

Kavita S.J.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15756 OF 2023

Animesh Bakuli

...Petitioner

Versus

Reserve Bank of India

...Respondent

Mr. Animesh Bakuli, Petitioner in person present.

Mr. S.U, Kamdar, Senior Counsel a/w Adv. Mr. Yashesh Kamdar, Mr. Parag Sharma, Ms. Aditi Phatak, Ms. Megha More, Ms. Juhi Bhayani, Mr. Parichehr i/b BLAC Co. for Respondent – RBI.

CORAM : R.I. CHAGLA AND
ADVAIT M. SETHNA, JJ.

RESERVED ON : 23rd APRIL, 2026.

PRONOUNCED ON : 10th JUNE, 2026

JUDGMENT: (Per R.I. Chagla, J.)

1. By this Writ Petition, the Petitioner is seeking the quashing and setting aside of the Order dated 13th February, 2023 (“**impugned Order**”) issued by the General Manager and Competent Authority, HRMD, Central Office of the Reserve Bank of India (“**RBI**”)

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compulsorily retiring the Petitioner from service on ground of unauthorized absence and a direction to the Respondent – RBI to disburse payment and allowances, other concessions and compensatory Allowances, which the Petitioner alleges have been unethically blocked by the Respondent - RBI, Mumbai since December, 2020 without notice.

2. The relevant facts are as under:

(i) The Petitioner was appointed on 28th January, 2013 on temporary basis as an Assistant (Class III) by the Respondent – RBI. The Petitioner after completion of six months, was appointed as a permanent employee of the Respondent – RBI on 1st August, 2013. Thereafter, the Petitioner was designated as Senior Assistant on 31st January, 2018 i.e. upon completion of five years with the Respondent – RBI. It is pertinent to note that in the initial Appointment Letter dated 2nd November, 2012, it is stated: “12. *RBI (Staff) Regulations, 1948: You should note that Chapter IV (copy enclosed) of the RBI (Staff) Regulations, 1948 regarding*

conduct, discipline and appeals subject to Awards and Settlements under Industrial Disputes Act, 1947, will be applicable to you from the date of your appointment.”

(ii) The Petitioner had made multiple requests to the Respondent – RBI asking for his transfer to Kolkata. This was by way of Communications dated 10th March 2017, 25th April 2017, 19th June 2017 and 11th April, 2018.

(iii) The Respondent – RBI vide its Communications dated 27th March, 2017 and 25th April, 2018 rejected the transfer request of the Petitioner.

(iv) The Petitioner remained absent from his duties from 19th March, 2020 without permission of his Reporting Officer and without intimation.

(v) The Respondent – RBI via multiple E-mails and Letters dated 30th August 2020, 11th September 2020, 23rd September 2020, 24th September 2020, 4th November 2020, 23rd February 2021 and 18th June 2021

directed the Petitioner to report back to duty or submit a Leave Application supported by Medical Certificate.

(vi) The Petitioner neither responded to the multiple e-mails or letters nor submitted any reason for his absence or any Leave Application supported by Medical Certificate. More particularly the Petitioner did not resume his duties during this period viz. 18th June, 2021 to 22nd July, 2022 without any reason, establishing that he had no intention to resume his duties at the Respondent – RBI and had effectively abandoned his position.

(vii) The Show Cause Notice (“**SCN**”) dated 22nd July, 2022 was issued to the Petitioner under Regulation 47 of the RBI (Staff) Regulations, 1948 (“**the said Regulations**”). It is pertinent to note that the SCN was sent to the Petitioner at all three addresses available with the Respondent – RBI.

(viii) The Petitioner replied to the SCN on 26th July, 2022 stating that the Petitioner had forgotten his e-

mail password and was not able to access his e-mail; due to Covid-19 Pandemic and Parents' ill health, the Petitioner was not able to return to his duties; and on 9th July 2022, the Petitioner returned back to Nashik alongwith his parents.

