

2022 SCC OnLine TS 2892

In the High Court of Telangana at Hyderabad
(BEFORE SUREPALLI NANDA, J.)

Arjun Bathini ... Petitioner;

Versus

Union Bank of India, Rep. by Managing Director and
Chief Executive Officer and Others ...
Respondents.

W.P. No. 32572 of 2022

Decided on October 27, 2022

Advocates who appeared in this case:

Counsel for the Petitioner : Sri. Nageshwar Rao Pujari

Counsel for the Respondents : Mrs. V. Umadevi, S.C. for Union Bank
of India

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus to declare the action of the Respondent No. 3 in issuing the Articles of Charge in Ref. No. CO : ERD : OS : MISC : 341 : 2022 dated 01-08-2022 as illegal, arbitrary, unconstitutional, and violation of Articles 14, 16, 19 and 21 of the Constitution of India besides being in violation of Service Rules and Union Bank of India Officers Employee's (Conduct) Regulations, 1976 and set aside the Articles of Charge in Ref. No. CO : ERD : OS : MISC : 341 : 2022 dated 01-08-2022 issued by the 3rd Respondent.

IA NO. 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further Proceedings in Articles of Charge in ref. No. CO : ERD : OS : MISC : 341 : 2022 dated 01-08-2022 issued by the 3rd respondent, pending disposal of the writ petition.

IA NO. 2 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondent No. 3 to consider petitioner reply dated 10-08-2022 given to Articles of Charge in Ref. No. CO : ERD : OS : MISC : 341 : 2022 dated 01-08-2022, pending disposal of the writ petition.

IA NO. 3 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in CO : ERD : 3784 : 2022 dated 17-08-2022 issued by the 3rd respondent to the petitioner herein, pending disposal of this writ petition.

The Order of the Court was delivered by

SUREPALLI NANDA, J.:— Heard learned counsel for the petitioner and learned standing counsel appearing for the respondents.

2. This writ petition is filed to issue writ of Mandamus to declare the action of the 3rd Respondent in issuing the Articles of Charge in Ref. No. CO : ERD : OS : MISC : 341 : 2022 dated 01-08-2022 as illegal, arbitrary, unconstitutional, and violation of Articles 14, 16, 19 and 21 of the Constitution of India besides being in violation of Service Rules and Union Bank of India Officers Employee's (Conduct) Regulations, 1976 and to set aside the Articles of Charge in Ref. No. CO : ERD : OS : MISC : 341 : 2022 dated 01-08-2022 issued by the 3rd Respondent.

3. The case of the petitioner, in brief, is as follows:

- a) The petitioner has joined the respondent bank on 16.04.2000 as Senior Manager, MIMGS-111 Officer. Currently, the petitioner is working as Senior Manager, at SAM Branch, Regional Office Koti and the petitioner is also the General Secretary of Union Bank Officers Congress - A.P. & Telangana States, which is affiliated to AIUBOC/INBOC/INTUC. The petitioner has an impeccable service record and have been working diligently towards the Bank and have been fulfilling his duties with utmost respect towards his service.
- b) As General Secretary of Officers Union, in the petitioner's representative capacity, the petitioner used to represent the problems/concerns of Officers and violations in implementing the laid down guidelines and policies framed by Bank and Government and the same were taken to the notice of the management. During this, the petitioner has raised a lot of concerns and the same were dealt by the management of the Bank.
- c) The Union Bank Officers Congress, A.P. & Telangana States issued a circular No. 2/2022, dated 11-03-2022 with subject matter sudden demise of Mr. T. Ravi Kumar, CM because of vindictive and inhuman behaviour of Mr. Kabir Bhattacharya-FGM, Hyderabad and Mr. C.V.N. Bhaskara Rao, RH, Panjagutta and the same was circulated to all members and to the concerned Bank Officials.
- d) The Union Bank Officers Congress, A.P. & Telangana States wrote a letter No. UBOC : 98 : 2022, dated 12-03-2022 to the 1st

Respondent with the same subject matter in circular 2/2022 dated 11-03-2022 issued by the Union and hoped that they value human life and deliver justice. That the union issued letter No. 99/2022 dated 19-03-2022 to the General Manager, FGM Office, Secunderabad, Union Bank of India condemning his actions.

