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

Case No. : WP(C)/6185/2023

BAHAR AHMED LASKAR
S/O- LATE ZAIN UDDIN LASKAR,
VILL- GAGRAPARA PART-I,
P.O.- SALCHAPRA, P.S.- SILCHAR,
DIST.- CACHAR (ASSAM).

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
HOME AND POLITICAL DEPARTMENT,
DISPUR, GUWAHATI-06.

2:THE DIRECTOR GENERAL OF POLICE
ASSAM
ULUBARI
GUWAHATI-06.

3:THE DEPUTY INSPECTOR GENERAL OF POLICE (SR)
ASSAM
SILCHAR
PIN- 788001.

4:THE SUPERINTENDENT OF POLICE
CACHAR
SILCHAR
PIN- 788001

Advocate for the Petitioner : MR H R A CHOUDHURY, MR. M. A. CHOUDHURY,MR. A H M R CHOUDHURY

Advocate for the Respondent : GA, ASSAM,

Linked Case : WP(C)/6229/2023

RUP KUMAR DAS
S/O- LATE RUKHINI KANTA DAS
R/O- RONGPUR SHANTIPARA
SEWANSARANI
P.O. RONGPUR
P.S. SILCHAR (SADAR)
DIST. CACHAR
ASSAM
PIN- 788009.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM
HOME AND POLITICAL DEPARTMENT
DISPUR
GHY-781006.

2:THE DIRECTOR GENERAL OF POLICE
ASSAM
REHABARI
GHY-781008.

3:THE DEPUTY INSPECTOR GENERAL OF POLICE (SR)
ASSAM
SILCHAR
DIST. CACHAR
ASSAM
PIN- 788001.

4:THE SUPERINTENDENT OF POLICE

DIST. CACHAR
SILCHAR
ASSAM
PIN- 788001.

5:THE ADDL. SUPERINTENDENT OF POLICE (CRIME)-CUM- ENQUIRY
OFFICER
D.P. NO. 05/23

DIST. CACHAR
SILCHAR
ASSAM
PIN- 788001

Advocate for : M K BORAH
Advocate for : GA
ASSAM appearing for THE STATE OF ASSAM AND 4 ORS

Linked Case : WP(C)/6228/2023

RAKESH SINHA
S/O- GAKULANANDA SINHA
R/O- VILL. AND P.O. BIHARA PART0IV
P.S. KATIGORAH
DIST. CACHAR
ASSAM
PIN- 788817.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF ASSAM
HOME AND POLITICAL DEPARTMENT
DISPUR
GUWAHATI-781006.

2:THE DIRECTOR GENERAL OF POLICE
ASSAM
REHABARI
GHY-781008.

3:THE DEPUTY INSPECTOR GENERAL OF POLICE (SR)- APPELLATE
AUTHORITY
ASSAM
SILCHAR
DIST. CACHAR
ASSAM
PIN- 788001.

4:THE SUPERINTENDENT OF POLICE

DIST. CACHAR
SILCHAR
ASSAM

PIN- 788001.

5:THE ADDL. SUPERINTENDENT OF POLICE (CRIME)-CUM- ENQUIRY
OFFICER

D.P. NO. 06/23

DIST. CACHAR

SILCHAR

ASSAM

PIN- 788001

Advocate for : M K BORAH

Advocate for : GA

ASSAM appearing for THE STATE OF ASSAM AND 4 ORS

**BEFORE
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI**

JUDGMENT & ORDER (Oral)

Date : 19-09-2024

1. Heard Mr. M. K. Borah, learned counsel appearing for the writ petitioners in WP(C) Nos.6228/2023 and 6229/2023 and Mr. A.H.M.R. Choudhury, learned counsel appearing for the writ petitioner in WP(C) No.6185/2023. Also heard Mr. J. K. Goswami, learned Additional Senior Government Advocate, Assam appearing for the State respondents.