(ix) In view of the Reply of the Petitioner to the SCN not having been found satisfactory, Respondent – RBI filed Charge Sheet bearing Reference Nos. S5226 (addressed to Kolkata), S5227 (addressed to Nashik) and S5228 (addressed to Dahisar) on 4th August, 2022 against the Petitioner for committing breach under Section 39(1) of the said Regulations. It is pertinent to note that the Charge Sheet was bearing separate reference numbers (outward numbers) on account of it having been issued in triplicate to the three different addresses of the Petitioner.

(x) The Charge Sheet No.S5227 was delivered and received by the Petitioner at his Nashik address on 10th August, 2022.

(xi) The Petitioner submitted a Reply to the said Charge Sheet on 19th August, 2022 denying all the allegations.

(xii) The Respondent - RBI addressed a Letter dated 26th August, 2022 stating that the Petitioner is charged with having committed breach of Regulation 39(1) and for committing misconduct within the meaning of Regulation 47 of the said Regulations and directed the Petitioner to resume duty immediately failing which ex-parte proceedings would follow.

(xiii) The Respondent – RBI informed the Petitioner on 16th September, 2022 that Enquiry Officer (“EO”) has been appointed to enquire into the charges framed against the Petitioner and that the preliminary enquiry was scheduled on 29th September, 2022 and the Petitioner was called upon to remain present. The said letter was sent to the Petitioner at all 3 addresses available with the Respondent – RBI.

(xiv) The Disciplinary Enquiry meeting was held

on 29th September, 2022. However, the Petitioner failed to appear in spite of having notice of the hearing.

(xv) A letter was addressed by the Respondent on 30th September, 2022 to the Petitioner stating that the Petitioner had remained absent at the hearing held on 29th September, 2022 and that the preliminary hearing will now be held on 7th October 2022, giving the Petitioner another chance to present his case. This letter was sent to the Petitioner at all three addresses available with the Respondent – RBI.

(xvi) The Respondent – RBI sent multiple WhatsApp messages i.e. on 30th September 2022, 6th October 2022, 7th October 2022, 10th October 2022, 19th October 2022, 20th October 2022 and 9th January 2023 to the Petitioner informing him of the dates of hearing, and forwarding the Enquiry Report.

(xvii) The Respondent – RBI attempted to contact the Petitioner via Phone Call on 6th October, 2022.

(xviii) The Disciplinary Enquiry meeting was held on 7th October 2022, however, the Petitioner failed to appear at the meeting.

(xix) The Petitioner addressed a Letter dated 14th October, 2022 to the Respondent – RBI disputing receipt of Charge Sheet Nos.S5226 and S5228.

(xx) A letter was addressed by the Respondent – RBI to the Petitioner on 18th October, 2022 wherein it was stated that the Petitioner had remained absent at the hearings held on 29th September, 2022 and 7th October, 2022 and that the Preliminary hearing will now be held on 10th November 2022, giving the Petitioner yet another chance to present his case. The Respondent – RBI also requested the Petitioner to confirm his availability, failing which the Respondent – RBI will decide the proceedings ex-parte. This letter was also sent to the Petitioner at all three addresses available with the Respondent – RBI.

(xxi) The Petitioner visited the Respondent – RBI's office on 3rd November, 2022 in order to meet the Chief

General Manager in Charge (“CGM in Charge”) regarding the proceedings.

(xxii) The Respondent – RBI issued a Letter dated 4th November, 2022 to the Petitioner clarifying that the Charge Sheet Nos. S5226 and S5228 were exactly the same as the one received by the Petitioner i.e. S5227. The Charge Sheet No.S5226 (mentioned in the Hindi translation of Departmental Enquiry Letter dated 16th September, 2022) and Charge Sheet No.S5226 are the same.

(xxiii) The Disciplinary Enquiry meeting was held on 10th November 2022, however, the Petitioner failed to appear.

(xxiv) The Petitioner thus failed to remain present on 29th September 2022, 7th October 2022 and 10th November 2022. The proceedings were held ex-parte in terms of Section 15.1 of the Master Circular on Staff Discipline dated 1st April, 2022. The Enquiry Report dated 14th November, 2022 of the EO held that the

charges framed against the Petitioner dated 4th August, 2022 are established and proved. It was also recorded therein that the Petitioner has committed an act of gross misconduct and negligence of duty in availing leave without prior intimation and permission from the office.

