

GAHC030003142020



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/89/2020

Petitioner :-

Sh. C. Lallianzama
S/o Sh. C. Lalchhanhima
R/o ZotlangLunglei – 796691, Mizoram
-Versus-

Respondents :-

1. The State of Mizoram represented
by the Chief Secretary, Govt. of Mizoram,
Aizawl - 796001
2. The Secretary to the Government of Mizoram,
Home Department, Aizawl – 796001
3. The Director general of Police, Mizoram,
Aizawl – 796001
4. The Deputy Inspector General of Police (Armed)
Mizoram, Aizawl – 796001

5. The Commandant, 3rd IR Mizo Battalion,
Mangaldai, Assam - 784125.

Advocates for the petitioner: Mrs. Dinari T. Azyu
Mr. K. Roland
Mr. victor L. Ralte
Ms. Caroline K. Lungawipuii

Advocate for the respondents : Mrs. Linda L. Fambawl,
Govt. Advocate

BEFORE

HON'BLE MRS. JUSTICE MARLI VANKUNG

Date of hearing & Judgment : **07.12.2023**

JUDGMENT & ORDER (ORAL)

Heard Mr. Victor L. Ralte, learned counsel for the petitioner along with Mrs. Linda L. Fambawl, learned Govt. Advocate for the State respondents.

2. This is a writ petition filed under Article 226 of the Constitution of India against the impugned Order dated 01.05.2019 by the competent authority by which he was removed from service by the power conferred under section 91(1)(c), Chapter XI of Mizoram Police Act, 2011 (Act No. 3 of 2012) read with Rule No. 1029 (1)(b) and 1044 Mizoram Police Manual, 2005 by imposing a major penalty of removal from service and

the impugned order dated 08.08.2019 rejecting the appeal by the competent appellate authority.

3. The learned counsel for the petitioner submits that the petitioner was initially appointed on 18.07.2008 as Constable in the scale of pay of Rs. 4000–100-6000 p.m plus other allowances as permissible under the rule and was later confirmed on 20.18.2010 after undergoing Police Basic Training Course. Thereafter Memorandum of Charge dated 18.10.2018, was drawn against him. The nature of offence made out against the petitioner in the Charge Memorandum which is as follows:-

“ARTICLE-1: That on the night of 03.08.2018 @ 11:55 p.m., C/377 C.Lallianzama was found sleeping at Unit's Rear Sentry post while performing his assigned duty as Sentry,

ARTICLE-11: That on the night of 29.09.2018 @ 11:46 p.m., C/377 C.Lallianzama was found sleeping at Unit's Magazine while performing his assigned duty as Sentry.

ARTICLE-III: That on 08.10.2018@ 11:49 a.m., C/377 C.Lallianzama was found loitering nearby Adm(1) Office, 3d IR Bn. 11qrs., Mangaldai. Assam under the influence of alcohol.

ARTICLE-IV: That on the night of 08.10.2018 @ 08:43 p.m., C/377 C.Lallianzama was found under the influence of alcohol while being detailed to perform duty at Gate-11, 3 IR Bn. Hqrs., Mangaldai, Assam.

ARTICLE-V: That the said C/377 C.Lallianzama of 3rd IR Bn. had

been awarded with several punishments in the past for his reformation due to his various misconducts during his short span of service for 10 years, but all the corrective measures taken were in vain. Also that, his repetition of the misconducts as stated in the aforementioned articles of charge clearly showed that he is undisciplined Police personnel.

4. That the above acts and behavior of C/377 C.Lallianzama, 3rd IR Battalion amount to grave misconduct, subjecting him liable for punishment under section 91, Chapter- XI of Mizoram Police Act 2011 (Act No. 3 of 2012) r/w Rule No. 1029 (1) & (2) of Mizoram Police Manual, 2005

5. In addition to the above charges, the appellant was charged with four more additional charges as under;

On 25.10.2018 he received Supplementary charged memorandum:

ARTICLE-1: That on the morning of 24.10.2018 @ 03:00am, C/377 C.Lallianzama was found under the influence of alcohol while performing duty as sentry at Unit's magazine.

