunal has declared the action of the

Petitioner-Bank in dismissing the services of the Respondent w.e.f. 18 October 2000 to be illegal and unjust. The Industrial Tribunal has directed Petitioner-Bank to pay full backwages to the Respondent from the date of his termination (18 October 2000) till attaining the age of superannuation with all consequential benefits and continuity of service. Petitioner is aggrieved by Part-I Award dated 9 August 2024 and final Award dated 23 January 2025 and has accordingly filed the present Petition.

11) Mr. D'souza, the learned counsel appearing for the Petitioner submits that the Industrial Tribunal has erred in holding that findings of the Enquiry Officer are perverse. That the findings of the Enquiry Officer are well supported by evidence of 11 management witnesses. He submits that mere inability of the Petitioner to produce depositions of witnesses cannot be a ground for branding findings of the Enquiry Officer to be perverse. That the Reference at the instance of the Respondent was time barred and ought to have been dismissed on that ground alone. That demand for reinstatement was raised for the first time by the Respondent after lapse of 13 long years. That the Bank destroyed all enquiry papers as per its practice and was not expected to retain the same for 13 long years. That the Respondent cannot be permitted to take benefit of his own wrong. That the Respondent is rewarded by the Industrial Tribunal for the delay caused in raising industrial dispute. That since the Respondent approached the Industrial Tribunal after gross delay the burden of proof of records of enquiry would be on the Respondent. However, the Industrial Tribunal

erroneously held Petitioner responsible for inability to produce the records of enquiry. That the Respondent has committed grave misconduct by misappropriating monies of Bank customers. That the charges are proved by leading evidence of several witnesses including that of Bank's customers.

12) Mr. D'souza further submits that the Industrial Tribunal ought to have taken into consideration the prejudice caused to the Petitioner-Bank in the matter of defence on account of inordinate delay in raising of industrial dispute. In support, he relies on judgment of the Apex Court in ***SBI, Chairman, State Bank of India and another Versus. M.J. James***[1]. That the Petitioner-Bank is saddled with responsibility of paying huge backwages as well as pensionary benefits to the Respondent. That acquittal in the criminal trial is inconsequential since charges are proved in the departmental enquiry. He prays for setting aside Part-I and Final Award of the Industrial Tribunal.

13) The Petition is opposed by Mr. Kulkarni, the learned counsel appearing for the Respondent. He submits that the Petitioner never raised the issue of delay before the Industrial Tribunal. That no specific period of limitation is prescribed in the Industrial Disputes Act, 1947 (**ID Act**) for making a Reference by the Appropriate Government. That the industrial dispute was alive and was rightly referred for adjudication to the Industrial Tribunal. That the Respondent awaited outcome of criminal prosecution instead of rushing to Industrial Tribunal. That on 19 June 2013, he was honorably acquitted by the criminal Court in

1 2022 (2) SCC 301

respect of the same charges after taking into consideration the same evidence. That he demanded his reinstatement immediately after his acquittal. That, therefore, there is neither any delay nor the same can be held against the Respondent.

14) Mr. Kulkarni further submits that Bank selectively did not produce deposition of witnesses and documents produced before the Enquiry Officer though it was able to produce several other documents before the Industrial Tribunal. That the Respondent cannot have access to original enquiry reports. That all documents of enquiry were not supplied to the Respondent and it cannot be expected that the Respondent would be in a position to produce the same. He submits that the Industrial Tribunal was left with no option but to declare the findings of the Enquiry Officer to be perverse. That the findings recorded by the Enquiry Officer are required to be assessed with reference to the evidence appearing on record. That since the evidence is not available, the Industrial Tribunal has rightly held the findings to be perverse. That the Management had attempted to prove charges by leading evidence before the Industrial Tribunal. That it made an attempt to lead evidence by examining the witness. That therefore Bank cannot now complain about inability to prove charges on account of passage of time. He accordingly prays for dismissal of the Petition.

