

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 6793 OF 2013

INDIAN BANK & ANR.

...Appellant(s)

VERSUS

SECRETARY ALLAHABAD BANK

...Respondent(s)

O R D E R

1) The present appeal has been filed assailing order dated 08.10.2010 whereby the High Court¹ dismissed the Writ Petition² preferred by the appellants and upheld Award dated 12.08.2004 of the CGIT³.

2) The brief facts leading to the present appeal are that on dismissal of the respondent-employee *vide* order dated 16.07.1994 of the Disciplinary Authority confirmed by the appellate authority *vide* order dated 10.07.1998, the matter was referred to the CGIT on the issue whether the action of the

¹High Court of Judicature at Allahabd, Lucknow Bench, Lucknow

²Writ Petition No. 6361/2004

³Central Government Industrial Tribunal-cum-Labour Court, Lucknow

Allahabad Bank in dismissing the services of Shri Vijay Kumar Mishra, Clerk-cum-Cashier, Indira Nagar Branch, Lucknow, was legal and justified and if not, what relief can be granted to the workman. After appreciating the entire evidence so brought in detail, the CGIT *vide* Award dated 12.08.2004 concluded as thus:

"This court has to decide on the basis of evidence before it and I come to the conclusion that the charges levelled against the worker are not proved. The action of the Allahabad Bank in dismissing the services of Sh. V.K. Mishra Clerk-cum-Cashier, Indira Nagar branch is not legal or justified the issue referred is answered against the management of the Bank.

Now the question is what relief the workman is entitled to? The charge on which the workman was dismissed is not proved in this court and therefore the Worker deserves to be reinstated in the service. The trade union has prayed that the full back wages and consequential benefits be awarded to the worker. It has been argued that the worker has been unemployed for the last 10 years. The bank management has not argued that the worker was gainfully employed elsewhere. The only argument which has been forwarded is that it is immaterial if actual loss by the misconduct was cause or not.

Hence, it will be idle to say that as no loss was cause by the theft of Bank's documents, no misconduct was committed. It also not minimise the graveness of misconduct. Thus, as the concerned workman had committed dubious misconduct and has betrayed the confidence reposed in him by the bank, he will be deemed to be not fit to

remain as bank employee as has been observed by Hon'ble Allahabad High Court. Accordingly, nothing short of dismissal would meet the ends of justice and will be commensurate to his misconduct. The learned representative of the opposite party has relied upon 2000 (85) FLR 264, Allahabad High Court, Ram Pratap Sonkar and Chairman and Managing Director, Allahabad Bank and another. I have gone through the above case law. That was for the financial irregularities and he was dismissed on that account. It was in that context the Hon'ble High Court observed that "It must be understood that a bank operates on public confidence and hence greater strictness is required from Bank employee as compared to the employees of other organisations, otherwise the public will lose confidence in the bank." In the present case it is neither a case of financial irregularity nor the charge has been proved / and therefore there is no question of any punishment. In the circumstances when the termination is held as illegal and unjustified the ordinarily worker has to be reinstated with full back wages and consequential benefits. In the circumstances I come to the conclusion the worker be reinstated with full back wages and all consequential benefits. Award passed accordingly."

3) On filing of Writ Petition by the appellant-Bank, the High Court dismissed the same *vide* the impugned judgment dated 08.10.2010. The operative portion of the judgment passed by the High Court is reproduced as under:

"The petitioner-Bank has argued that the domestic inquiry can not be equated with a criminal trial, hence rule of strict proof

required under criminal trial can not be applied in the case of disciplinary proceedings in service law. Number of cases have been cited by Sri Lalit Shukla learned counsel for the petitioner in this regard. I agree with the submission but at the same time find it necessary to draw the distinction of the law laid down by the Courts in this regard with the facts of the present case. It is nobody's case that rule of strict proof should be applied in the matter of disciplinary proceedings but at the same time it is not the purpose of the rulings of the Courts to hang a person on absolutely malafide and unsustainable charges. In the present case the whole charge rests on the premises that certain Bank documents were found in possession of the workman. These documents are said to have been lost by other officers of the Bank earlier. The FIR was lodged in this regard and the case was referred to the CBCID. In paragraph nos. 10 and 11 it has been clearly mentioned that 28 Bank documents were recovered. Some of them were lost from the Aisbagh Branch of the Bank. Name of one Anil Kumar has also come up in this paragraph. A cheque relating to Alambagh Branch is also said to have been received. In paragraph no. 11 it has been clearly mentioned that the matter was referred to CBCID but at the same time the officers of the Bank forgot that neither the police ever arrested VK. Misra with regard to the FIR lodged by the Bank nor any charge-sheet was ever filed by CBCID against VK. Misra, the workman. In such a situation when no action was ever initiated by the police with reference to paragraph no. 11. It has also come that a matter of forgery regarding an account of Smt. Premlata Srivastava was reported to the police but a final report no. 184 of 6.3.1988 was filed in the case. In such a situation when a final report has been submitted in the year 1988 and the CBCID has also not taken any action against the

workman how on the basis of a recovery memo the authenticity of which is doubtful in itself, a charge can be leveled against the workman resulting in his dismissal. When the very basis of the charge/ allegation is not established, any further inquiry in this regard becomes meaningless.

This court put a specific query to Mr. Lalit Shukla during the arguments as to whether any action was taken against those officials through whose possession the said 28 Bank documents were lost. Written instructions have been received by him which is signed by one Rajesh Chaturvedi, the Chief Manager (Personal). Sri Lalit Shukla on the basis of these instructions has made a statement at Bar that no action was taken against any officer who was responsible for the custody of those documents. In such a situation the argument of Sri Lalit Shukla that rule of strict proof of a criminal trial can not be applied to the case of disciplinary proceedings gets diluted to a large extent.