On 31.10.2018 he received Supplementary charged memorandum II;

ARTICLE-I That on the morning of 30.10.2018 @ 08:36 am, C/37 C.Lallianzama was found under the influence of alcohol while performing duty at Unit's magazine 3 IR Bn. Hqrs., Mangaldai, Assam.

On 13.11.2018 he received Supplementary charged memorandum III ARTICLE-I

That on the morning of 11.11.2018 @ 09:30 am , C/377 C.Lallianzama was found under the influence of alcohol while performing duty as sentry at Unit's magazine 3 IR Bn. Hqrs., Mangaldai, Assam.

On 28.01.2018 he received Supplementary charged memorandum IV;

ARTICLE-I That on the night of 29.12.2018 @ 06:00 pm , C/377 C.Lallianzama was found creating nuisance inside the jawan barrack under the influence of alcohol.

ARTICLE-II That on the evening of 17.01.2019, C/377 C.Lallianzama was found attending Battalion Game Parade held at 3 IR Bn. Hqrs., Mangaldai, Assam@ 06:00 pm under the influence of alcohol .

6. That the above acts and behavior of C/377 C. Lallianzama, 3rd IR Battalion amount to grave misconduct, subjecting him liable for punishment under section 91, Chapter- XI of Mizoram Police Act 2011 (Act No. 3 of 2012) r/w Rule No. 1029 (1) & (2) of Mizoram Police Manual, 2005".

7. The learned counsel submits that the petitioner did not contest the above Articles charged against him.He admitted his misconduct and had pleaded for leniency by submitting that he would try to reform himself. However, the major penalty of removal from service was imposed upon him.

8. The learned counsel submits that in the proceedings during inquiry and during the preliminary hearing, it was noted that he was asked whether he *pleaded guilty or not in all the charges level against him to which he "voluntarily pleaded guiltyto all of it. However, in the interest of justice for inflicting a major punishment a formal inquiry is still to be calledfor and as such, he was asked whether by any chance he desires to avail adefense assistant for the purpose of ensuing inquiry, but negated the offer"*.

9. The learned counsel submits that it can be seen at the initial stage itself that the

respondents had intended to impose a major penalty upon the petitioner. He further submits that the petitioner being only Constable and being uneducated did not understand the implication of his pleading guilty and not having a defense assistant. After the hearing was complete, he was then imposed the major penalty of being removed from his service.

10. Aggrieved by this, he had appeal before the Appellate Authority, wherein the Appellate Authority vide its order dated 08.08.2019 had confirmed the removal of the petitioner on the grounds that no reasons was found to interfere with the removal order issued by the Disciplinary Authority.

11. The learned counsel submits that the removal from service for the offence committed by him which was only for being found drunk during his duty and also for being found sleeping while on duty does not commensurate with the nature of punishment imposed upon him, which is removal from service and the learned counsel has therefore prayed for setting aside of the impugned order 01.05.2019 and that a lesser punishment may be imposed upon him.

12. Mrs. Linda L. Fambawl, learned Govt. Advocate on the other hand submits that the petitioner has admitted the charges made against him and she further submits that the petitioner had been previously punished with 3 (three) minor penalties and 8 (eight) major penalties. How, the appellant has refused to reform himself and the respondent had to impose the major penalty of removal from service since the previous penalties already imposed upon him did not make any difference to the

appellant. The learned Government Advocate submits that the previous charges made and penalties imposed can be seen in the Memorandum of charge dated 18.10.2018, which is as follows :

ARTICLE V: That the said C/377 C.Lallianzama of 3rd IR Bn. had been awarded with several punishments in the past for his reformation due to his various misconducts during his short span of service for 10 years (*date of his appointment 20.08.2008*) as under. But, his repetition of the misconducts as stated at Article-1 and Article-11 clearly showed that he is an in-disciplined Police personnel.

1) He was awarded a punishment of *"4-day punishment drill (Pack-drill) for 11/2 hours daily"* for his unauthorized absence from duty for a period of 4 days w.e.f. 07.02.2011-10.02.2011.,
Vide No:BN/IR/R/PF-330/2010/4643 dt.17.03.2011 .

