

PLEASE SUBSCRIBE TO THIS LINK AND LIKE THIS PAGE IN FACEBOOK, AND SHARE IT WITH YOUR FRIENDS AND RELATIVES: <https://www.facebook.com/BankBachaoDeshBachao/>

We are delighted to inform that our campaign against Bank privatisation by spreading awareness amongst citizenry through our Facebook page www.facebook.com/BankBachaoDeshBachao has been immensely successful. We have hit the 100K likes threshold. The contents have been appreciated and circulated widely. It is matter of pride that the growth of the page is purely organic and the reach of our page in the last one month has touched 1 million! While the battle against privatisation will be fought on the streets, social media, especially Facebook, can play a significant role in mobilizing public opinion and can reach out to the citizenry. Considering the potential, this number is insignificant; however, we appreciate the effort of our affiliates and members who have taken pains to make the page grow.



A JUG FILLS DROP BY DROP

This issue will reach your hand at a time when the social media campaign on Facebook (www.facebook.com/BankBachaoDeshBachao) against bank privatisation has achieved an important milestone of 100K likes. The campaign, which was launched in July'21, could reach this pinnacle due to the dedicated involvement of the members and the well-wishers throughout the length and breadth of the country. The launching of this social media campaign was supplemented by a tremendously successful Bharat Yatra, which we all know originated from the shores of both Bay of Bengal and the Arabian Sea, traversing through the heartland of the country, striking the chords of stakeholders and finally culminating in a sea of humanity in the national capital. Bankers responded to the retrograde declaration of bank privatization by resorting to two day's strike on 16th and 17th December, 2021. It is a fact that the government has made a strategic 'One step forward, two steps backward' but has not abandoned its privatization plan.

News reports are once again inundated with the news that the government is re-drawing its blueprint of bank privatization emboldened with the favourable election results, particularly in the most populous state of Uttar Pradesh. Elections are fought on different issues, with various sub-issues playing an important part from one state to another. In the given cauldron of the Indian political scenario, seldom has the slant of the economic policies pursued by the government met the people's scrutiny. Hence, the government should not pursue its policy of bank privatization based on the election result of one particular state.

Almost all Central Trade Unions and Sectoral Federations/ Associations have called two days nationwide general strike on 28th and 29th March'22 on several issues including opposing privatisation of Public Sector Undertakings, Banks and other Financial Sector, price rise et al. The issues on which they have decided to call the strike are very close to us. Some affiliates of UFBU also are taking part in the strike. The major issues of the strike are against the anti-worker, anti-farmer, anti-people and anti-national policies" of the central government. These are all signs of simmering discontent amongst the working class in particular and the common masses in general about the growing economic inequalities which have ensured that India earns a dubious distinction of being the poverty infested country as per the latest research paper by PIU Economic Research, a global think tank monitoring the poverty across the globe.

The remaining months of 2022 are also important from the organizational point of view. The next wage revision in the banking industry will be due in November'22. There are many residual issues, the most important being the introduction of 5 day's week and pension updation remaining unresolved. The old defined pension scheme has been re-introduced in Chattisgarh, reversing a trend introduced during the first NDA regime to have a new Pension scheme instead of the defined pension scheme. The Indian Banks' Association has been able to introduce NPS in the banking industry ever since 1st April, 2010. Time has come, taking advantage of the reverse wind blowing amongst the section of lawmakers to reposition the demand to have a unique defined pension scheme in the banking industry instead of highly market-oriented and risky NPS imposed upon

the bankers.

In this context, we cannot lose sight of the developments at Catholic Syrian Bank and Lakshmi Vilas Bank. The issues in Catholic Syrian Bank are as follows:

- ➔ Immediate implementation of the 8th Joint Note/11th bipartite settlement w.e.f. 01.11.2017 and payment of arrears and salaries
- ➔ Stop all anti-labour policies of CSB Management
- ➔ Retract from the move to hijack the Bank for catering to the rich customers alone
- ➔ Restart recruitment of IBA pattern of employment and Convert all the CTC (Cost to Company)/ temporary staff to the IBA pattern on a merit basis

Common Bond extends its militant solidarity with the proposed four-day strike from 28th March to 31st March, 2022. In Lakshmi Vilas Bank, the management intends to replace the existing pension scheme by offering financial allurements, which may have a long-term adverse impact on the income flow of the pensioners. The storyline is the same in the Catholic Syrian Bank and Lakshmi Vilas Bank.