- e) The 4th Respondent issued Memo HR : SEC : 21 : 2022 dt. 2.05.2022 asking the petitioner to show cause as to why appropriate disciplinary action should not be initiated against the petitioner for acts/omissions on his part. But the entire allegations levelled against the petitioner were baseless and vindictive. Further on 04.05.2022, the petitioner has given a detailed reply to the memo HR : SEC : 21 : 2022, dt. 2.05.2022, explaining his stand point as to how the complete allegations levelled against the petitioner were baseless.
- f) The 3rd Respondent issued articles of charge in Ref. No. CO : ERD : OS : MISC : 341 : 2022, dated 01-08-2022 calling upon the petitioner to submit his written statement of defence within 7 days of receipt thereof as to why disciplinary action should not be initiated against him. Aggrieved by the articles of charge in Ref. No. CO : ERD : OS : MISC : 341 : 2022, dated 01.08.2022 issued by the 3rd Respondent, this present writ petition is filed before this Court.

4. The counter affidavit filed on behalf of the respondents, is as follows:

- a) The petitioner mentions about the death of Mr. T. Ravi Kumar, CM of the Bank, and refers to the names of Mr. Kabir Bhattacharya-FGM, Hyderabad and Mr. CVN Bhaskara Rao, RH. Panjagutta, as though these persons were responsible for the sad demise of Mr. T. Ravi Kumar. The petitioner also, with utmost certainty and non-chalance, mentions that the same was circulated to all members and to the concerned bank officials
- b) In the petitioner's Defence Statement, under point No. 1, the petitioner claims that he has forwarded a message through WhatsApp to Mr. CVN Bhaskara Rao and adds that he did this with good intention and as a known accomplice. The petitioner also claims that "WhatsApp is a digital platform that allows its users to create and share the content of their choice and it supports every person to speak of their rights". The petitioner has to understand that he has got this grossly wrong as we do not have a right to share the contents of our choice and that we have to use discretion before authoring or circulating any messages, especially when we know that the contents are controversial or objectionable.
- c) The petitioner faults the bank for issuing an AOC to him and

warns that it may lead to damage to the name and fame of the bank, if spreads further by media. Being a responsible officer employee, the Petitioner should restrain himself in sharing the messages containing abusive & defamatory content to tarnish the image of aforesaid top executive of Bank without ascertaining the veracity of the, content.

- d) The petitioner, holding the position of an Senior Manager since 2009, has to understand that as long as the chats are private, the bank does not interfere and he has to remember that the bank never interfered or checked his WhatsApp chats but the problem arises when the WhatsApp is misused to wantonly and deliberately circulate rumours which defame officials and bring disrepute to the bank and its top executives. The Petitioner, being an officer employee, has the duty to protect bank/its top executives against malicious content/campaign in social media.
- e) The writ petition filed is not maintainable as there is no violation of any rules having statutory force. It is an aborted effort on the part of the petitioner to thwart disciplinary proceedings without any cause of action. The petitioner has violated all the facts of decency and decorum by circulating offensive letters on WhatsApp group in a way so as to tarnish the banks image and reputation and pass disparaging comments against the top executives of the bank. Therefore, a Show Cause Notice was issued to the petitioner.
- f) The explanation submitted by the petitioner to the Show Cause Notice issued earlier has not been found satisfactory. The Hon'ble Supreme Court and this Court repeatedly held that Charge Sheet is not liable to be questioned unless it adversely affects the rights of the employee and does not give rise to any cause of action.
- g) he Petitioner himself has accepted that though he is not the author of the WhatsApp message and the said message did not originate from him but he passed the message received by him. Alongside the petitioner is holding the post of General Secretary of the Union Bank Officers' Congress (AP & Telangana States). The other office bearer of the union Shri M.M. Bhaskara Rao (Retired Chief Manager) & Chairman of Union Bank Officers' Congress (AP & Telangana States) has signed the letter which was directed against the then FM Shri Bhattacharya and the then RH Punjagutta Shri CVN Bhaskara Rao and this was undoubtedly derogatory in nature.
- h) The petitioner has circulated the message dated 19.03.2022 wherein offensive remarks were made against the Field General Manager on denying permission to conduct condolence meeting on 18.03.2022. The letter signed by one of the office bearers was

shared by the other office bearer i.e., the petitioner in Whatsapp which indicates lack of sensitivity on the part of the petitioner. Thus, there exists mala fide intention on the part of the petitioner in forwarding the referred false messages.