2) He was awarded a punishment of *"Confinement to Quarter Guard for I day"* for his unauthorized absence from duty for a period of 2 days w.e.f. 08.12.2013-09.12.2013.
Vide No:BN/IR/R/PF-384/2013/3170 dt.16.12.2013

3) He was awarded a punishment of *"2-day punishment drill (Pack-drill) for 1 hour daily"* for his unbecoming conduct while performing Patrolling duty on 21.04.2016 at Barddhawn District during West Bengal Election 2016.

Vide No:2BN/R/PF-384/2016/501 dt.01.06.2016

4) He was awarded a punishment of *"Stoppage of increment for a period of 1 year with cumulative effect"* for his unauthorized absence from duty for a period of 26 days w.c.f. 16.12.2010-10.01.2011.

Vide No: BN/IR/R/Proc-4/2011/4123 dt.03.02.2011

5) He was awarded a punishment of *"Stoppage of increment for a period of 3-years with cumulative effect"* for his indisciplined conducts and negligence of duty as he was found intoxicating with drugs and found heavily intoxicated on the evening of 19.08.2011 while being detailed for Main Gate duty at 1 IR Bn. Headquarters, Mualvum. Also that 2 strips of drugs i.e. Nitrosun containing 12 tablets were recovered from his possession on the evening of 19.08.2011. Further, he was found lying unconscious due to consumption of large quantities of drugs on the same evening.

Vide No:BN/IR/R/Proc-41/2011/3001 dt.23.11.2011.

6) He was awarded a punishment of *"Stoppage of increment for a period of 2 years with cumulative effect"* for his indisciplined conducts and negligence of duties by absenting himself from the Camp on 22.09.2012. Later, he refused to perform sentry duty and destroyed Govt. property (i.e. Plastic chair) on 24.09.2012 and even acted insubordinately by challenging the Post Commander under the influence of alcohol. He also had stolen Mess money of his post which amounts to Rs.2,000/- on May 2012 while posted at Zophai BOP.

Vide No: BN/IR/R/Proc-85/2012/4385 dt.20.12.2012.

7) He was awarded a punishment of *"Stoppage of increment for a period of 2 years with cumulative effect"* for his indisciplined conducts and negligence of duties by absenting himself from Roll Call held at 06:00 p.m. and failed to perform his assigned duty as Sentry at Unit's Rear Sentry Post from 06:00 p.m.- 08:00 p.m. on 08.05.2013 due to intoxication.

Vide No: BN/IR/R/Proc-17/2013/1327 dt.05.07.2013.

8) He was awarded a punishment of "*withholding of increment for a period of 2 years with cumulative effect by altering the proposed penalty of withholding of increment for 3 years with cumulative effect*" for his indisciplined acts in connection with the following charges; (i) That the said C/384 C.Lallianzama of 2nd Bn. MAP habitually used Taxis and Auto rickshaws without paying of fares while posted at Chawngte post. (ii) That the said C/384 C.Lallianzama of 2nd Bn. MAP while posted at Chawngte P.S. left the post and entered to the shop of Haidar Ali. Kamalanagar-1 on 06.04.2014 @ 11:30 a.m., 11.04.2014 @ 08:30 a.m. and 14.04.2014 and demanded certain goods under the influence of alcohol. (iii) That the said C/384 C.Lallianzama of 2nd Bn. MAP while serving as Police Constable w.e.f. 20.08.2008 till date had been found as a habitual defaulter of discipline as such 4 (four) nos. of Major punishments and 2 (two) nos. of Minor Punishment had already been awarded by Disciplinary Authority as a corrective measures and for his rectification.

Vide No:2BN/R/Proc-12/2014/1484 dt.25.08.2014.

9) He was awarded a punishment of "*withholding of increment for a period of 2 years with cumulative effect*" for his indisciplined that (i) He had sold his Compensatory Leave Salary, 2014 to the following personnel (a) Pu Billai Chozah-Rs.7,000/- (b) Pi. Nancy Lalzamliani-Rs.10,000/- (c) Pi. Vanlalruati-Rs.4,000/- (d) Pi. M.Laldinawmi-Rs.5,000/- (ii) He had taken Loan from the following personnel in order to recover from his Compensatory Leave Salary, 2014 which was already sold by him to other personnel as follows; (a) C/282 FC.Ngohmo of 2nd Bn. MAP amounting to Rs.5,000/- (b) Pi. HC.H.Biaknghinglovi of Lunglei District Court amounting to Rs. 6,000/- (c) Pi. B.Ronghaki of Venghlun.Lunglei whole Compensatory Leave Salary.