In both these banks, the management has attempted to de-unionise the employees by bringing them outside the ambit of industry-level settlement. Both the banks have been under private management historically. However, both the banks are being under the control of multinationals, who are bent on trampling upon the fundamental trade union rights and the privileges that the workforce is enjoying as a result of years of struggle and sacrifices and convert them to contractual employees,

eventually, with no defined benefits in place. The private owners will do the same thing once they lay their hand on any existing public sector bank. The happenings in CSB and LVB are a pointer to the emerging scenario.

The geopolitical situation is also very uncertain and volatile post the outbreak of war between Ukraine and Russia. Common Bond deplors all acts of aggression and fervently hopes that good sense prevails amongst the warring parties to prevent further loss of precious human lives and destruction of symbols of civilisation. We are afraid that the war will seriously affect the international monetary and commodity markets with spillover effects in India which is already reeling under an unprecedented economic crisis. Our experience suggests that the ruling class pass on the adverse impacts on the economy to the common citizenry and use such incidents as an alibi for carrying out their designs of anti-working class policies.

Hence, there is no room for complacency. We could indeed break the barriers and can build a bridge with our stakeholders through such social media campaigns and militant action on the streets to encounter the challenging times ahead. We have to finalise the charter of demands and take all possible steps to see that the talks for the next wage revision commences immediately. All the unsettled issues of the last wage settlement must be resolved on a war footing. The fight for economic benefits needs to be supplemented with a relentless struggle to keep the public sector character of Indian banking intact. This struggle needs to be synchronized with a broader spectrum encompassing the entire democratic masses so that the decisive blow can be inflicted upon the draconian anti-people policies being pursued by the power that be.

As we bid farewell to the spring and embrace

THERE HAS TO BE EVIL SO THAT GOOD CAN PROVE ITS PURITY ABOVE IT

the long summer season, we should also keep our gunpowder dry, shedding all forms of complacencies and be battle-ready at the call of the Confederation. 100K following needs to be increased manifold with a more innovative approach to winning over the vast mass of people behind our movement. We repeat, our movement to save banks, private, public, rural, and co-operative are part of a struggle to uphold our motherland's economic sovereignty. Indeed,

the slogan #BankBachaoDeshBachao is now a synonym for the struggles of so many other sectors and an issue of deep-rooted conviction and commitment for all of us.

March on comrades,

#NationAgainstPrivatisation
#StrikeHard
#PowerofUnity
#BankBachaoDeshBachao

ORGANISATION

We are reproducing the full text of AIBOC circular to all affiliates on the two days national strike called by almost all Central Trade Unions and Sectoral Federations/ Associations on the 28th and 29th March, 2022.

Circular No. 2022/10

Date: 21.03.2022

Dear Comrades,

Fraternal Support to Nationwide General Strike on 28th & 29th March Called by Central Trade Unions and Sectoral Federations/ Associations

You are aware that almost all Central Trade Unions and Sectoral Federations/ Associations have called two day nationwide general strike on 28th & 29th March'22 on several issues including opposing privatisation of Public Sector Undertakings, Banks and other Financial Sector, price rise et al.

02. The issues on which they have decided to call the strike are very close to us. Some affiliates of UFBU also are taking part in the strike. We request all our affiliates to address Dharnas / Demonstrations convened in support of the strike, if invited and convey our fraternal support for the cause.

03. In this connection, we advise our affiliates that our members shall not demand or accept any keys and shall not perform clerical duties on the days of strike.