(xxv) The Enquiry Report and minutes in this connection dated 14th November, 2022 was sent to the Petitioner on 25th November, 2022.

(xxvi) The Petitioner submitted his Reply on 3rd December, 2022 to the Enquiry Report refuting the finding of the Report.

(xxvii) The Petitioner again attempted meeting the CGM in Charge on 7th December, 2022.

(xxviii) The Second SCN / Final SCN was issued by the Respondent – RBI proposing penalty of compulsory retirement as per Regulation 47(1)(e) of the said Regulations. The Petitioner was directed to file his response within nine days. It is pertinent to note that the

said SCN was sent to the Petitioner on all three addresses available with the Respondent – RBI.

(xxix) The Respondent – RBI issued a Reminder Letter to the Petitioner on 5th January, 2023 to file its Reply within 7 days from the receipt of the said letter. This letter was also sent to the Petitioner at all three addresses available with the Respondent – RBI.

(xxx) A Circular was issued by the Respondent – RBI on 12th January, 2023 under which ID cards of the employees who are on unauthorized absence for more than a month, were to be blocked immediately.

(xxxi) A final order was passed by the Competent Authority on 31st January, 2023 (impugned Order) imposing penalty of compulsory retirement (of the Petitioner) as per Regulation 47(1)(e) of the said Regulations.

(xxxii) The impugned Order was forwarded to the Petitioner at all three addresses available with the

Respondent – RBI on 13th February, 2023.

(xxxiii) The Petitioner's parents addressed a letter to the Governor of the Respondent – RBI on 20th February, 2023 and 24th April, 2023 seeking intervention.

(xxxiv) The Petitioner informed the Respondent – RBI about a complaint No.DEABD/P/2023/0000648 registered by the Petitioner on the CPGRAMS portal on 17th March, 2023.

(xxxv) The Petitioner on 25th March, 2023 denied allegations regarding filing of the CPGRAMS complaint.

(xxxvi) The Petitioner was denied entry on 5th July, 2023 into the Respondent – RBI premises due to deactivation of ID card as per the Circular dated 12th January, 2023.

(xxxvii) The Petitioner attempted to file an Appeal on 2nd August, 2023 against the impugned Order under Regulation 48, 49 and 50 of the said Regulations.

(xxxviii) The Respondent – RBI rejected the appeal dated 2nd August, 2023 as the conditions mentioned in Regulation 50 of the said Regulations were not complied with. This was vide the Letter dated 18th December, 2023 sent to the Petitioner which had been returned with the remark ‘Refused’.

(xxxix) The Respondent - RBI addressed an e-mail on 21st February, 2024 forwarding the Letter dated 18th December, 2023

(xl) The present Writ Petition was filed on 16th October, 2023.

3. The Petitioner in person has made submissions in support of the Writ Petition. He has submitted that the impugned Order has been passed in violation of the principles of natural justice. He has submitted that in fact the Departmental proceedings had been proceeded and concluded contrary to the principles of Departmental Enquiry. The Competent Authority of the Respondent – RBI by the impugned Order has imposed the harsh penalty of compulsory retirement on the Petitioner.

4. The Petitioner in person has further submitted that the concluding of enquiry and passing of the impugned Order imposing compulsory retirement without providing the Charge Sheet Nos.S5226 and S5228 to the Petitioner amounts to gross miscarriage of justice. He has submitted that the Competent Authority of the Respondent – RBI in the passing of the impugned Order has committed a breach of the said Regulations and in particular Regulation 34 read with Regulation 47(1).

5. The Petitioner in person has submitted that the Competent Authority has accepted the Enquiry Report without any independent examination and / or application of mind to the various letters addressed by the Petitioner in person which had expressly stated that the Respondent – RBI had not complied with the principles of natural justice in providing the Petitioner in person with the Charge Sheet Nos. S5226 and S5228 and without provision of the Charge Sheets, there has been a miscarriage of justice.