Vide No:2BN/R/Proc-32/2014/3829 dt.11.02.2015.

10) He was awarded a punishment of "*withholding of increment for a period of 3 years with cumulative effect*" for his indisciplined acts, misconducts, misbehaviour and negligence of duty. He was detailed to bring Water Filter from Main Office along with C/491 K.Lalvenpuia of 2nd Bn. MAP. Accordingly, the said constable went along with C/491 K.Lalvenpuia using C/491 K.Lalvenpuia's bike and on reaching Unit's Magazine, C/491 K.Lalvenpuia had gone to fetch a key of the main office from Unit's Magazine, then, C/384 C.Lallianzama had driven the bike without obtaining permission from the owner as well as without having a driving license in front of the Commandant, 2nd Bn. MAP Office wherein he dashed and damaged 8 (eight) numbers of flower pots due to his rash and negligent driving.

Vide No:2BN/R/Proc-6/2017/491 dt.31.05.2017.

11) He was awarded a punishment of "*withholding of increment for a period of 2 years with cumulative effect*" for his indisciplined conducts. That on 08.11.2017, he was detailed for duty at Unit's Magazine and while performing his assigned duty on 09.11.2017 @ 07:00 a.m., he was found sleeping inside the Guard Room while the Duty Officer checked the Unit's Magazine. The Constable stated that his sleeping was due to toothache. As such, he was brought to the Unit M.I. by the 2nd Commander Nk. C. Lalrozauba @ 09:30 a.m. as directed by the Duty Officer. Later, the said Constable was referred to Mangaldai Civil Hospital by the in-charge of Unit M.I to extract his tooth which caused him pain. Thus, he was given an out-pass to do the needful at Mangaldai Civil Hospital. However, it was later learnt from Assam Police that he was heavily intoxicated and was lying in a street at Bata Point. Mangaldai town thereby tarnishing the image of the 3rd IR Battalion in particular as well as the Mizo people

as a whole. The matter was brought to the notice of Assam Police by the civilian and was taken to Mangaldai Police Station. He was later lifted from there to the 3rd IR Battalion Headquarters, Mangaldai at about 02:10 p.m. by availing Unit's vehicle. Further. 4 (four) tablets of Alprazolam and 2 (two) tablets of Alora were recovered from his possession.

Vide No:3IR/R-PF(ASM)/C-377/18/900 dt.06.04.2018.

The above acts and behavior of C/377 C. Lallianzama.3rd IR Battalion amount to grave misconduct, subjecting him liable for punishment under section 91. Chapter-XI of Mizoram Police Act 2011 (Act No. 3 of 2012) r/w Rule No. 1029 (1) of Mizoram Police Manual. 2005.

13. The learned Government Advocate submits that the petitioner had admitted all the charges made out against him and did not improve himself inspite of the many chances given to him for improvement, thus, the state respondents werecompelled to impose the major penalty for his misconduct and misbehavior,by removing him from service vide order dated 01.05.2019. The appellate court had also rejected the appeal vide order dated 08.08.2019. She submits that all the procedures were followed as per the Mizoram Police Manual, 2005 and therefore, there are no grounds to reduce the sentence imposed upon him. In support of her submission the learned Govt. Advocate has cited of the Apex Court in the case of **State of Meghalaya and Others -Vs- Mecken Singh N. Marak** reported in **2008 7SCC 580Paras 13 & 14**,wherein she submitted that a role of the court in interfering with the quantum of

punishment is very limited. She has also cited the decision of the Apex Court in the case of **Union of India and Others -Vs- Bodupalli Gopalaswami** reported in **(2011) 13 SCC 553** and submits that a lesser punishment should not be given on the grounds of sympathy or compassion.

14. In rebuttal, Mr. Victor L. Ralte, learned counsel for the petitioner has cited the decision of the Co-ordinate Bench of this Court in the case of **F. Lalhriata Vs. State of Mizoram & Others** in **W.P.(C) No. 51 of 2013 dated 31.10.2023** where this court in the interest of justice had directed that the petitioner be imposed a minor penalty by lessening the penalty imposed upon the said petitioner.