2. By way of these writ petitions under Article 226 of the Constitution of India, the petitioners are challenging the orders dated 07.07.2023 and 27.09.2023 whereby the petitioners were dismissed from service. The facts of the case is that pursuant to a valid recruitment process the petitioners were appointed in the Armed Branch of the Assam Police and thereafter, the petitioners were working as Head Constable under the respondents. It is the specific case of the petitioners that while they were posted as Head Constable in Jirighat Police Station in the district of Cachar, Assam and were

allotted the "Naka Duty" on 21.04.2023 at Jirighat Naka Post, the petitioners had taken a little break from their duties, when the incident happened for which an enquiry was constituted and after conclusion of the same they were dismissed from service. Accordingly, the present writ petitions have been filed.

3. Mr. Borah, learned counsel for the petitioners submits that the punishment imposed i.e. "dismissal from service" by the disciplinary authority is not proportionate to the gravity of the offence proved and as such contends that the punishment be altered and reduced.

4. Per contra, Mr. J. K. Goswami, learned Additional Senior Govt. Advocate, Assam submits that the gravity of the offence does not warrant any alteration of the quantum of the penalty imposed by the disciplinary authority by this Court while exercising jurisdiction under Article 226 of the Constitution of India. He further submits that the penalty was awarded in terms of Rule 66 Part-III of the Assam Police Manual read with Rule 7 of the Assam Services (Discipline and Appeal) Rules, 1964 and as such warrant no interference from this Court.

5. I have given prudent consideration to the arguments made by both the parties and have perused the materials available on record.

6. Since Mr. Borah, learned counsel for the petitioners has argued only as regards quantum of the penalty imposed by the disciplinary authority, the only issue that falls for determination in these writ petitions is as to whether the penalty imposed by the disciplinary authority is proportionate to the gravity of the charges leveled. It appears that the petitioners while posted at Jirighat Police Station on the night of

21/22.04.2023 at Naka Checking duty at N.H. Way 37 Assam-Manipur, 5 nos. of container trucks were allowed to enter into the State from the neighbouring State without proper checking and making necessary entries in the Naka Checking Register and later on these 5 nos. of container trucks being intercepted at Gumrah PIC and upon checking Burmese areca nuts were seized from the said container trucks. Accordingly, show cause notices were issued to the petitioners on 08.05.2023 giving an opportunity to the petitioners to submit their written statement in defence. The statement of allegations contained in the show-cause notice is reproduced hereunder for ready reference :-

“While H.C. Rup Kumar Das was posted at Jirighat P.S. on the night of 21/22-04-2023 H.C. Rup Kumar Das was detail for Naka Checking duty at N.H. Way 37 Assam-Manipur in front of Jirighat P.S. along with UBC/289 Rakesh Sinha and UNBC/348 Bahar Ahmed Laskar. During your duty period 05 (five) nos. of container trucks (with registration no.RJ14 GL-8337, UP21 BN-8969, RJ37 GB-0474, AS01 FC-3815 and UP21 BN-5169) were allowed to enter into the state from the neighbouring state without proper checking and making necessary entries in the Naka Checking Register. Later on, these 05(five) nos. of container trucks was intercepted at Gumrah PIC and on checking all the container trucks was found loaded with suspected to the Areca Nut. Subsequently, S.I(P) Soumen Dey of Gumrah PIC has registered case vide Kalain P.S. Case No.180/2023 U/S 120(B)/420/379/411/413 IPC and all truck drivers arrested and forwarded to Judicial custody. The whole incident was spotted and witnessed by one local person namely Monoj Nath, S/o Lt. Astine Nath Vill- Jirighat Bazar, P.S.-Jirighat, Dist.- Cachar (M/No.9707103764). in this regard Sri Dinesh Kumar, IPS S.D.P.O., Lakhipur, Cachar was entrusted to enquiry the matter vide this office Memo No.SLC/R/8(A)/2023/2675-77 dtd. 24/04/2023. Accordingly, Sri Dinesh Kumar, IPS S.D.P.O., Lakhipur, Cachar has submitted an enquiry report

on 28/04/2023 and in his report, H.C. Rup Kumar Das and UBC/348 Bahar Ahmed Laskar allowed the 05(five) nos. of container trucks to enter into the state without checking between 09.00 to 10.30 P.M. and without giving details to UBC/289 Rakesh Sinha. Also UBC/289 Rakesh Sinha failed to notice that these vehicles have crossed the Border and entries had not been made and also failed to bring this to the notice of O/C Jirighat P.S. which is his gross misconduct, dereliction of duty and unbecoming act of a member of disciplined force. In this regard you were placed under suspension on 07/05/2023 P.M.