15) Alternatively, Mr. Kulkarni submits that in the event of this Court holding Respondent responsible for delay, the Award of the Industrial Tribunal can appropriately be modified by ensuring that the

Respondent at least receives pension and pensionary benefits. That the Respondent was at an advanced age of 75 years at the time of passing of the impugned Award. That he has already suffered a lot on account of illegal dismissal. Mr. Kulkarni has also suggested that operative directions of the Industrial Tribunal can also be modified by awarding compensation to the Respondent if considered necessary. On above broad submissions, Mr. Kulkarni prays for passing of appropriate orders to protect the interest of the Respondent.

16) Rival contentions urged on behalf of the parties now fall for my consideration.

17) As observed above, the issue that arises for consideration is whether dismissal of the Petitioner could have been set aside by the Industrial Tribunal by holding the findings of the Enquiry Officer to be perverse only on account of Petitioner-Bank's inability to produce the entire proceedings of enquiry. Respondent was subjected to disciplinary proceedings by issuance of chargesheet dated 16 October 1999. The charges leveled against the Respondent was about fraudulent transactions in withdrawing huge amounts from bank's customers accounts. The extent of amounts alleged to have been withdrawn by the Petitioners at that point of time (1996-97) were as under:

Sr. No.	Account No.	Name of the Account Holder	Amount
1.	S/B 19102	Kaluram J. Tupe	Rs. 1,46,000/-
2.	C/D 203	Pratidnya Transport (Prop. M.K. Shinde)	Rs. 99,200/-
3.	C/D 322	S.N. Chavan	Rs. 1,07,000/-
4.	C/D 227	S.K. Karpe & Sons	Rs. 57,500/-

18) A domestic enquiry was conducted into the charges leveled against the Respondent. Respondent has participated in the enquiry. The Industrial Tribunal has held the enquiry to be fair and proper and as per the principles of nature justice. Thus, there are no qualms about conduct of enquiry which is held to be fair and proper. After considering the evidence on record, the Enquiry Officer had submitted his report and findings on 11 July 2000 holding that the charges leveled against the Respondent were proved after affording an opportunity of hearing to the Respondent. The disciplinary authority accepted the findings of the Enquiry Officer and imposed punishment of dismissal from service on him w.e.f. 18 October 2000. The Industrial Tribunal has however held the findings of the Enquiry Officer to be perverse. The said finding in not recorded by undertaking the exercise of scrutiny of evidence. However, the findings of the Enquiry Officer are considered as perverse only on account of inability of the Petitioner-Bank to produce the entire evidence before the Industrial Tribunal. The findings recorded by the Industrial Tribunal on the issue of perversity are as under:

> 6. The charges leveled against the Second Party vide charge-sheet dated 16.10.1999 that he fraudulently withdrawn and misappropriated the deposits of the customers. The Inquiry Officer gave findings in his report of findings dated 11.07.2000 that the charges leveled against the Second Party are proved. However, in the present case, vide order below Exh. C-6 dated 13.09.2022 the First Party is directed to produce the documents whatever available in original and to produce photo copies of the remaining documents available with it. According to the First Party, the original documents were destroyed as per the practice of the bank. The First Party failed to file on record the evidence of its 11 witnesses as well as the evidence of the Second Party recorded before Inquiry Officer. So, in absence of the evidence, it is not possible to

> decide whether the findings of the Inquiry Officer based upon on the evidence brought on record before him. Therefore, in absence of the evidence led before the Inquiry officer, it cannot be said that the findings of the Inquiry Officer is based on the evidence brought before him and not perverse.
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> 9. However, in the present case, as discussed above there is absolutely no evidence brought on record which was led before the Inquiry Officer on the basis of which he gave his findings. Therefore, in such circumstances, it was not possible to held that the findings of the Inquiry officer are based on the evidence brought before him. Therefore, the aforesaid, authorities on totally different facts and circumstances are not helpful to the First party to prove its contention in the present case having totally different facts. I, therefore, held that the findings of the Inquiry Officer against the Second Party are not based on evidence brought before him and perverse. I, therefore, answered Preliminary Issue No. 2 in the negative.