15. Having heard the submissions made by both the parties, it is seen that the appellant was appointed on 18.07.2008 as Constable and later confirmed on 20.18.2010 and it is an admitted fact that soon after, the appellant was first awarded a punishment of *"4-day punishment drill (Pack-drill) for 1 1/2 hours daily"* for his unauthorized absence from duty for a period of 4 days w.e.f. 07.02.2011-10.02.2011 on 17.03.2011. Vide No:BN/IR/R/PF330/2010/4643, thereafter, he was awarded minor penalty on 16.12.2013 Vide No:BN/IR/R/PF-384/2013/3170 for unauthorized absence and he was again awarded another minor penalty, Vide No:2BN/R/PF-384/2016/501 on dt.01.06.2016 for his unbecoming conduct while performing Patrolling duty on 21.04.2016 at Barddhaman District during West Bengal Election 2016.

16. The appellant was also awarded major penalties on the following eight occasions:

i) On 03.02.2011 he was awarded a punishment of *"Stoppage of increment for a period*

of 1 year with cumulative effect" for his unauthorized absence from duty for a period of 26 days *w.e.f.* 16.12.2010-10.01.2011. *Vide No: BN/IR/R/Proc-4/2011/4123.*

ii) On dt.23.11.2011 Vide No: BN/IR/R/Proc-41/2011/3001 he was awarded a punishment of "Stoppage of increment for a period of 3-years with cumulative effect" for his in-disciplined conducts and negligence of duty as he was found intoxicating with drugs and found heavily intoxicated on the evening of 19.08.2011 while being detailed for Main Gate duty at 1 IR Bn. Headquarters, Mualvum. Also that 2 strips of drugs i.e. Nitrosun containing 12 tablets were recovered from his possession on the evening of 19.08.2011. Further, he was found lying unconscious due to consumption of large quantities of drugs on the same evening.

iii) On 20.12.2012. Vide No: BN/IR/R/Proc-85/2012/4385, he was awarded a punishment of "Stoppage of increment for a period of 2 years with cumulative effect" for his in-disciplined conducts and negligence of duties by absenting himself from the Camp on 22.09.2012. Later, he refused to perform sentry duty and destroyed Govt. property (i.e. Plastic chair) on 24.09.2012 and even acted insubordinately by challenging the Post Commander under the influence of alcohol. He also had stolen Mess money of his post which amounts to Rs.2,000/- on May 2012 while posted at Zophai BOP.

iv) On 05.07.2013 Vide No: BN/IR/R/Proc-17/2013/1327, he was awarded a punishment of "Stoppage of increment for a period of 2 years with cumulative effect"

for his in-disciplined conducts and negligence of duties by absenting himself from Roll Call held at 06:00 p.m. and failed to perform his assigned duty as Sentry at Unit's Rear Sentry Post from 06:00 p.m.- 08:00 p.m. on 08.05.2013 due to intoxication.

v) On 25.08.2014. Vide No:2BN/R/Proc-12/2014/1484, he was awarded a punishment of "withholding of increment for a period of 2 years with cumulative effect by altering the proposed penalty of withholding of increment for 3 years with cumulative effect" for his indisciplined acts in connection with the following charges;

(i) That the said C/384 C. Lallianzama of 2nd Bn. MAP habitually used Taxis and Auto rickshaws without paying of fares while posted at Chawngte post. (ii) That the said C/384 C. Lallianzama of 2nd Bn. MAP while posted at Chawngte P.S. left the post and entered to the shop of Haidar Ali. Kamalanagar-1 on 06.04.2014 @ 11:30 a.m., 11.04.2014 @ 08:30 a.m. and 14.04.2014 and demanded certain goods under the influence of alcohol. (iii) That the said C/384 C.Lalianzama of 2nd Bn. MAP while serving as Police Constable *w.e.f.* 20.08.2008 till date had been found as a habitual defaulter of discipline as such 4 (four) nos. of Major punishments and 2 (two) nos. of Minor Punishment had already been awarded by Disciplinary Authority as a corrective measures and for his rectification.