With vibrant greetings,

Yours sincerely,

Sd/-

(Soumya Datta)
General Secretary

OVERCOME ANGER BY LOVE, EVIL BY GOOD

CIRCULARS

06 dated 24th February, 2022: Text of UFBU Letter No. 2022/02 dated 23.02.2022 to all constituent unions on demand for early resolution of pending and residual issues.

07 dated 07th March, 2022 : Circular on Tax on perquisite value of accommodation W.P.NO. 14126/2008 in the matter of AIBOC VS. Union of India and Others.

08 dated 07th March, 2022 : Circular on Tax on perquisite value U/s 17(2) of Income Tax Act, 1961 as amended by Finance Act, 2007; Appeal against Final Judgement Order dated 20.04.2016 in W.P. NO. 10053 of 2008 of Madras High Court; AIBOC Appeal in Supreme Court of India, Special Leave Petition No. 4327/2017.

09 dated 08th March, 2022 : Circular on International Women's Day - #BreakTheBias.

10 dated 21st March, 2022 : Circular on Fraternal Support to Nationwide General Strike on 28th & 29th March Called by Central Trade Unions and Sectoral Federations/ Associations.

11 dated 25th March, 2022: Strike in CSB Bank Ltd., from 28th March, 2022 to 31st March, 2022.

JUDICIAL VERDICT

**2022 LLR 242
SUPREME COURT OF INDIA
Hon'ble Mr. K.M. Joseph, J.
Hon'ble Mr. S. Ravindra Bhat, J.
CA No. 8258/2009, Dt/-31-1-2022**

**United Bank of India
Vs.
Biswanath Bhattacharjee**

A. DISMISSAL – When justified – Branch Manager in Bank was dismissed from service after holding enquiry providing him guilty of charges of misappropriation – Employee challenged dismissal order in writ petition which was dismissed – Employee filed writ appeal which was allowed – Management challenged order of High Court in appeal before Supreme Court – Held, charges against the employee were of misappropriation of money – Division Bench of High court set aside judgment of writ court holding that there is lackness of evidence proving charges of misappropriation – Bank employees are expected to display a degree of integrity of a higher standard than other employees since they have to deal with others' monies – Confessional statement by witness has not been proved by any independent witness – Delinquent employee could not be made a scapegoat for the confession of others – Charge sheet was issued after seven years of incidence – Hence, appeal is unmerited and dismissed.

THREE THINGS CANNOT BE LONG HIDDEN: THE SUN, THE MOON AND THE TRUTH

B. CHARGE-SHEET – Served after 7 years – Effect of – Held, charge – sheet was issued seven years after transfer of the delinquent employee from concerned branch – Complicity of major charges of misappropriation could not be proved in the absence of relevant documents.

C. ENQUIRY – Whether fair and proper – Charge-sheet was served upon the delinquent employee after 7 years – By that time other managers had taken over the branch – Relevant original documents could not be produced in enquiry – Confessional statement was not corroborated by any independent witness – Enquiry finding based on a document not even admitted into evidence and not signed and accepted by delinquent employee, is not fair and proper.

D. REINSTATEMENT – Justification of – Enquiry finding was held to be perverse due to lack of documentary evidence – Consequently punishment of dismissal was set aside – Bank has been directed to ensure that the respondent's services are deemed to be reinstated, with all benefits including arrears of salary, pay increase (as applicable), increments, and all consequential benefits including terminal benefits, pension etc.

E. STANDARD OF PROOF – Departmental enquiry – Held, no doubt in departmental enquiry the standard of proof in preponderance of probability and not strict rule of evidence as applicable in criminal trial, but the requirement of burden of proof, namely, preponderance of probability has to be satisfied by way of cogent independent evidence, particularly when the charges are of misappropriation of public money – Mere photocopy of documents not signed by delinquent employee nor admitted in evidence is not to be taken into evidence.