The present case is not a case of 'Benefit of doubt'. It is a case where there is no evidence at all. The second recovery memo if at all can be taken into account again fails the test of Section 100(4). The second recovery memo has not been signed by the wife of the workman. It has been signed only by the Bank officials. The Bank is situated in Chowk, Lucknow while the premises which was raided is situated six kilometers away, hence, the Bank officials can not pass the test of being 'independent and respectable members of that locality'. If the Bank officials were present at the site of the raid, they were not persons of the locality. It is strange that the police officials did not find any independent person of the locality while preparing the two recovery memos. The way Presiding Officer has dealt with the matter and brought about the contradictions in the statements of witnesses can not be faulted in any manner. When the very basis of the charge has not been established at all, any discussion on the manner of inquiry, or of opportunity

being given becomes meaningless.

I have gone through the award carefully. All the grounds which the Bank has taken in challenging the award have been answered in the award itself. It has been argued that there was no need of preparation of list of documents according to the provision of Section 100(7) Cr.P.C. as the recovery was not carried out in connection of any criminal case. This argument falls on its head because if the whole case is based on a recovery memo then to say that veracity can not be questioned by the workman is to negate the fundamental principles of the natural justice. The recovery of Bank documents being the main charge has to be defended and questioned by the workman. I find this argument raised in ground 'H' as well as ground 'E' of the writ petition absolutely misconceived and without application of mind.

As explained above the attempt of the petitioner-Bank to confuse the issue that the Presiding Officer has given a finding as if sitting in a criminal trial, is totally misleading and incorrect appreciation of law on the subject.

I find that the grounds 'I, J, K, L,' are also of the same nature and lack conviction. The ground 'Q' of the writ petition has also been answered in terms of the position stated above. The whole story against the workman is based on alleged accidental recovery of certain documents in regard to which the police has filed a final report in the year 1988. The CBCID has not charge-sheeted the workman. The recovery memo is not in accordance with Section 100(7) Cr.P.C. The search has not been conducted as per the provisions of Section 100(4) Cr.P.C. The recovery memos have been signed by interested witnesses. Enmity with Dr. A.M. Kar has been established, in-fact he is the author of the FIR. The investigation was regarding theft of his car. He has an account in the Bank. He is an influential person of the locality being Head of the department of KGMC. The Bank is known as

'King George's Medical College Branch'. The enmity with Mr. Rawat, the Bank official is also admitted. The documents of alleged recovery are from different branches of the Allahabad Bank of Lucknow. They are said to have been missing since long. No action has been taken against any official of the Bank. It is not on record whether Mr. Anil Kumar son of Sri Srivastava resident of Alambagh, Kanpur Road, Lucknow against whom all the charges have been leveled in para nos. 10 and 11 of the writ petition have been convicted or not. In such circumstances the action of the opposite parties does not inspire any confidence. The award is totally justified and valid. The charge could not be proved.

The findings in the award are impeccable and fortified by arguments and documents. The award is upheld.

The writ petition is dismissed."

4) In view of the Award passed by the CGIT and upheld by the High Court, reinstatement with full backwages and consequential benefits was directed. On filing of Special Leave Petition, this Court vide order dated 17.01.2011, while issuing notice, stayed the operation of the impugned judgment of the High Court and the Award passed by the CGIT. Since then, this appeal is pending.

5) We have heard learned counsel appearing on behalf of the parties at length and after hearing, in the facts, discussions as made by the CGIT

relying upon various documents and the evidence so brought, it cannot be faulted with and the High Court has rightly confirmed those findings.

6) The appellant has already attained the age of superannuation in the year 2018 itself and the matter is still pending. In the said subsequent developments, we maintain the order of reinstatement. So far as grant of consequential benefits is concerned, in particular the back wages from the date of termination till his reinstatement, we reduce the back wages to the extent of 50%, maintaining the other directions as issued by the CGIT and the High Court.

7) With the aforesaid modification in the Award of the CGIT as confirmed by the High Court, we dismiss the present appeal.

8) The Allahabad Bank which is now merged into Indian Bank, joined as a party here, is directed to calculate the arrears and other consequential benefits including 50% back wages within a period of three months and extend such benefits and release

the same within one month thereafter.

9) Pending application(s), if any, shall stand disposed of.

....., J.
[J.K. MAHESHWARI]

....., J.
[ATUL S. CHANDURKAR]

New Delhi;
February 12, 2026.

ITEM NO.107

COURT NO.3

SECTION III-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No. 6793/2013

INDIAN BANK & ANR.

Appellant(s)

VERSUS

SECRETARY ALLAHABAD BANK

Respondent(s)

(IA No. 297029/2025 - AMENDMENT IN CAUSE TITLE)

Date : 12-02-2026 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.K. MAHESHWARI
HON'BLE MR. JUSTICE ATUL S. CHANDURKAR

For Appellant(s) :

Mr. Rajesh Kumar Gautam, AOR
Ms. Likivi Jakhalu, Adv.
Ms. Azal Aekram, Adv.

For Respondent(s) :

Mr. Talha Abdul Rahman, AOR
Mr. M Shaz Khan, Adv.
Mr. Sudhanshu Tewari, Adv.
Mr. Faizan Ahmed, Adv.

UPON hearing the counsel the Court made the following
O R D E R

- 1) The appeal is dismissed in terms of the signed order.
Pending application(s), if any, shall stand disposed of.

(NIDHI AHUJA)
DEPUTY REGISTRAR

(NAND KISHOR)
ASSISTANT REGISTRAR

[Signed order is placed on the file.]