His above acts tantamount to gross misconduct and dereliction of duty which render him liable for punishment as per procedure of law."

7. It appears that thereafter a disciplinary proceeding was initiated wherein the enquiry officer after examining the prosecution witnesses and recording their statements in the presence of the alleged charge officers and upon giving all opportunities to the charged officers came to the findings that the containers carrying illegal Burmese areca nut which were coming from Manipur were allowed to enter into Assam through Jirighat Naka point for the malafide intention of the charges officers i.e. H.C. Rup Kumar Das (writ petitioner in WP(C) 6229/2023) along with UBC/289 Rakesh Sinha (petitioner in WP(C) 6228/2023 and UBC/348 Bahar Ahmed Laskar (petitioner in WP(C) 6185/2023) and accordingly, came to the conclusion that said charged officers have failed to do their assigned duties sincerely and honestly and accordingly the charges of gross misconduct and dereliction of duty as brought against them stand proved.

8. Pursuant to the above, copy of the enquiry report was served upon the petitioners by way of 2nd show cause notice dated 23.06.2023, wherein the

petitioners were given opportunity to show cause as to why the inquiry should not be accepted by the disciplinary authority. Thereafter, the petitioners filed reply and the same was considered by the disciplinary authority and by order dated 07.07.2023 was pleased to award the penalty of "Dismissal from Service" with effect from 07.07.2023 as per Assam Police Manual Part-III read with Rule 66(2)(a), Rule 7 of the Assam Services (Discipline and Appeal) Rules, 1964 and read with Section 65 of the Assam Police Act, 2007 against the petitioners.

9. The scope of this Court under Article 226 of the Constitution of India while examining the validity and legality of disciplinary proceedings is limited and is only confined to the decision making process. It appears that in the instant case the learned counsel appearing for the petitioners has not argued that the enquiry held suffers from any procedural illegality or irregularity and has only argued that the penalty of dismissal from service awarded to the writ petitioners is not proportionate to the gravity of the charges proved. Ordinarily, this Court while exercising jurisdiction under Article 226 of the Constitution of India shall not interfere with the penalty awarded unless and until it shocks the conscience of the court. In other words, the test of *Wednesbury* is required to be satisfied. It is only when the punishment awarded appears to be in outrageous defiance of logic and shocking, this Court may, in a given set of facts and circumstance of a case, interfere with the punishment so awarded. Reference is made to the decision of the Apex Court in the case of **Chairman cum Managing Director, Coal India Limited & another vs. Mukul Kumar Choudhuri & others** reported in **(2009)15 SCC 620**. Paragraphs 22 to 26 of the aforesaid decision is reproduced hereunder for ready reference :-

“22. The question, however, remains : is the punishment of removal grossly disproportionate to the proved charge of unauthorized absence for more than six months?

23. In order to answer the aforesaid question, it would be appropriate to refer to a few of decisions of this Court wherein doctrine of proportionality has been considered. In *Union of India and Another v. G. Ganayutham* 1997 (7) SCC 463, this Court elaborately considered the proportionality in the administrative law in England as well as in our own country. The court considered some important English decisions, viz., *Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation*, 1947 (2) All ER 680, *Council of Civil Service Unions v. Minister for Civil Service*, 1984 (3) All ER 935, *R. v. Goldstein* 1983(1) All ER 434 and *R. v. Secretary for Home Dept. ex. p. Brind* 1991 (1) All ER 720 and few decisions of this Court, viz., *Ranjit Thakur v. Union of India* 1987 (4) SCC 611, *State of Maharashtra v. M.H. Mazumdar*, 1988 (2) SCC 52, *Ex-Naik Sardar Singh v. Union of India*, 1991 (3) SCC 213, *Tata Cellular v. Union of India*, 1994(6) SCC 651, *State of A.P. v. McDowell & Co.*, 1996(3) SCC 709 and summed up position of proportionality in administrative law in England and India thus :