19) Thus, the Industrial Tribunal has proceeded to brand the findings of the Enquiry Officer to be perverse only on account of the fact that the Petitioner-Bank had destroyed the records relating to enquiry proceedings. The enquiry was concluded and the final order of dismissal was passed on 18 October 2000. Even Respondent's Appeal was dismissed by order dated 19 September 2001. Respondent did not challenge the dismissal order for 12 long years. He did not make any correspondence with the Bank with regard to his dismissal and virtually acquiesced in the same. He raised the demand for reinstatement for the first time on 10 August 2013. Respondent thus woke out of his deep slumber after 13 long years of his dismissal and demanded reinstatement. In my view, the Petitioner-Bank was justified in destroying the records of the enquiry and in not preserving the same under a hope that Respondent might demand reinstatement at some point in the future. The case does not involve deliberate act of the Bank in destroying the enquiry proceedings.

The Bank led evidence of witness who deposed about destruction of records of enquiry. Petitioner is a nationalized Bank and is justified in destroying the documents after passage of some time. Respondent had not made any correspondence with the Bank in 13 long years and the Bank had no occasion to preserve the records of the enquiry.

20) When the Respondent chose to raise a demand for reinstatement 13 years after his dismissal, the Industrial Tribunal ought to have put the burden of producing copies of the enquiry proceedings on the Respondent. In the present case, the Petitioner filed a specific application at Exh. C-6 seeking a direction against the Respondent for production of all the records of the enquiry. On that application, Respondent filed his response stating that he did not have original enquiry papers. The Industrial Tribunal passed order dated 13 September 2022 on application at Exh. C-6 which reads thus :

> Perused the application of say of the Second party below it. Heard learned counsels for both the sides.
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> 2. It is the contention of the First party that the documents mentioned at Serial No.1 to 9 in para 10 are destroyed due to lapse of more than 10 years as per the practice of bank. Only the punishment order dated 18.10.2000 is available in original and all the other 9 documents are available in the form of photocopies.
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> 3. The Second Party submitted that it does not have the original enquiry papers, hence unable to file the same. It is prayed that the application may be rejected.
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> 4. Considering the fact that the originals were destroyed as per practice of the bank, the First Party is directed to produce whatever documents available in original and to produce the photocopies of the documents available with them. The Second Party is directed to produce the original documents, if any available with them. No order as to the costs.

21) Thus, the Industrial Tribunal had directed the Petitioner to produce photocopies of the documents. Similarly, Respondent was also directed to produce documents available with him. Respondent however did not produce even photocopies of the documents in the enquiry.

22) As observed above, the enquiry is held to be fair and proper. This would mean that Respondent had received copies of all depositions recorded in the enquiry. Similarly, he had also received all the documents relied upon by the bank to prove the charges. This would mean that during the course of enquiry, the Respondent had copies of all documents and evidence produced against him. It was his duty to preserve the same if he intended to challenge the order of dismissal after long delay. However, Respondent did not bother to file even photocopies of the documents before the Industrial Tribunal. In such circumstances, Industrial Tribunal ought to have drawn adverse inference against the Respondent.

23) Even otherwise, Respondent cannot be permitted to take benefit of his own wrong. The demand for reinstatement raised by him on 10 August 2013 was hopelessly time barred. The Reference itself should not have been made in respect of such a stale claim. Though Section 10 of the Industrial Disputes Act,1947 does not provide for any specific period of limitation for making a Reference, at the same, a Reference can be made only in respect of an existing industrial dispute. It is difficult to hold that as on 10 August 2013, any industrial dispute

relating to Respondent's dismissal existed. Be that as it may, the Appropriate Government still proceeded to make a Reference relating to the demand of reinstatement of the Respondent. After making of Reference also, Respondent delayed the proceedings and did not file Statement of Claim for a considerable period of time. The Reference was made by the Appropriate Government by order dated 26 June 2014. However, the Respondent filed his Statement of Claim, four years later on 4 April 2018. Thus, by the time the Statement of Claim was filed by the Respondent, period of 18 long years had elapsed from the date of Respondent's dismissal. By the time order on application at Exh.C-6 was passed on 13 September 2022, period of 22 years had elapsed from the date of dismissal. Also, while making an order on preliminary issues holding the Petitioner responsible for non-production of enquiry proceedings, a period of 24 long years had elapsed from the date of dismissal. Thus, Respondent's acts were clearly responsible for delay in adjudication of his demand for reinstatement. He raised the demand after 13 long years. Despite Reference being made in the year 2014, he delayed filing Statement of Claim for 4 long years. In these circumstances, Respondent alone needs to be held responsible for the delay. Since Respondent is solely responsible for delay, he cannot be permitted to take benefit of his own wrong.