F. CONSTITUTION OF INDIA – Article 226 – Judicial review – Scope of – Held, interference under Article 226 of the Constitution is warranted

where there is no evidence to establish the official's guilt, where the department is acting mala fide or the conclusion of department is not supported of a particular conclusion – But High Court can and must enquire whether there is any evidence at all in support of the impugned conclusion but avoiding weighing the evidence.

IMPORTANT POINTS

Bank employees are expected to display a degree of integrity of a higher standard than other employees since they have to deal with others' monies.

Only on the basis of uncorroborated confessional statement by a witness, the delinquent employee could not be made a scapegoat imposing upon his punishment of dismissal from service.

Complicity of major charges of misappropriation could not be proved in the absence of relevant documents.

Issuance of a charge-sheet seven years after transfer of the delinquent employee from concerned branch, without production of original documents is not sustainable.

Departmental enquiry would not be fair and proper when the charge-sheet was served upon the delinquent employee after 7 years and by that time many other managers had taken over the branch, in the absence of relevant original documents.

Enquiry finding based on a photo copy of a document, not admitted into evidence and not signed and accepted by delinquent employee, is not fair and proper.

When punishment of dismissal is set aside, the delinquent employee is entitled to reinstatement with all consequential benefits and back wages.

BETTER THAN A HUNDRED YEARS OF IDLENESS IS ONE DAY SPENT IN DETERMINATION

Though standard of proof of charges leveled against the delinquent employee in departmental enquiry is preponderance of probability and not strict rule of evidence as applicable in criminal trial, nit the requirement of burden of proof, namely, preponderance of probability has to be satisfied by way of cogent independent evidence, particularly when the charges are of misappropriation of public money.

Mere photocopy of a document not signed by delinquent employee nor admitted in evidence is not to be taken into evidence.

Interference, by the High court, under Article 226 of the Constitution is warranted where there is no evidence to establish the official's guilt, where the department is acting mala fide or the conclusion of department is not supported by any evidence.

High Court cannot consider the question about the sufficiency, or adequacy of evidence in support of a particular conclusion but it can and must enquire whether there is any evidence at all in support of the impugned conclusion, avoiding weighing the evidence.

JUDGEMENT

S. Ravindra Bhat, J.-1. The appellant (hereafter called "the bank") is aggrieved by a judgment of the Calcutta High Court (Dated 16.12.2008 in FMA 2696/2007) By the impugned judgment, the division bench set aside the decision of a learned single judge of the High Court; the single judge had dismissed the challenge by the respondent (writ petitioner- hereafter called "the employee") to his dismissal from the bank's service.

2. The employee was initially appointed as a cashier-cum-clerk by the bank, on 18.01.1971. Later, he was promoted to Junior Management

Officer Grade Scale-1. He served as branch manager of the bank's Chandabila branch from 14.12.1988 to 30.05.1990. Disciplinary proceedings were initiated against him when a charge sheet on 23.10.1997 alleging his complicity in five major charges (stated in paragraph 15 below) was issued by the bank. The charge sheet was issued seven years after he was transferred from the Chandabila branch. During this time several audits were conducted in terms of the norms stipulated by the Reserve Bank of India.

3. The allegations against the employee pertained to the period when he was posted as Manager in the said Chandabila branch. The charge sheet alleged that he disbursed loan in favour of twelve fictitious persons in connection with the Integrated Rural Development Project (hereafter called "IRDP") introduced by the Central Government.

XXXXXX

The bank alleged that the applications were forwarded to DRDA which in turn released ₹ 4,68,833/- towards subsidy. However, the bank's subsidy register reflected only ₹ 4,08,833/-, and did not reflect the remainder of ₹ 60,000/- along with the names of the twelve beneficiaries who purportedly received the said amount. The bank also alleged that the loan register showed that the loan and the subsidy was given to twelve beneficiaries against SSI account nos. 45/90 - 56/90. The employee / respondent denied the allegations. Other charges were that the employee, in connivance with another employee, deliberately ensured that the relevant papers were missing; more seriously it was alleged that the amount of ₹ 60,000/- forming the subsidy component, (of the total ₹ 1,20,000/- disbursed to the beneficiaries) was misappropriated. The employee denied these allegations. The bank proceeded to conduct an enquiry.