- i) The contention of the petitioner that there is a violation of the said guidelines on the part of the management of the bank is not true and correct, The action undertaken by the bank by issuing Articles of Charge is in tune with the UBI Officer Employees (Conduct) Regulations and it is neither vindictive nor mala fide as alleged by the petitioner. The Articles of Charge issued to the petitioner contain the relative evidences as to the indiscipline and acts of unbecoming of an officer employee and accordingly he has been charged.
- j) The contents of the circular targeting senior executives Shri Kabir Bhattacharya, the then Field General Manager, Hyderabad and Shri CVN Bhaskar Rao, the then Regional Head, Punjagutta are insensitive and obnoxious in nature with the intention to vilify them and make them unpopular in the eyes of the employees as well as receivers of the said message. In the case at hand, there was a motivated plan on the part of the petitioner to create restlessness and hatred among his colleagues against the top executives of the Bank. k) Therefore, prayed to dismiss the writ petition.

5. The main contentions putforth by the learned counsel appearing on behalf of the petitioner are:

- (1) The charges are vague,
- (2) There is no direct evidence to link the petitioner to the charges levelled against the petitioner.
- (3) The entire enquiry proceedings initiated against the petitioner are vitiated and in clear violation of principles of natural justice.
- (4) There is no evidence on record to prove that the petitioner is the originator of the letters forwarded on whatsapp Group on 12.03.2022 and 13.03.2022 nor the whatsapp image forwarded on 15.03.2022.
- (5) All the allegations levelled against the petitioner are completely false and fabricated since the petitioner never made any derogatory remarks on the Executives of the Bank or disobeyed any reasonable orders issued by them.
- (6) Any electronic record to be admitted as evidence has to be accompanied by the 65-B certificate and any oral evidence with regard to the electronic record is squarely barred under Section 92 of the Indian Evidence Act.
- (7) The allegations levelled against the petitioner are on electronic

record basis and the Apex Court authoritatively ruled that certificate under Section 65-B is a condition precedent to the admissibility of the evidence by way of electronic record.

- (8) That the petitioner always maintained good conduct and discipline and discharged his duty with utmost integrity, honesty, devotion and diligent and did nothing which is unbecoming of an employee.
- (9) The petitioner is neither an author nor originator of the letter 19.03.2022 signed by Sri. M.M. Bhaskar Rao.
- (10) That all the purported allegations levelled against the petitioner are baseless, vindictive, ill-motivated and not at all related to the petitioner and just because the petitioner is a Member and General Secretary of Union Bank Officer, Congress-AP&TS, the memo was issued at the instance of the said executives on the day of their relieving with ill-motivation of creating a collateral damage.
- (11) The petitioner never sacrificed the interest and image/reputation of the bank and its Executives in any manner as alleged by the Senior Manager of Respondent Bank at Secunderabad.
- (12) The petitioner therefore prayed that the Writ Petition should be allowed as prayed for.

6. The main contentions put-forth by the learned senior counsel appearing on behalf of the respondent are as follows:

- 1) The writ petition is premature.
- 2) There is no violation of statutory rule.
- 3) The writ petition is not maintainable as an alternative remedy is available under a form of disciplinary proceedings is available to the petitioner and which in fact has already ben.
- 4) The principles of natural justice are duly followed.
- 5) The petitioner has to participate in the process of enquiry to establish his innocence, since the truth or otherwise of the charges is a matter for disciplinary authority to dwell into and arrive at a fair decision.
- 6) Finally, the charge sheet is not liable to be questioned unless it adversely affects the rights of the employee.
- 7) Therefore the Writ Petition has to be dismissed in limini since it warrants no interference by this Court.

7. PERUSED THE RECORD

8. The Petitioner was called upon vide Memo No. HR : SEC : 21 : 2022, dated 02.05.2022 of the Regional Head, Secunderabad Region, Human Resources Department, Regional Office, Secunderabad to show cause within seven days of the receipt of the said notice as to why

appropriate disciplinary action should not be initiated against the petitioner.