6. The Petitioner in person has submitted that the Respondent – RBI had not disclosed the Standard Operating Procedure (“**SOP**”) for RBI employees including the Petitioner during

the period of Covid-19 Pandemic which was the relevant period during which the Petitioner remained absent. He has referred to the Petitioner's Letter dated 19th August, 2022 requesting the Respondent – RBI to confirm if Regulation 39(1) of the said Regulations expressly mentioned the SOPs to be followed during Covid-19 Pandemic. He has submitted that there has been no response to the said Letter from the Respondent – RBI.

7. The Petitioner in person has submitted that the SCN dated 22nd July, 2022 has been issued by the Respondent – RBI after 23 months of non-payment of the dues and allowances and without any notice and / or suspension of the Petitioner. He has submitted that under Regulation 47(4), the Petitioner was required to be placed under suspension by the Officer empowered to pass the final order under Section 47(1) of the said Regulations. During such suspension, the Petitioner was required to receive subsistence allowances which were equal to his substantive pay plus 50% of the allowances thereon for the first 6 months of the suspension and his substantive pay plus 75% of the allowances thereon for the period of suspension beyond 6 months.

8. The Petitioner in person has further submitted that the Petitioner's payment and allowance was immediately blocked in September, 2022 without notice / suspension. It is only for the first time in the Affidavit-in-Reply dated 23rd December, 2025 i.e. after the span of 5 years and 3 months of blocking salary that the Respondent – RBI has expressly relied upon Regulation 39(2) of the said Regulations which allow the Respondent – RBI to block payment of the Petitioner's pay and allowances.

9. The Petitioner in person has submitted that he had in the past made several transfer requests to Kolkata which were rejected without giving any valid reason by the Respondent – RBI.

10. The Petitioner in person has submitted that the Appeal filed by the Petitioner had been not entertained after 4 months by the Respondent – RBI based on the conclusion that the Appeal cannot be treated as an Appeal due to non-compliance of Regulation 50 of the said Regulations. He has submitted that the Petitioner had accordingly no choice but to file the present Writ Petition impugning the order passed by the Competent Authority of the Respondent – RBI.

11. The Petitioner in person has submitted that by the impugned Order the Respondent – RBI has thrown the Petitioner out of its service by an arbitrary decision which is unethical and unconstitutional and has thereby forced the Petitioner and his parents who are of advanced stage into financial distress and mental trauma.

12. The Petitioner in person has submitted that the Respondent – RBI ought to have accepted the position that Charge Sheet Nos. S5226 and S5228 were never served upon the Petitioner and it is only Charge Sheet No.S5227 which had been served. This was expressly pointed out to the Respondent – RBI and which mistake had never been corrected though there is an admission that different Charge Sheet No.S5226, S5227 and S5228 were sent to different postal addresses having same content.

13. The Petitioner in person has accordingly submitted that the impugned order requires to be set aside and the Petitioner is entitled to payment and allowances, other concessions, which were unethically blocked by the Respondent – RBI since December, 2020 without notice.

14. Mr. Kamdar, learned Senior Counsel appearing for the

Respondent – RBI has submitted that the Petitioner unauthorizedly remained absent from his duties from 19th March, 2020 i.e. without permission of his Reporting Officer, and without intimation. The Respondent – RBI had addressed multiple e-mails and letters to the Petitioner to report back to duty. The Petitioner failed to respond to the same and / or submit any reason for his absence or any Leave Application supported by Medical Certificate. It was by reason of such conduct on the part of the Petitioner that the Respondent – RBI was compelled to issue SCN on 22nd July, 2022 to the Petitioner under Regulation 47 of the said Regulations.

15. Mr. Kamdar has placed reliance on Regulation 39(1) of the said Regulations which provides that an employee shall not absent himself from his duties without having first obtained the permission of the Competent Authority. Further, under Regulation 39(2) an employee who absents himself from duties without leave or overstays his leave, except under circumstances beyond his control for which he must tender a satisfactory explanation, shall not be entitled to draw any pay and allowances during such absence or overstayal and shall further be liable to such disciplinary measures as the Competent Authority may impose. He has submitted that the

disciplinary measures / penalty to be imposed for unauthorized absence of the employee is under Regulation 47(1)(e) which provides for compulsory retirement under the said Regulation (2A) of Regulation 26. He has submitted that the appropriate penalty had been imposed by the Respondent – RBI under the impugned Order. The other measures could not be imposed, in view of the Petitioner failing to report back to duty despite several intimations from the Respondent – RBI.

