

GAHC010124032024



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

Case No. : Review.Pet./101/2024

SARIFUDDIN AHMED
S/O LATE ASRAT ALI,
RESIDENT OF SARAIGHAT NAGAR, SADILAPUR, PO PANDU, PS
JALUKBARI GUWAHATI 12, DIST. KAMRUP M ASSAM

VERSUS

THE ASSAM CO OPERATIVE APEX BANK LTD AND ANR
REPRESENTED BY ITS MANAGING DIRECTOR, HAVING ITS HEAD OFFICE
AT PANBAZAR, GUWAHATI 781001, KAMRUP M ASSAM

2:THE MANAGING DIRECTOR
THE ASSAM CO OPERATIVE APEX BANK LTD. PANBAZAR GUWAHATI
78100

Advocate for the Petitioner : MR. S KATAKI, MS. R DUTTA

Advocate for the Respondent : SC, APEX BANK,

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 11.09.2024

Heard Mr. S. Katagi, learned counsel for the review petitioner. Also heard Mr. J. K. Goswami, learned Standing Counsel for the Apex Bank.

The present review petition has been so instituted, seeking review of a Judgment & Order (Oral) dated 21.03.2024, passed by this Court in WP(C)/867/2014, to the extent that the said order was so passed ignoring the provisions of **Rule 46 (C) of the Assam Co-operative Apex Bank Limited Staffs, Rules 1980.**

It is the contention of Mr. Kataki, learned counsel that the petitioner, herein, having retired in the month of June, 2020, the proceeding so initiated and questioned in the proceeding of the above noted writ petition, could be so continued against the petitioner, herein, only to the extent of the pecuniary loss caused to the Bank on account of the mis-conduct alleged to be committed by him in the matter. Mr. Kataki, learned counsel further submits that the services of the petitioner not having been extended, the Departmental Proceeding, that may be permissible to be instituted against the petitioner on interference with the earlier proceeding so instituted against him, would now only limited to the pecuniary loss caused to the Bank and on the same being so determined by the competent authority of the Bank.

The said position is disputed to by Mr. J. K. Goswami, learned Standing Counsel for the Apex Bank and submits that the departmental proceeding so instituted against the petitioner and questioned in WP(C)/867/2014, was so instituted while he was in service and accordingly, he submits that the Judgment & Order dated 21.03.2024, would not call for any review.

On a query made by this Court to Mr. Goswami, learned Standing Counsel that this Court having interfered with the earlier proceeding so instituted by the petitioner and a direction for de-novo proceeding having been so passed, what would be the effect of the same, to which Mr. Goswami has fairly submitted that the de-novo proceeding, directed by this Court vide the Judgment & Order dated 21.03.2024, would be permissible to be so held only to the extent of the pecuniary

loss caused to the Bank on account of the mis-conduct alleged to be committed against the petitioner, herein.

In view of the above position and the Judgment & Order dated 21.03.2024 in WP(C)/867/2014, admittedly, having been so passed without appreciating the provisions of **Rule 46 (C) of the Assam Co-operative Apex Bank Limited Staffs, Rules 1980**, this Court is of the considered view that the Judgment & Order dated 21.03.2024 would require a review and accordingly, the same, on review, is hereby recalled.

The aforementioned writ petition is restored to file.

Accordingly, the present review petition no. 101/2024 stands disposed of.

JUDGE

Comparing Assistant