24) In the present case, what the Industrial Tribunal is doing is something which cannot be countenanced in law. It has rewarded the Respondent for his acts of delay. It is one thing to permit adjudication of a stale claim by ignoring or condoning the delay and it is an altogether

different thing to offer on a platter relief in favour of a negligent litigant because the opposite party has destroyed the records in the meantime. When a delayed claim is sought to be adjudicated, the Courts must put the burden on the claimant to produce atleast photocopies of the documents even though the originals are supposed to be in custody of the opposite party. In any case, the opposite party cannot be penalized for non-preservation of documents when the Claimant acts negligently and approaches the Court after considerable delay.

25) Therefore the Industrial Tribunal has committed an error in considering Petitioner's inability to produce enquiry proceedings due to delay on the part of the Respondent as a factor to reward the Respondent. The Enquiry Officer's findings are held to be perverse only on account of non-availability of evidence produced in the domestic enquiry before the Industrial Tribunal. The Industrial Tribunal has clearly committed an material irregularity in exercising jurisdiction vested in it. It ought not to have rewarded the Respondent for his own wrong of delaying adjudication of demand for reinstatement. The Industrial Tribunal ought to have answered the Reference against the Respondent and in any case, could not have held the enquiry findings to be perverse in the facts and circumstances of the present case.

26) In the present case, delay on the part of the Respondent in exercising the remedy in respect of dismissal order has grossly prejudiced the defence of the Petitioner. It was unable to produce the complete records of the enquiry. This led to findings of the enquiry officer being held to be perverse. The Bank could not trace the witnesses

after 24 long years. Most of the witnesses were Bank's customers, who were not traceable after lapse of almost quarter of a century. Therefore the Bank could not prove the charges independently before the Industrial Tribunal.

27) The issue of prejudice being caused to the opposite party on account of delay and laches in exercising the remedy is considered by the Apex Court in ***Chairman, State Bank of India*** (supra) in which it is held in para-40 and 41 as under :

> 40. Laches unlike limitation is flexible. However, both limitation and laches destroy the remedy but not the right. Laches like acquiescence is based upon equitable considerations, but laches unlike acquiescence imports even simple passivity. On the other hand, acquiescence implies active assent and is based upon the rule of estoppel in pais. As a form of estoppel, it bars a party afterwards from complaining of the violation of the right. Even indirect acquiescence implies almost active consent, which is not to be inferred by mere silence or inaction which is involved in laches. Acquiescence in this manner is quite distinct from delay. Acquiescence virtually destroys the right of the person. 31 Given the aforesaid legal position, inactive acquiescence on the part of the respondent can be inferred till the filing of the appeal, and not for the period post filing of the appeal. Nevertheless, this acquiescence being in the nature of estoppel bars the respondent from claiming violation of the right of fair representation.
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> 41. The questions of prejudice, change of position, creation of third-party rights or interests on the part of the party seeking relief are important and relevant aspects as delay may obscure facts, encourage dubious claims, and may prevent fair and just adjudication. Often, relevant and material evidence go missing or are not traceable causing prejudice to the opposite party. It is, therefore, necessary for the court to consciously examine whether a party has chosen to sit over the matter and has woken up to gain any advantage and benefit, which aspects have been noticed in Dehri Rohtas Light Railway Co. Ltd. v. District Board, Bhojpur 34 and State of Maharashtra v. Digambar 35. These facets, when proven, must be factored and balanced, even when there is delay and laches on the part of the authorities. These have bearing on grant and withholding of relief. Therefore, we have factored

in the aspect of prejudice to the appellants in view of the relief granted in the impugned judgment.