16. Mr. Kamdar has submitted that the submission on behalf of the Respondent – RBI that RBI should have placed the Petitioner under suspension, is stated to be rejected. He has submitted that there was no question of putting the Petitioner under suspension, when the Petitioner himself had failed to report back to duty and / or remained unauthorizedly absent. He has submitted that Regulation 47(4) can only apply when the employee was working with the Respondent – RBI and not when he remained unauthorizedly absent.

17. Mr. Kamdar has placed reliance upon the Judgment of the Supreme Court in *Principal Secretary, Government of A.P. and Others Vs. M. Adinarayana*¹. The Supreme Court has in the context

¹ (2004) 12 SCC 579

of the Administrative Tribunal interfering with the well considered order of the Tribunal for Disciplinary Proceedings (“**TDP**”) has held that such interference is unwarranted. The Administrative Tribunal cannot sit as a Court of Appeal over a decision based on the finding of enquiry authority in disciplinary proceedings. The Supreme Court has held that the Administrative Tribunal cannot ignore the findings of the Disciplinary Authority or the Tribunals. The truth or otherwise of the charge is a matter for the Disciplinary Authority to go into. The finding of the Court or Tribunal under judicial review cannot extend to the re-examination of all evidence to decide the correctness of the charge. The Supreme Court has time and again, categorically stated that the Court should not interfere with the quantum of punishment where there is some relevant material which the Disciplinary Authority had accepted and which material has reasonable support for the conclusion reached by the Disciplinary Tribunal.

18. Mr. Kamdar has submitted that the Petitioner in the present case is seeking this Court in Writ jurisdiction to interfere with the findings of the EO and which findings have been accepted by the Competent Authority of the Respondent – RBI. Further, the penalty of

compulsory retirement is also not required to be interfered with, particularly in the context in which it was imposed viz. unauthorized absence of the employee of the Respondent – RBI which is an undisputed position.

19. Mr. Kamdar has also placed reliance upon the Judgment of the Supreme Court in ***Life Insurance Corporation of India and Others Vs. Om Parkash***². The Supreme Court has in a similar case as the present, where the Respondent had abandoned his services without informing his employer about his whereabouts, has held that such conduct of the Respondent could not have been condoned by the employer and therefore, treating the Respondent to have abandoned his service and taking appropriate action against him, in terms of LIC Staff Regulation, cannot be faulted. The Supreme Court has accordingly set aside the impugned Order of the High Court which had granted relief to the Respondent on the ground that the termination order was passed without affording a reasonable opportunity or conducting an inquiry into the charge of absence from duty.

20. Mr. Kamdar has also placed reliance on the Judgment of

² Civil Appeal No(s).4393/2010 - dated 13th November, 2024

the Supreme Court in *General Manager, Appellate Authority, Bank of India and Anr. Vs. Mohd. Nizamuddin*³ where the Supreme Court has held that it is a well settled principle of law that gravity of misconduct must necessarily be measured in terms of the nature of the misconduct. In that case, the Bank Officer holding the post of Middle Management Officer, Grade II which was a responsible post had absented himself unauthorizedly for about three years which was undoubtedly detrimental to the public interest and hence, it could not be said to be not grave misconduct which would warrant dismissal from service.

21. Mr. Kamdar has submitted that in the present case as well the Petitioner was in employment of the Respondent – RBI and by unauthorizedly absenting himself for a similar period of time had caused unauthorized detriment to the public interest and accordingly the penalty of compulsory retirement cannot be said to be harsh or unwarranted.

22. Mr. Kamdar has submitted that the Petitioner has not made out any case for interference with the impugned Order and that the Petition requires to be dismissed.