YOU WILL NOT BE PUNISHED FOR YOUR ANGER, YOU WILL BE PUNISHED BY YOUR ANGER

4. XXXXXX

5. XXXXXX

Contentions of the bank

6. XXXXXX

7. XXXXXX

8. XXXXXX

9. XXXXXX

10. XXXXXX

Contentions of the employee

11. XXXXXX

12. XXXXXX

13. XXXXXX

14. XXXXXX

15. XXXXXX

Discussion and conclusions

16. In one of the earliest decisions of Union of India v. H.C. Goel, (1964) 4 SCR 718 relating to departmental proceedings, this court observed that where a public servant is punished for misconduct after a departmental enquiry is conducted, a clear case where interference under Article 226 of the Constitution is warranted is when there is no evidence to establish the official's guilt.

“22.... The two infirmities are separate and distinct though, conceivably, in some cases both may be present. There may be cases of no evidence even where the Government is acting

bona fide; the said infirmity may also exist where the Government is acting mala fide and in that case, the conclusion of the Government not supported by any evidence may be the result of mala fides but that does not mean that if it is proved that there is no evidence to support the conclusion of the Government, a writ of certiorari will not issue without further proof of mala fides. That is why we are not prepared to accept the learned Attorney General's argument that since no mala fides are alleged against the appellant in the present case, no writ of certiorari can be issued in favour of the respondent.

23. That takes us to the merits of the respondent's contention that the conclusion of the appellant that the third charge framed against the respondent had been proved, is based on no evidence. The learned Attorney General has stressed before us that in dealing with this question, we ought to bear in mind the fact that the appellant is acting with the determination to root out corruption, and so, if it is shown that the view taken by the appellant is a reasonably possible view this Court should not sit in appeal over that decision and seek to decide whether this Court would have taken the same view or not. This contention is no doubt absolutely sound. The only test which we can legitimately apply in dealing with this part of the respondent's case is, is there any evidence on which a finding can be made against the respondent that Charge 3 was proved against him? In exercising its jurisdiction under Article 226 on such a plea, the High Court cannot consider the question about the sufficiency or adequacy of evidence in support of a particular conclusion. That is a matter which is within the competence of the authority which deals with the question; but the High Court can and must enquire whether (1964) 4 SCR 718. there is any evidence at all in support of the impugned conclusion. In other words, if the whole of the

evidence led in the enquiry is accepted as true, does the conclusion follow that the charge in question is proved against the respondent? This approach will avoid weighing the evidence. It will take the evidence as it stands and only examine whether on that evidence legally the impugned conclusion follows or not. Applying this test, we are inclined to hold that the respondent's grievance is well founded, because, in our opinion, the finding which is implicit in the appellants order dismissing the respondent that Charge 3 is proved against him is based on no evidence."

17. XXXXXX

18. Other decisions have ruled that being a proceeding before a domestic tribunal, strict rules of evidence, or adherence to the provisions of the Evidence Act, 1872 are inessential. However, the procedure has to be fair and reasonable, and the charged employee has to be given reasonable opportunity to defend himself (ref: Bank of India v. Degala Suryanarayana (1999) 5 SCC 762 a decision followed later in Punjab & Sind Bank v. Daya Singh (2010) 11 SCC 233. In Moni Shankar v. Union of India (2008) 3 SCC 484 this court outlined what judicial review entails in respect of orders made by disciplinary authorities:

"17. The departmental proceeding is a quasi-judicial one. Although the provisions of the Evidence Act are not applicable in the said proceeding, principles of natural justice are required to be complied with. The courts exercising power of judicial review are entitled to consider as to whether while inferring commission of misconduct on the part of a delinquent officer relevant piece of evidence has been taken into consideration and irrelevant facts have been excluded therefrom. Inference on facts must be based on evidence which meet the requirements of legal principles. The Tribunal was, thus, entitled to arrive at its own conclusion on the premise that the evidence adduced by the Department, even if it is taken on its face

value to be correct in its entirety, meet the requirements of burden of proof, namely, preponderance of probability. If on such evidence, the test of the doctrine of proportionality has not been satisfied, the Tribunal was within its domain to interfere."