28) In the present case also, delay on the part of the Respondent in exercising the remedy of reinstatement has caused serious prejudice to the Petitioner-Bank which had destroyed the proceedings of enquiry after preserving the same for some time. The Respondent-Bank is not supposed to preserve the records relating to disciplinary proceedings of the Respondent for eternity. If the order of the Industrial Tribunal is upheld, the same would tantamount to granting premium to the errant litigant who would succeed by deliberately not exercising the remedy and waiting for employer to destroy records relating to enquiry. In such case, litigant needs to be punished for the delay and not his opposite party who is unable to produce the records which are destroyed.

29) Even otherwise, perusal of the enquiry report would indicate elaborate discussion of evidence on record. The Enquiry Officer has written a Report running into 24 pages by discussing the evidence of each witness. The Petitioner had examined as many as 11 witnesses whose oral evidence has been discussed by the Enquiry Officer. The Industrial Tribunal has not made any attempt to locate perversity in the findings recorded by the Enquiry Officer. In domestic enquiry, the test to prove the charges is preponderance of probabilities. I have gone through the report of the Enquiry Officer and it is difficult to hold that there is absolutely no evidence in support of the charges leveled against the Respondent. In the present case, the Industrial Tribunal has proceeded to ignore the report of the Enquiry Officer and has proceeded to reward

the Respondent on account of bank's inability to produce evidence. The case does not involve total absence of evidence.

30) Disciplinary enquiry has been held against the Respondent into very serious charges. He was afforded full opportunity of defence in the enquiry. Ample evidence was produced against the Respondent during the course of domestic enquiry. The findings of the Enquiry Officer are recorded after discussing the evidence on record. It is not the case of the Respondent that the witnesses whose evidence is discussed by the Enquiry Officer were never examined in the enquiry. Therefore, the findings of perversity could not have been recorded by the Industrial Tribunal.

31) The Respondent is held guilty of committing a serious misconduct. As a bank employee, he was required to exercise a higher standard of honesty and integrity as held by the Apex Court in ***Damoh Panna Sagar Rural Reg. Bank & Anr Versus. Munna Lal Jain***[2]. Respondent is found to have withdrawn amounts from bank's customers and misappropriated the same. The punishment of dismissal imposed for such serious misconduct is erroneously set aside by the Industrial Court by rewarding the Respondent with full backwages from 18 October 2000, as well as pensionary benefits. In my view, therefore the impugned orders passed by the Industrial Tribunal, being unsustainable, are liable to be quashed and set aside.

2 2005 10 SCC 84

32) Mr. Kulkarni has strenuously relied upon Respondent's acquittal in the criminal prosecution. However, in the present case Respondent was not dismissed from service on account of mere prosecution in criminal offenses. A separate and parallel domestic enquiry was conducted. The findings in the domestic enquiry are recorded after assessing the evidence produced in that enquiry. Therefore, mere acquittal in criminal prosecution cannot be a ground for setting aside the findings in the domestic enquiry. It is well settled position that the tests required in the domestic enquiry and in criminal prosecution are entirely different. The purpose of conducting domestic enquiry is to enforce discipline in the establishment whereas the purpose of conducting criminal prosecution is to punish for commission of a criminal act. Since the purpose, as well as the test in the two sets of proceedings, are entirely different, the findings recorded in criminal trial cannot have any possible impact on the finding of guilt recorded in the domestic enquiry. Therefore, mere acquittal of the Respondent in the criminal prosecution is of no avail so far as the punishment of dismissal in the domestic enquiry is concerned.

33) The conspectus of the above discussion is that the orders passed by the Industrial Tribunal on preliminary issue relating to perversity, as well as the final order setting aside the punishment of dismissal are indefensible and liable to be set aside.

34) The petition accordingly succeeds, and I proceed to pass the following order:

(i) Order dated 9 August 2024 on preliminary Issue No.2 is set aside and it is held that the findings recorded by the Enquiry Officer are not perverse.

(ii) Final judgment and order dated 23 January 2025 passed by the Industrial Tribunal in Reference (IT) No. 26 of 2014 is set aside.

35) Writ Petition is allowed in the above terms. Rule is made absolute. There shall be no order as to costs.

[SANDEEP V. MARNE, J.]