"(1) To judge the validity of any administrative order or statutory discretion, normally the *Wednesbury* test is to be applied to find out if the decision was illegal or suffered from procedural improprieties or was one which no sensible decision-maker could, on the material before him and within the framework of the law, have arrived at. The court would consider whether relevant matters had not been taken into account or whether irrelevant matters had been taken into account or whether the action was not bona fide. The court would also consider whether the decision was absurd or perverse. The court would not however go into the correctness of the choice made by the administrator amongst the various alternatives open to him. Nor could the court substitute its decision to that of the administrator. This is the *Wednesbury* test.

(2) The court would not interfere with the administrator's decision unless it was illegal or suffered from procedural impropriety or was irrational -- in the sense that it was in outrageous defiance of logic or

moral standards. The possibility of other tests, including proportionality being brought into English administrative law in future is not ruled out. These are the CCSU principles.

(3)(a) As per *Bugdaycay* (1987 AC 514), *Brind and Smith* as long as the Convention is not incorporated into English law, the English courts merely exercise a secondary judgment to find out if the decision-maker could have, on the material before him, arrived at the primary judgment in the manner he has done.

(3)(b) If the Convention is incorporated in England making available the principle of proportionality, then the English courts will render primary judgment on the validity of the administrative action and find out if the restriction is disproportionate or excessive or is not based upon a fair (1994) 6 SCC 651 (1996) 3 SCC 709 balancing of the fundamental freedom and the need for the restriction thereupon.

(4)(a) The position in our country, in administrative law, where no fundamental freedoms as aforesaid are involved, is that the courts/tribunals will only play a secondary role while the primary judgment as to reasonableness will remain with the executive or administrative authority. The secondary judgment of the court is to be based on *Wednesbury* and CCSU principles as stated by Lord Greene and Lord Diplock respectively to find if the executive or administrative authority has reasonably arrived at his decision as the primary authority.

(4)(b) Whether in the case of administrative or executive action affecting fundamental freedoms, the courts in our country will apply the principle of "proportionality" and assume a primary role, is left open, to be decided in an appropriate case where such action is alleged to offend fundamental freedoms. It will be then necessary to decide whether the courts will have a primary role only if the freedoms under Articles 19, [21](#) etc. are involved and not for Article 14."

24. Dealing with the question of proportionality with regard to punishment in disciplinary matters, the court said :

"32. Finally, we come to the present case. It is not contended before us that any fundamental freedom is affected. We need not therefore go into the question of "proportionality". There is no contention that the punishment imposed is illegal or vitiated by procedural impropriety. As to "irrationality", there is no finding by the Tribunal that the decision is one which no sensible person who weighed the pros and cons could have arrived at nor is there a finding, based on material, that the punishment is in "outrageous" defiance of logic. Neither *Wednesbury* nor *CCSU* tests are satisfied. We have still to explain "*Ranjit Thakur*".

33. In *Ranjit Thakur* this Court interfered with the punishment only after coming to the conclusion that the punishment was in outrageous defiance of logic and was shocking. It was also described as perverse and irrational. In other words, this Court felt that, on facts, *Wednesbury* and *CCSU* tests were satisfied. In another case, in *B.C. Chaturvedi v. Union of India* [(1995) 6 SCC 749] a three-Judge Bench said the same thing as follows: (SCC p. 762, para 18)

"18. ... The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary authority/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof." Similar view was taken in *Indian Oil Corpn. Ltd. v. Ashok Kumar Arora* [(1997) 3 SCC 72] that the Court will not intervene unless the punishment is wholly disproportionate.