³ (2006) 7 SCC 410

23. Having considered the submissions, the Petitioner in person appears to have proceeded on the erroneous premise that there were three independent Charge Sheets and Charge Sheet Nos. S5226 and S5228 were not provided to the Petitioner which resulted in gross miscarriage of justice. This premise of the Petitioner in person is relied from the documents on record. The three different reference numbers in the Charge Sheet viz. S5226, S5227 and S5228 are nothing but outward numbers in view of the Charge Sheet having been sent in triplicate to the three different addresses of the Petitioner which were available with the Respondent – RBI.

24. There has been no violation of the principles of natural justice as several opportunities have been given to the Petitioner to remain present during the disciplinary proceedings as well as the proceedings before the Competent Authority, who passed the impugned Order. The only specious ground taken by the Petitioner for not remaining present is that according to him he had not been provided with all the Charge Sheets. This ground is misconceived as there was only one Charge Sheet sent in triplicate to the Petitioner's three different addresses available with the Respondent – RBI.

25. The contention of the Petitioner in person that there had been gross delay in issuance of the SCN and which was to the detriment to the Petitioner is misconceived. It is pertinent to note that the Petitioner had received multiple e-mails and letters from the Respondent – RBI to report back to duty or submit Leave Application supported by Medical Certificate. The Petitioner had remained absent from duty from 19th March, 2020 without permission of his Reporting Officer and / or without intimation. These multiple e-mails and letters were addressed from 30th August, 2020 till 18th June, 2021 and had met with no response from the Petitioner. Thus in view of the Petitioner remaining unauthorizedly absent, the Respondent – RBI was left with no opportunity but to issue the SCN on 22nd July, 2022 under Regulation 47 of the said Regulations by placing reliance upon Regulation 39(1) and 39(2) of the said Regulations.

26. The Petitioner in person has further contended that the second SCN / Final SCN issued by the Respondent – RBI imposing the penalty of compulsory retirement as per Regulation 47(1)(a) of the said Regulations is harsh apart from being unwarranted and ought not to have been issued. This submission in our view is also

unacceptable, particularly in view of the Petitioner's conduct of remaining unauthorizedly absent from the employment of the Respondent – RBI in spite of several opportunities given to him to report back to duty. Regulation 47(1) provides for the penalties to be imposed. The appropriate penalty to be imposed for unauthorized absence can only be Regulation 47(1)(e) viz. compulsory retirement under sub Regulation 2(A) of Regulation 26. Further, the submission of the Petitioner that he should have been placed under suspension under Regulation 47(4) by the officer empowered to pass the final order under Regulation 47(1) is misconceived particularly in view of the fact that the Petitioner had remained unauthorizedly absent and hence, could not be suspended from the post which he did not report back to.

27. It is the contention of the Petitioner in person that his absence from the post held by him with the Respondent – RBI was on account of Covid-19 and for which he had left Mumbai for Kolkata where his parents permanently reside and this factor should have been taken into account whilst passing the impugned Order. We find this contention to be misconceived in view of the fact that the Respondent – RBI had issued a Circular dated 1st July, 2020 by virtue

of which it was brought to the notice of various departments of the Respondent – RBI that there would be resumption of operation in the Central Office Departments by following safety protocols as detailed in the Annexure to the said Circular. This was followed by Circulars dated 1st July, 2020, 10th August, 2020, 21st August, 2020 and 9th October, 2020 to the similar effect. The Petitioner had also been paid his salary till August 2020 which the Petitioner does not dispute. The Respondent – RBI had issued multiple e-mails and letters directing the Petitioner to report back to duty and the non response from the Petitioner led to the issuance of SCN's and passing of the impugned Order.

28. The Supreme Court in *LIC of India Vs. Om Parkash (Supra)*, where the Respondent – Employee abandoned his service without informing his employer about his whereabouts (similar to the present case), has held that such conduct of the Respondent – Employee cannot be condoned by the employer and the employer was justified in treating the Respondent - Employee to have abandoned his service and thereby terminated his service by issuing the termination order. The Supreme Court held that the relief granted by the High Court to the Respondent on the ground that the

termination order was passed without affording a reasonable opportunity or conducting any enquiry into the charge of absence from duty was erroneous and the impugned order has accordingly been set aside and quashed.