vi) On 11.02.2015. Vide No:2BN/R/Proc-32/2014/3829, he was awarded a punishment of "withholding of increment for a period of 2 years with cumulative effect" for his indisciplined that (i) He had sold his Compensatory Leave Salary, 2014 to the following personnel (a) Pu Billai Chozah-Rs.7,000/- (b) Pi. Nancy Lalzamliani-

Rs.10,000/- (c) Pi. Vanlalruati-Rs.4,000/- (d) Pi. M.Laldinawmi-Rs.5,000/- (ii) He had taken Loan from the following personnel in order to recover from his Compensatory Leave Salary, 2014 which was already sold by him to other personnel as follows; (a) C/282 FC. Ngohmo of 2nd Bn. MAP amounting to Rs.5,000/- (b) Pi. HC. H. Biaknghinglovi of Lunglei District Court amounting to Rs. 6,000/- (c) Pi. B. Ronghaki of Venghlun, Lunglei whole Compensatory Leave Salary.

vii) On 31.05.2017 Vide No:2BN/R/Proc-6/2017/491, he was awarded a punishment of "withholding of increment for a period of 3 years with cumulative effect" for his indisciplined acts. misconducts, misbehaviour and negligence of duty. He was detailed to bring Water Filter from Main Office along with C/491 K.Lalvenpuia of 2nd Bn. MAP. Accordingly, the said constable went along with C/491 K.Lalvenpuia using C/491 K.Lalvenpuia's bike and on reaching Unit's Magazine, C/491 K.Lalvenpuia had gone to fetch a key of the main office from Unit's Magazine, then, C/384 C. Lallianzama had driven the bike without obtaining permission from the owner as well as without having a driving license in front of the Commandant, 2nd Bn. MAP Office wherein he dashed and damaged 8 (eight) numbers of flower pots due to his rash and negligent driving.

viii) On 06.04.2018, Vide No:3IR/R-PF(ASM)/C-377/18/900, he was awarded a punishment of "withholding of increment for a period of 2 years with cumulative effect" for his in-disciplined conducts. That on 08.11.2017, he was detailed for duty at

Unit's Magazine and while performing his assigned duty on 09.11.2017 @ 07:00 a.m., he was found sleeping inside the Guard Room while the Duty Officer checked the Unit's Magazine. The Constable stated that his sleeping was due to toothache. As such, he was brought to the Unit M.I. by the 2nd Commander Nk. C. Lalrozauba @ 09:30 a.m. as directed by the Duty Officer. Later, the said Constable was referred to Mangaldai Civil Hospital by the in-charge of Unit M.I to extract his tooth which caused him pain. Thus, he was given an out-pass to do the needful at Mangaldai Civil Hospital. However, it was later learnt from Assam Police that he was heavily intoxicated and was lying in a street at Bata Point, Mangaldai town thereby tarnishing the image of the 3rd IR Battalion in particular as well as the Mizo people as a whole. The matter was brought to the notice of Assam Police by the civilian and was taken to Mangaldai Police Station. He was later lifted from there to the 3rd IR Battalion Headquarters, Mangaldai at about 02:10 p.m. by availing Unit's vehicle. Further. 4 (four) tablets of Alprazolam and 2 (two) tablets of Alora were recovered from his possession.

17. It is seen that the charges and the punishments imposed upon the appellant were not denied or appealed against before the appellate authority. Thereafter, the appellant again received four supplementary charges for the following misconducts;

i) That on the morning of 24.10.2018 @ 03:00 am, C/377 he was found under the influence of alcohol while performing duty as sentry at Unit's magazine.

ii) That on the morning of 30.10.2018 @ 08:36 am, C/377 C.Lallianzamawas found under the influence of alcohol while performing duty at Unit's magazine 3 IR Bn. Hqrs., Mangaldai, Assam.

iii) That on the morning of 11.11.2018 @ 09:30 am , C/377 C.Lallianzama was found under the influence of alcohol while performing duty as sentry at Unit's magazine 3 IR Bn. Hqrs., Mangaldai, Assam.

iv) That on the night of 29.12.2018 @ 06:00 pm , C/377 C.Lallianzama was found creating nuisance inside the jawan barrack under the influence of alcohol and That on the evening of 17.01.2019, C/377 C.Lallianzama was found attending Battalion Game Parade held at 3 IR Bn. Hqrs., Mangaldai, Assam@ 06:00 pm under the influence of alcohol .