34. In such a situation, unless the court/tribunal opines in its secondary role, that the administrator was, on the material before him, irrational according to *Wednesbury* or *CCSU* norms, the punishment cannot be quashed. Even then,

the matter has to be remitted back to the appropriate authority for reconsideration. It is only in very rare cases as pointed out in B.C. Chaturvedi case that the Court might -- to shorten litigation -- think of substituting its own view as to the quantum of punishment in the place of the punishment awarded by the competent authority. (In B.C. Chaturvedi and other cases referred to therein it has however been made clear that the power of this Court under Article 136 is different.) For the reasons given above, the case cited for the respondent, namely, State of Maharashtra v. M.H. Mazumdar cannot be of any help."

25. Again, in the case of Coimbatore District Central Cooperative Bank v. Coimbatore District Central Cooperative Bank Employees Assn. and Another this court considered the doctrine of proportionality and it was held :

"17. So far as the doctrine of proportionality is concerned, there is no gainsaying that the said doctrine has not only arrived in our legal system but has come to stay. With the rapid growth of administrative law and the need and necessity to control possible abuse of discretionary powers by various administrative authorities, certain principles have been evolved by courts. If an action taken by any authority is contrary to law, improper, irrational or otherwise unreasonable, a court of law can interfere with such action by exercising power of judicial review. One of such modes of exercising power, known to law is the "doctrine of proportionality".

18. "Proportionality" is a principle where the court is concerned with the process, method or manner in which the decision-maker has ordered his priorities, reached a conclusion or arrived at a decision. The very essence of decision-making consists in the attribution of relative importance to the factors and considerations in the case. The doctrine of proportionality thus steps in focus true nature of exercise--the elaboration of a rule of permissible priorities.

19. de Smith states that "proportionality" involves "balancing test" and "necessity test". Whereas the former (balancing test) permits scrutiny of excessive onerous penalties or infringement of rights or interests and a manifest

imbalance of relevant considerations, the latter (necessity test) requires infringement of human rights to the least restrictive alternative. [Judicial Review of Administrative Action (1995), pp. 601-05, para 13.085; see also Wade & Forsyth: Administrative Law (2005), p. 366.]

20. In Halsbury's Laws of England (4th Edn.), Reissue, Vol. 1(1), pp. 144-45, para 78, it is stated:

"The court will quash exercise of discretionary powers in which there is no reasonable relationship between the objective which is sought to be achieved and the means used to that end, or where punishments imposed by administrative bodies or inferior courts are wholly out of proportion to the relevant misconduct. The principle of proportionality is (2007) 4 SCC 669 well established in European law, and will be applied by English courts where European law is enforceable in the domestic courts. The principle of proportionality is still at a stage of development in English law; lack of proportionality is not usually treated as a separate ground for review in English law, but is regarded as one indication of manifest unreasonableness."

21. The doctrine has its genesis in the field of administrative law. The Government and its departments, in administering the affairs of the country, are expected to honour their statements of policy or intention and treat the citizens with full personal consideration without abuse of discretion. There can be no "pick and choose", selective applicability of the government norms or unfairness, arbitrariness or unreasonableness. It is not permissible to use a "sledgehammer to crack a nut". As has been said many a time; "where paring knife suffices, battle axe is precluded".

22. In the celebrated decision of Council of Civil Service Union v. Minister for Civil Service (1985 AC 374 : (1984) 3 WLR 1174 : (1984) 3 All ER 935 (HL) Lord Diplock proclaimed: (All ER p. 950h-j)

"Judicial review has I think developed to a stage today when, without

reiterating any analysis of the steps by which the development has come about, one can conveniently classify under three heads the grounds on which administrative action is subject to control by judicial review. The first ground I would call 'illegality', the second 'irrationality' and the third 'procedural impropriety'. That is not to say that further development on a case-by-case basis may not in course of time add further grounds. I have in mind particularly the possible adoption in the future of the principle of 'proportionality'...." (emphasis supplied)

23. CCSU has been reiterated by English courts in several subsequent cases. We do not think it necessary to refer to all those cases.

24. So far as our legal system is concerned, the doctrine is well settled. Even prior to CCSU, this Court has held that if punishment imposed on an employee by an employer is grossly excessive, disproportionately high or unduly harsh, it cannot claim immunity from judicial scrutiny, and it is always open to a court to interfere with such penalty in appropriate cases.