29. The findings of fact arrived at by the EO which have been accepted by the Competent Authority of the Respondent – RBI cannot be interfered with in exercise of writ jurisdiction. In the present case, the Petitioner had unauthorizedly absented himself from his duty with the Respondent – RBI. This has led to the passing of the impugned Order compulsory retiring the Petitioner on ground of unauthorized absence.

30. The Supreme Court in *Principal Secretary, Government of A.P Vs. M. Adinarayana (Supra)* has held that findings of the Disciplinary Authority ought not to be interfered with. The truth or otherwise of the charge is a matter of the Disciplinary Authority to go into. The Administrative Tribunal cannot sit as a Court of Appeal over a decision based on finding of the EO in disciplinary proceeding. Here also the Petitioner has sought for this Court in writ jurisdiction to sit as a Court of Appeal over the finding of the EO which is

impermissible.

31. In the other Judgment which has been relied upon by Mr. Kamdar for Respondent – RBI viz. ***General Manager, Appellate Authority, Bank of India Vs. Mohd. Nizamuddin (Supra)***, the Supreme Court has noted the well settled principle of law that the gravity of misconduct must necessarily be measured in terms of the nature of the misconduct. In that case, the Bank Officer holding the post of Middle Management Officer, Grade II which was a responsible post had absented himself unauthorizedly for about three years. This was held to be undoubtedly detrimental to the public interest and cannot be said to be not a grave misconduct which would warrant dismissal from service. In the present case, the Petitioner occupied the post of Senior Assistant of the Respondent – RBI having completed five years of service the Respondent – RBI and would undoubtedly be occupying a responsible post from which he has unauthorizedly absented himself for a similar period of time. Hence, as held by the Supreme Court, such unauthorized absence would undoubtedly be detrimental to the public interest and said to be a grave misconduct which would warrant dismissal from service.

32. At this juncture, it is apposite to refer to the Supreme Court decision in ***State of Punjab Vs. Jit Singh***⁴. The Supreme Court held that in an inquiry with regard to charge of unauthorized absence from duty, if established in departmental proceedings, the punishment to be inflicted lies with the Disciplinary Authority. The Court cannot substitute its own opinion to the punishment so imposed, unless, it was illogical or suffers from procedural impropriety or was shocking to the conscience of the Court.

33. In the given case, none of these exceptions would apply insofar as the impugned Order of compulsory retirement of the Petitioner. Therefore, there is no interference warranted, in the given factual complexion.

34. We may gainfully refer to another recent decision of the Supreme Court in Ram ***Murti Yadav Vs. State of Uttar Pradesh & Anr.***⁵ The relevant portion of the said decision is reproduced below:-

“6.The scope for judicial review of an order of compulsory retirement based on the subjective satisfaction of the employer is extremely narrow and restricted. Only if it is found to be based on arbitrary

⁴ 2009 16 SCC 351

⁵ (2020) 1 SCC 801

or capricious grounds, vitiated by malafides, overlooks relevant materials, could there be limited scope for interference. The court, in judicial review, cannot sit in judgment over the same as an appellate authority. Principles of natural justice have no application in a case of compulsory retirement.”

35. A perusal of the above clearly indicates that the aforementioned decision would squarely apply in the given facts and this Court in judicial review ought not to sit in judgment over the same as an Appellate Authority and that the principles of natural justice would have no application in a case of compulsory retirement.

36. The Petitioner in person has referred to several requests made by him for transfer to Kolkata where his parents permanently reside. These representations of the Petitioner to the Respondent – RBI apart from being prior in point of time, does not justify his unauthorized absence from the post occupied by him with the Respondent – RBI. In the present circumstance, the impugned Order compulsorily retiring the Petitioner from service does not suffer from any infirmity.

37. We accordingly find no merit in the present Petition and hence, the Writ Petition is dismissed with no orders as to costs.

[ADVAIT M. SETHNA, J.]

[R.I. CHAGLA, J.]