18. That the above acts and behavior of C/377 C.Lallianzama, 3rd IR Battalion amount to grave misconduct, subjecting him liable for punishment under section 91, Chapter- XI of Mizoram Police Act 2011 (Act No. 3 of 2012) r/w Rule No. 1029 (1)& (2) of Mizoram Police Manual, 2005.

19. At the time of Preliminary hearing, the appellant had voluntarily pleaded guilty and he had negated the offer to avail a defense assistance. Thereafter Regular Hearings were conducted and the appellant was found guilty of all the charges made out against him for which the major penalty of removal from service was finally imposed upon him. The appellant had appealed against the major penalty of removal

from service which was dismissed by the competent appellate authority.

20. This court finds that all the procedure prescribed under the Police Manual, 2005 was followed in the disciplinary proceedings against the appellant. It is clearly established from the facts narrated above that the appellant is a habitual offender, who has time and again committed grave misconduct, subjecting him liable for punishment under section 91, Chapter- XI of Mizoram Police Act 2011 (Act No. 3 of 2012) r/w Rule No. 1029 (1) & (2) of Mizoram Police Manual, 2005. It appears that the appellant was given sufficient opportunities to amend his ways and reform himself, which he unfortunately failed to do so.

21. It is seen that the Apex Court in **State of Meghalaya v. Mecken Singh N. Marak, (supra)**, wherein facts of the case in brief was that, a senior police officer was instructed by his Commandant to go to Shillong to disburse the pay in a vehicle belonging to the Department and along with him another police officer was also deputed for safe carriage of pay to be disbursed to the Bn. personnel posted at Shillong. Further, the respondent was issued .38 bore revolver with 12 rounds. It is an admitted position that the respondent was instructed to come back to Bn. headquarters by the vehicle of the Department along with other police personnel but the respondent disobeyed the instructions and travelled to Bn. headquarters in a bus wherein not only did he lose cash of Rs 17,314 but also his service revolver with 12 rounds of ammunition. A major penalty of removal from service was imposed upon

him and the Apex court was of the view that:

“14. In the matter of imposition of sentence, the scope for interference is very limited and restricted to exceptional cases. The jurisdiction of the High Court, to interfere with the quantum of punishment is limited and cannot be exercised without sufficient reasons. The High Court, although has jurisdiction in appropriate case, to consider the question in regard to the quantum of punishment, but it has a limited role to play. It is now well settled that the High Courts, in exercise of powers under Article 226, do not interfere with the quantum of punishment unless there exist sufficient reasons therefor. The punishment imposed by the disciplinary authority or the appellate authority unless shocking to the conscience of the court, cannot be subjected to judicial review. In the impugned order of the High Court no reasons whatsoever have been indicated as to why the punishment was considered disproportionate. Failure to give reasons amounts to denial of justice. The mere statement that it is disproportionate would not suffice.”

The Apex court in **Union of India v. Bodupalli Gopalaswami, (Supra)** was also of the view that:

“the court can consider whether the punishment is so disproportionate to the gravity of the proved offences that it shocks the conscience of the court or is so perverse or irrational that it cannot be allowed to stand. As held by this Court repeatedly, there could be no judicial review merely because the court feels that the punishment should have been lesser or on the grounds of sympathy or compassion.”

22. It is also found that the facts and circumstances of the case in the decision of the Co-ordinate Bench of this Court in the case of **F. Lalhriata Vs. State of Mizoram & Others (supra)** cited by the learned counsel for the appellant are not similar with the instant and thus not applicable in the instant case.

23. In view of the above decisions of the Apex Court and considering the past conduct of the appellant and the fact that the various supplementary charges made out against the appellant are not denied by the appellant but have been proved and where the appellant has failed to amend his ways, inspite of the several changes given to him, this court finds that no sufficient grounds have been made out to interfere with the impugned Order dated 01.05.2019 by the competent authority and impugned order dated 08.08.2019 rejecting the appeal by the competent appellate authority for the appellant for his removal from service .

24. Accordingly, this Writ Petition (C) No. 89 of 2020 stand dismissed and disposed of.

JUDGE

Comparing Assistant