9. The following acts of omission had been observed on the part of the petitioner vide the said memo, which are given hereunder:

“Two messages (pdf) files) titled the “Killers-FGM & RH Hyd.pdf” & “justice.pdf” signed by Shri M.M. Bhaskara Rao, (Retired Chief Manager), Chairman, Union Bank Officers Congress-AP & TS were forwarded by Shri Arjun Bathini, Sr. Manager on 12.03.2022 and 13.03.2022 on whatsapp group. The subject of the letter alleges that reason for death of T. Ravi Kumar, Chief Manager was because of vindictive and inhuman behaviour of Shri Kabir Bhattacharya, Field General Manager, Hyderabad and Shri C.V.N. Bhaskar Rao, Regional Head, Punjagutta. The letter also alleges that both the above officials are collectively responsible for the death of Shri T. Ravi Kumar which amount to criminal offence. The tone and toner of the letter is highly objectionable and without any rationale.

Subsequently the Shri Arjun Bathini has once again forwarded an image on 15.03.2022 on whatsapp group depicting the caricatures of Field General Manager, Hyderabad and Regional Head, Punjagutta and another terming as CVN, staff & Kabir respectively. It shows that a knife (named vengeance) is being pierced into the chest of the staff, showing both ‘Kabir’ and CVN as ‘the killers’ and also asking NEXT?

Further, Regional Head, Secunderabad on 17.03.2022 had received a message on whatsapp from Shri Arjun Bathini informing that a condolence meeting is scheduled to be conducted on 18.03.2022 at 3.00 PM at RO/FGMO office premises to pay homage to late Shri Ravi Kumar and the said message also contained certain derogatory remarks on the executive of the bank. However, Regional Head Secunderabad categorically informed Shri Bathini that permission was not accorded to conduct the meeting inside the compound of the bank.

Still, without any permission on 18.03.2022 Shri Arjun Bathini along with Shri M.M. Bhaskara Rao entered the premises of Regional Office, Secunderabad at 09.03 A.M. Sr. Manager (Security) politely informed that no permission was accorded to conduct the meeting inside the compound of the bank’s premises. However, around 10-15 Members of the said association got into a verbal altercation with Sr. Manager (Security) and trespassed the premises of the Bank along with media crew at 03.30 P.M.

After that another letter dated 19.03.2022 signed by M.M. Bhaskara Rao was circulated on whatsapp by Shri Bathini alleging that permission to conduct condolence meeting was not granted.

Further, the letter also had derogatory remarks on the Field General Manager."

10. The petitioner denied all the acts of omission alleged against him vide petitioner's detailed reply dated 04.05.2022.

11. The articles of charge dated 01.08.2022 framed against the petitioner vide reference No. CO : ERD : OS : MISC : 341 : 2022, reads as under:

ARTICLES OF CHARGE

This has reference to the explanation dated 04.05.2022 submitted by Shri Ach Bathin, Senior Manager, Regional Office, Secunderabad in response to Show Cause Memorandum Ref No HR : SEC : 21 : 2022 dated 02.05.2022, issued to him by Regional Office, Secunderabad.

Shri Arjun Bathini is informed that the explanation submitted by him has been vis-a-vis the allegations levelled against him and the same are not been and satisfactory. It is observed that Shri Arjun Bathini, circulated various messages through whatsapp on 12.03.2022 and 13.03.2022 containing derogatory remarks at the then Field General Manager (FGM), Hyderabad and the then Regional Head (RH) Punjagutta. He has also forwarded images depicting caricature of the then FGM, Hyderabad and the then RH, Punjagutta with offensive remarks on 15.03.2022. Despite denial of permission to conduct a meeting at Bank's premises, Shri Arjun, on 18.03.2022 (Holiday on account of Holi), entered the premises of the Bank along with members owing allegiance to Union Bank Officers Congress-AP & TS Association & media crew. He allegedly had an altercation with Senior Manager (Security), RO Secunderabad when Senior Manager (Security) intervened and informed them about permission not accorded by the Competent Authority for conducting meeting inside Bank's Premises.