XXXXXX

19. The bank is correct, when it contends that an appellate review of the materials and findings cannot ordinarily be undertaken, in proceedings under Article 226 of the Constitution. Yet, from H.C. Goel onwards, this court has consistently ruled that where the findings of the disciplinary authority are not based on evidence, or based on a consideration of irrelevant material, or ignoring relevant material, are mala fide, or where the findings are perverse or such that they could not have been rendered by any reasonable person placed in like circumstances, the remedies under Article 226 of the Constitution are available, and intervention, warranted. For any court to ascertain if any findings were beyond the record (i.e., no evidence) or based on any irrelevant or extraneous factors, or by ignoring material evidence, necessarily some amount of scrutiny is necessary. A finding of "no evidence" or perversity, cannot be rendered sans such basic scrutiny of the materials, and the findings of the disciplinary authority. However, the margin of appreciation of the court under Article 226 of the Constitution would be different; it is not appellate in character.

20. XXXXXX

21. Coming now to the charges, it can be seen that MW 1, the management witness, who deposed about the procedure in the bank, for recording entries in the subsidy register, clearly stated that at the relevant time, some entries were made by the respondent, and some by Sri Madan Mohan Saha, who "used to maintain the subsidy register on most occasions." He also deposed that it was Sri Madan Mohan Saha's duty as the

cashier to maintain the subsidy register. Saha failed to discharge that duty. In view of this evidence, and no contrary documentary evidence casting the primary responsibility to maintain the subsidy register on the respondent, the impugned judgment, in this court's opinion, cannot be faulted with in concluding that there was no material to prove the first charge against the employee. As regards the second charge of misappropriation of subsidy amount from twelve individuals, whose names were fraudulently introduced, the bank relied on the depositions of seven persons. They were identified by Sri Haradhan Bera (MW2), himself at the time Pradhan, Chandabila Gram Panchayat. MW 2's identity was challenged at the outset by the respondent; he did not produce any identity proof. The enquiry officer did not rule on this. The impugned judgment concluded that in the absence of proof of Sri Haradhan Bera's identity, and any independent material, with respect to the seven In Administrative Law, 2nd edn., p. 584. alleged beneficiaries, their identity was not independently proved. Additionally, there had to be some material, linking the employee (respondent) with the applications, introducing the borrowers, etc. MW-1, the subsequent manager, clearly deposed in reply to a query (question no. 8) as to who used to "identify the borrowers" before sanction and disbursement of IRDP loans, that the "Pradhan/Member of Gram Panchayat" used to identify the beneficiaries. Such being the case, the involvement of the respondent employee had to be shown by more definitive evidence. It is again a matter of record, that the then Pradhan of the Gram Panchayat, Sri Subhendu Kumar Das, identified the borrowers. In these circumstances, even in departmental proceedings, there had to be some overt evidence, and not mere suspicion, to support a valid finding of complicity of the respondent. In these circumstances, the impugned judgment cannot be faulted within its findings on the second charge.

22. The third charge of misappropriation of the entire loan and subsidy amount in connivance with Sri Subhendu Kumar Das and Sri Madan Mohan

Saha was based on a confessional statement (document 'X'). A copy of that document is on record. The relevant part reads as follows:

"Today on dated 3.3.94, in the presence of Manager babu of UBI, Chandabila Branch the statement of Cashier babu (Madan Mohan Saha) has been recorded in the presence of following persons. The loan amount in respect of I O IRDP loan from A/c. No. SSI- 45/90 to 54/90 were equally shared by we four of us, namely (1) Sri Subhendu Das, (2) Sri Biswanath Bhattacharyya, (Manager) (3) Sri Madan Mohan Saha (Cashier), (4) Basudeb Roy (Peon). The above loan amount were liquidated by we the four persons and subsidy amount were also received by four of us.