Further, Shri Arjun circulated another letter dated 19.03.2022 signed by Shri M.M. Shaskara Rao (Chairman of Union Bank Officers Congress-AP & TS Association) on Whatsapp alleging denial of permission to conduct condolence meeting by the Competent Authority at RO, Secunderabad and FGMO, Hyderabad and it also contained certain derogatory remarks against the Bank's Executives. Thus, Shri Bathini failed to maintain good conduct and discipline.

For the aforesaid acts and omissions on the part of Shut arkun It has been decided to initiate major penalty proceedings against hi Regulation 6 of the Union Bank of India Officer Employees (cipline a Regulations, 1976.

Shri Arjun is informed that the aforesaid acts of omission and commi his part and those enumerated in Statement of Allegations

annexed h constitute the following misconducts as specified in Regulation 3 c/w Regul of Union Bank of India Officer Employees' (Conduct) Regulations, 1976 a hereby charged of the same:

- Failure to maintain good conduct and discipline.*
- Doing acts unbecoming of an Officer employee.*

Shri Arjun Bathini is informed that a detailed Statement of Allegations which the aforesaid charges are based is annexed along with the list of do by which and list of witnesses through whom the above allegations are pro be substantiated.

Shri Arjun Bathini is hereby called upon to submit his written state defence within 7 days of receipt hereof as to why further disciplinary action should not be taken against him. In case he fails to submit his written statement of defence within the stipulated time, it will be presumed that he has nothing to say and the matter will be proceeded further with on that basis.

12. The 3 relevant regulations referred to in the Articles of charge dated 01.08.2022 are extracted hereunder:

5. RELEVANT REGULATIONS

A. *Regulation 6 of the Union Bank of India Officer Employees (Discipline & Appeal) Regulations, 1976 reads as under:*

6. PROCEDURE FOR IMPOSING MAJOR PENALTIES;

- (1) No order Imposing any of the major penalties specified in clauses (f), (9), (h), (i) and (j) of Regulation 4 shall be made except after an Inquiry is held in accordance with this Regulation.*
- (2) Whenever the Disciplinary Authority is of the opinion that there are grounds for inquiring Into the truth of any imputation of misconduct or misbehaviour against an Officer Employee, It may itself Inquire Into, or appoint any other person who is, or has been public servant (hereinafter referred to as Inquiring Authority) to Inquire into the truth thereof.*

Explanation: When the Disciplinary Authority itself hold the inquiry any reference in sub-regulation (8) to Sub-Regulation (21) to the Inquiring Authority shall be construed as a reference to Disciplinary Authority.

- (3) Where it is proposed to hold an inquiry, the Disciplinary Authority shall frame definite and distinct charges on the basis of the allegations against the Officer Employee and the Articles of Charge, together with a Statement of the allegations, list of documents and list of witnesses alongwith copy of statement of witnesses, if any, on which they are based, shall be communicated in writing to the Officer Employee, who shall be*

required to submit, within such time as may be specified by the Disciplinary Authority (not exceeding 15 days) or within such extended time as may be granted by the said Authority, a written statement of his defence;

“Provided that wherever it is not possible to furnish the copies of document Disciplinary Authority shall allow the officer employee Inspection of such documents within a time specified in this behalf”.

B. Regulation 3 of Union Bank of India Officer Employees (Conduct) Regulations, 1976 reads as under:

3. GENERAL

(1) Every Officer Employer shall, at all times take all possible steps to ensure and protect the interest of the Bank and discharge his duties with utmost integrity, honesty, devotion and diligence and do nothing which is unbecoming of an officer employee.

(2) Every Officer Employee shall maintain good conduct and discipline and show courtesy and attention to all persons in all transactions and negotiations.

(3) No Officer Employee shall, in the performance of his official duties or in the exercise of powers conferred on him, act otherwise than in his best judgment except when he is acting under the direction of his official superior.

Provided wherever such directions are oral in nature and same shall be confirmed in writing by his superior official.

(4) Every Officer Employee shall take all possible steps to ensure the integrity and devotion to duty of all persons for the time being under his control and authority, C, Regulation 24 of Union Bank of India Officer, Employees Conduct Regulations, 1976 reads as under:

Regulation 24. ACTS OF MISCONDUCT: A breach of any of the provisions of these regulations shall be deemed to constitute a misconduct punishable under the Union Bank of India Officer Employees (Discipline and Appeal) Regulations, 1976.

13. The articles of charge dated 01.08.2022 that the petitioner is charged for:

-Failure to maintain good conduct and discipline.

-Doing acts unbecoming of an Officer employee.

14. The aspects under which the disciplinary proceedings can be initiated by the respondent bank against its employees as per UNION Bank OF INDIA OFFICER EMPLOYEES (CONDUCT) REGULATIONS, 1976 are:

- (3) GENERAL
- (4) OBSERVANCE OF SECRECY
- (5) EMPLOYMENT OF MEMBER OF FAMILY OF BANK OFFICERS IN FIRMS ENJOYING THE BANK'S CLIENTAGE AND GRANT OF FACILITIES TO SUCH CONCERNS
- (6) TAKING UP OUTSIDE EMPLOYMENT
- (7) CONTRIBUTION TO NEWSPAPERS, RADIO ETC.
- (8) DEMONSTRATIONS
- (9) JOINING OF ASSOCIATION PREJUDICIAL TO INTERESTS OF THE COUNTRY
- (10) GIVING EVIDENCE
- (11) PUBLIC DEMONSTRATIONS IN HONOUR OF BANK OFFICERS
- (12) SEEKING TO INFLUENCE
- (13) ABSENCE FROM DUTY
- (14) ACCEPTANCE OF GIFTS
- (15) LENDINGS AND BORROWINGS
- (16) ADVANCE DRAWAL OF SALARY
- (17) SUBSCRIPTIONS
- (18) SPECULATION IN STOCKS AND SHARES AND INVESTMENTS
- (19) INDEBTEDNESS
- (20) MOVABLE, IMMOVABLE AND VALUABLE PROPERTY
- (21) VINDICATION OF ACTS AND CHARACTER OF AN OFFICER EMPLOYEE
- (22) RESTRICTIONS REGARDING MARRIAGE
- (23) CONSUMPTION OF INTOXICATING DRINGS AND DRUGS
- (24) ACTS OF MISCONDUCT
- (24a) PROHIBITION OF SEXUAL HARASSMENT OF WORKING WOMEN
- (25) INTERPRETATION
- (25) REPEAL AND SAVING.

15. The respondent Bank however, curiously did not take recourse to any of the Regulations specifically except those referred to in the charge memo dated 01.08.2022 and extracted above.

16. DISCUSSION & CONCLUSION:

17. A bare perusal of the Explanation referred to in the procedure imposing major penalties clearly stipulates that where the Disciplinary Authority proposes to hold an enquiry, the Disciplinary Authority shall frame definite and distinct charges on the basis of the allegations levelled against the Officer Employee and the Articles of charge

together, with the statement of the allegations, list of documents and list of witnesses along with copy of statement of witnesses if any, on which they are based shall be communicated in writing to the Officer Employee. The petitioner herein had been charged on two charges i.e:

- (1) Failure to maintain good conduct and discipline.
- (2) Doing acts unbecoming of an Officer Employee.

18. The Respondent authorities invoked the power under Regulation 3 of Union Bank of India Officer Employees (Conduct) Regulations, 1976, which is a general regulation in itself without any reference to any other regulations specifically. Regulation 24 of Union Bank of India Officer Employees (Conduct) Regulations, 1976, is also referred to in the charge memo dt. 01.08.2022 which deals with acts of misconduct and stipulates that a breach of any of provisions of these Regulations shall be deemed to constitute misconduct punishable under the Union Bank of India Officer Employees (Discipline & Appeal) Regulations, 1976.

19. A plain reading of the charges extracted above would clearly indicate that only vague allegations were levelled against the petitioner i.e., failure to maintain good conduct and discipline and doing acts of unbecoming of an Officer Employee. This Court fails to appreciate how the petitioner could have submitted petitioner's written statement in defence in respect of the said charges and how a fair enquiry could be held unless the charges framed against the petitioner are specific and not vague.