Sd/- Sri Subhendu Kumar Das, 3/3/94
Sd/- Madan Mohan Saha, 3/3/94

The above mentioned discussion and confession were held today at 12.30 P.M. in my presence. The discussions were completed peacefully.

Sd/- Manager - 3/3/94
With Manager's Office Seal.
Attested
By Manager with seal
15.3.94"

The document was witnessed by six persons (Sri S.K Sukhjan Ali, Sri Santosh Kumar Saha, Sri Trilochan Singh, Sri Suresh Chandra Das, Sri Nabin Suri and Sri S.K. Washef Hussain). The document was not exhibited. Undeniably:

- (a) The respondent did not sign the confession.
- (b) The confessional statement dated 03.03.1994 was made by Sri Subhendu Kumar Das and Sri Madan Mohan Saha, which was attested by an officer of the bank.
- (c) The confession was an admission as far

HE WHO SEEKS HAPPINESS BY HURTING WILL NEVER FIND IT

as its makers were concerned. The impugned judgment held that this document could not be used against the employee respondent to fasten him with liability for alleged misappropriation. The finding based on a document not even admitted into evidence and not signed and accepted, by the appellant was held to be perverse.

23. This court previously had an occasion to deal with a departmental proceeding that culminated in a penalty, where the enquiry was based on the confessional statements made to the police and no other material. The court, in *Roop Singh Negi v. Punjab National Bank* (2009) 2 SCC 570 held such evidence to be inadequate:

“15. We have noticed hereinbefore that the only basic evidence whereupon reliance has been placed by the enquiry officer was the purported confession made by the appellant before the police. According to the appellant, he was forced to sign on the said confession, as he was tortured in the police station. The appellant being an employee of the Bank, the said confession should have been proved. Some evidence should have been brought on record to show that he had indulged in stealing the bank draft book. Admittedly, there was no direct evidence. Even there was no indirect evidence. The tenor of the report demonstrates that the enquiry officer had made up his mind to find him guilty as otherwise he would not have proceeded on the basis that the offence was committed in such a manner that no evidence was left.”

There are decisions of this court (*J.D. Jain v Management of State Bank of India*, (1982) 1 SCC 143 and *State Bank of India v Hemant Kumar*, (2011) 2 SCC 22 where witness depositions which stated that the charged employee had previously confessed or admitted his role and guilt, were held to be admissible. In the present case, however, the confessional statement was not by the respondent.

Those who authored the confession, did not depose in the enquiry. Furthermore, no witness who heard the authors of the confession, deposed to it. At best then, that document bound the authors, not third parties, like the respondent. The enquiry officer clearly erred by relying on such extraneous matters, as the respondent could not be made a scapegoat for the confession of others, especially with regard to his role. The bank's charge about his complicity had to be proved by evidence. This document, containing others' confession, could not have been used against him.

24. As far as the other two charges go, the division bench correctly held that there was no evidence to show that the respondent had removed the documents, from the bank. Importantly, he was charged seven years after the alleged incident; by that time other managers had taken over the branch. As regards the last charge of transferring amounts through three demand drafts from the account of Sri Madan Mohan Saha to Joint S.S. Account of Sri Haradhan Bera on 28.06.94 was concerned, the enquiry officer noted that, “Sri Haradhan Bera in his evidence avoided the matter for some reasons best known to him.” In the absence of any other material, the finding that the amounts had been misappropriated by the respondent, who in connivance with Sri Madan Mohan Saha, and Sri Subhendu Kumar Das, ensured that the loan component was returned to the bank, cannot be said to have been established.