20. The Apex Court in *Surath Chandra Chakravarthi v. State of West Bengal*¹ reported in (1970) 3 SCC 548 at para 5 observed as under:

5... The grounds on which it is proposed to take action have to be reduced to the form of a definite charge or charges which have to be communicated to the person charged together with a statement of the allegations on which each charge is based and any other circumstance which is proposed to be taken into consideration in passing orders has also to be stated. This rule embodies a principle which is one of the basic contents of a reasonable or adequate opportunity for defending oneself. If a person is not told clearly and definitely what the allegations are on which the charges preferred against him are founded he cannot possibly by projecting his own imagination, discover all the facts and circumstances that may be in the contemplation of the authorities to be established against him".

21. The Apex Court in *Union of India v. Gyan Chand Chattar*² reported in (2009) 12 SCC 78 in para 35 of the Judgment as reported in SCC observed that the law can be summarised that an enquiry should be conducted against any person giving strict adherence to the

statutory provisions and principles of natural justice and the charges should be specific, definite and giving details of the incident which formed the basis of charges and no enquiry can be sustained on vague charges.

22. The law is well settled that even in a domestic enquiry, the charges must be clear, definite and specific as it would be difficult for any delinquent to meet the vague charges. Evidence adduced should not be obligatory even if the delinquent does not take the defence or make a protest that the charges are vague; that does not save the enquiry from being vitiated for the reason that there must be fair play in action, particularly, in respect of an order involving adverse or penal consequences. Reference in this regard may be made to the decisions of Hon'ble Apex Court in the case of *State of Andhra Pradesh v. S. Sree Rama Rao*³ reported in AIR 1963 SC 1723 and also the decision rendered in *Sawai Singh v. State of Rajasthan*⁴ reported in (1986) 3 SCC 454.

23. Concept of fair play in action which is the basis of natural justice must depend upon the particular *lis* between the parties. (See *K.L. Tripathi v. State Bank of India*). Rules and practices are constantly developing to ensure fairness in the making of decisions which affect people in their daily lives and livelihood. Without such fairness democratic governments cannot exist. Beyond all rules and procedures that is the *sine qua non*. In the said judgment it is observed as under:

"In respect of an order involving adverse or penal consequences against an officer or an employee of Statutory Corporations like the State Bank of India, there must be an investigation into the charges consistent with the requirements of the situation in accordance with the principles of natural justice as far as these were applicable to a particular situation. So whether a particular principle of natural justice has been violated or not has to be judged in the background of the nature of charges, the nature of the investigation conducted in the background of any statutory or relevant rules governing such enquiries".

24. This Court opines in a Departmental Enquiry involving consequences of termination of service, like loss of job, which nowadays means loss of livelihood, or imposing any major penalty, against an employee the charges must be specific, there must be fair play in action, in respect of any order involving adverse consequences against an employee and there must be investigations to the charges consistent with the requirement of the situation in accordance with principles of natural justice in so far as these are applicable in a particular situation. This Court opines that the respondent bank did not take recourse to any specific regulation and did not make any effort to

frame specific charges against the petitioner except stating two vague charges namely failure to maintain good conduct and discipline, and doing acts unbecoming of an Officer Employee.

25. Taking into consideration the above facts and circumstances and also the observations of the Apex Court referred to and discussed above, this Court directs the 3rd Respondent to reconsider Petitioner's reply dt. 10.08.2022 given to Articles of charge in Ref. No. CO : ERD : OS : MISC-341-2022 dated 01.08.2022 within 4 weeks from the date of receipt of the copy of the order and take a decision on the said reply, in accordance to law, duly considering the observations of the Apex Court in the judgments referred to and discussed above, duly communicating the said decision to the Petitioner and till the said exercise is completed and a decision taken by the Respondent Bank on Petitioner's reply dt. 10.08.2022 within four weeks from the date of receipt of copy of the order, all further proceedings in respect of Articles of charge in Ref. No. CO : ERD : OS : MISC-341-2022 dated 01.08.2022 shall remain stayed.

26. The Writ Petition is accordingly disposed of. There shall be no order as to costs.

27. Miscellaneous petitions, if any, pending shall stand dismissed.

1 (1970) 3 SCC 548

2 (2009) 12 SCC 78

3 AIR 1963 SC 1723

4 (1986) 3 SCC 454.