25. An interesting side is this - Sri Madan Mohan Saha, who confessed to the misconduct, was charged and proceeded with departmentally. The confession of guilt, which he owned up to, nevertheless resulted in a mild penalty of withholding of increments. However, the respondent, who did not admit his guilt, or confess to it, and in respect of whom there was no credible evidence, even going by the lower standards of acceptable proof in departmental inquiries, was held to be guilty and visited with the penalty of

COMMON BOND ENGLISH MONTHLY-R.N.I.NO:36648/82-TOTAL NO.OF PAGES 12 APRIL - 2022

REGN. NO. KRNA/BGE - 1122/2020-2022 PUBLISHED ON 25-03-2022

POSTED AT BANGALURU PSO, MYSORE ROAD, BANGALURU - 560 026 / ON 2ND OF EVERY MONTH

LICENCED TO POST WITHOUT PRE-PAYMENT-LICENCE NO. PMG BG/WPP 330/2020-2022

dismissal. A reading of the disciplinary authority's order reveals that his past record of minor misconduct played a major role in determining his guilt, despite lack of evidence, and the extreme penalty of dismissal.

26. In view of the foregoing discussion, and having regard to the record, the impugned judgment cannot be faulted with. The appeal is unmerited. The appellent bank is directed to ensure that the respondent's services are deemed to be reinstated, and calculate all his benefits, including arrears of salary, pay increase (as applicable), increments, and all consequential benefits, and calculate his terminal benefits, and fix his pension, if admissible to him under the bank's regulations. The determination of these benefits shall be undertaken, and the payment of all amounts be made, within three months from date of this judgment.

The appeal is dismissed without order on costs.

**"COMMON BOND" APRIL 2022
(FORM IV RULE 8)**

1. Place of publication : Bangaluru -560 001.
2. Period of the publication : Monthly
3. Printer's Name : **Shri. Ranga Reddy R.K.**
(L.V. Graphic)
Whether citizen of India : Yes
Address : L.V. Graphic,3968, 7th Cross,
2nd Main, Gayatri Nagar,
BANGALURU-560 001.
4. Publisher's Name : **Shri Soumya Datta**
Whether citizen of India : Yes
Address : SBI Bldgs.,St. Mark's Road,
BANGALURU-560 001.
5. Editor's Name : **Shri Soumya Datta**
Whether citizen of India : Yes
Address : 6th Floor, E Block,
Samriddhi Bhavan1, Strand Road,
Kolkata - 700001
6. Names and addresses of individuals who own the Newspaper and partners or shareholders holding more than one percent of the total capital : **All India Bank Officers' Confederation**
6th Floor, E Block,
Samriddhi Bhavan 1, Strand Road,
Kolkata - 700001

I. Soumya Datta, hereby declare that the particulars given above are true to the best of my knowledge and belief.

Bangaluru
25.3.2022

Sd/-
(SOUMYA DATTA)
PUBLISHER

..Subscribe.....Establish....."Common Bond"

An Official Publication Of AIBOC

EDITORIAL BOARD

Editor: Soumya Datta

Member: Comrade Murali Soundararajan T.

RATES OF SUBSCRIPTION: ANNUAL: ₹ 30/-

Drafts Should be Drawn

IN FAVOUR OF AIBOC AND MAILED TO

ALL INDIA BANK OFFICERS' CONFEDERATION

C/O STATE BANK OF INDIA OFFICERS' ASSOCIATION

(Bengal Circle)

**6th Floor, E-Block, Samriddhi Bhavan, 1, Strand Road,
"Kolkata - 700001" (2210-1234, Fax (033)2210-2210**

E-mail: aiboc.sectt@gmail.com

Web site: http://www.aiboc.org

REGISTERED NEWS PAPER

TO

**LICENSED TO POST
WITHOUT
PREPAYMENT**

If Undelivered Please Return To

The All India Bank Officers' Confederation

SBI Buildings, St.Mark's Road, Bangaluru - 560 001.

Printed & Published/Edited by Shri Soumya Datta on behalf of AIBOC, at State Bank Building, St.Mark's Road Bangaluru-560 001. Printed by Shri. Ranga Reddy, at L. V. Graphics 3968, 7th Cross, 2nd Main, Gayathri Nagar, Bangaluru - 560 021.