25. In *Hind Construction & Engg. Co. Ltd. v. Workmen* (AIR 1965 SC 917), some workers remained absent from duty treating a particular day as holiday. They were dismissed from service. The Industrial Tribunal set aside the action. This Court held that the absence could have been treated as leave without pay. The workmen might have been warned and fined. (But) "It is impossible to think that any other reasonable employer would have imposed the extreme punishment of dismissal on its entire permanent staff in this manner." (AIR p. 919, para 7) (emphasis supplied) The Court concluded that the punishment imposed on the workmen was "not only severe and out of proportion to the fault, but one which, in our judgment, no reasonable employer would have imposed".

26. In *Federation of Indian Chambers of Commerce and Industry v. Workmen* [(1972) 1 SCC 40], the allegation against the employee of the Federation was that he issued legal notices to the Federation and to the International Chamber of Commerce which brought discredit to the Federation--the employer. Domestic inquiry was held against the employee and his services were terminated. The punishment was held to be disproportionate to the misconduct alleged and established. This Court

observed that: (SCC p. 62, para 34) "[T]he Federation had made a mountain out of a mole hill and made a trivial matter into one involving loss of its prestige and reputation."

27. In *Ranjit Thakur* referred to earlier, an army officer did not obey the lawful command of his superior officer by not eating food offered to him. Court-martial proceedings were initiated and a sentence of rigorous imprisonment of one year was imposed. He was also dismissed from service, with added disqualification that he would be unfit for future employment.

28. Applying the doctrine of proportionality and following *CCSU, Venkatachaliah, J.* (as His Lordship then was) observed: (SCC p. 620, para 25)

"The question of the choice and quantum of punishment is within the jurisdiction and discretion of the court martial. But the sentence has to suit the offence and the offender. It should not be vindictive or unduly harsh. It should not be so disproportionate to the offence as to shock the conscience and amount in itself to conclusive evidence of bias. The doctrine of proportionality, as part of the concept of judicial review, would ensure that even on an aspect which is, otherwise, within the exclusive province of the court martial, if the decision of the court even as to sentence is an outrageous defiance of logic, then the sentence would not be immune from correction. Irrationality and perversity are recognised grounds of judicial review." (emphasis supplied)

26. The doctrine of proportionality is, thus, well recognized concept of judicial review in our jurisprudence. What is otherwise within the discretionary domain and sole power of the decision maker to quantify punishment once the charge of misconduct stands proved, such discretionary power is exposed to judicial intervention if exercised in a manner which is out of proportion to the fault. Award of punishment which is grossly in excess to the allegations cannot claim immunity and remains open for interference under limited scope of judicial review. One of the tests to be applied while dealing with the question of quantum of punishment would be : would any reasonable employer have imposed such punishment in like circumstances? Obviously, a reasonable employer is expected to take into consideration measure, magnitude and degree of misconduct and all other relevant circumstances and

exclude irrelevant matters before imposing punishment. In a case like the present one where the misconduct of the delinquent was unauthorized absence from duty for six months but upon being charged of such misconduct, he fairly admitted his guilt and explained the reasons for his absence by stating that he did not have any intention nor desired to disobey the order of higher authority or violate any of the Company's Rules and Regulations but the reason was purely personal and beyond his control and, as a matter of fact, he sent his resignation which was not accepted, the order of removal cannot be held to be justified, since in our judgment, no reasonable employer would have imposed extreme punishment of removal in like circumstances. The punishment is not only unduly harsh but grossly in excess to the allegations. Ordinarily, we would have sent the matter back to the appropriate authority for reconsideration on the question of punishment but in the facts and circumstances of the present case, this exercise may not be proper. In our view, the demand of justice would be met if the Respondent No. 1 is denied back wages for the entire period by way of punishment for the proved misconduct of unauthorized absence for six months."

10. Therefore, the test to be applied while dealing with the question of quantum of punishment would be as whether any reasonable employer would have imposed such punishment in like circumstances. Thus, what is to be looked into, whether the employer has taken into consideration the measure, magnitude and degree of misconduct and all other relevant circumstances and exclude irrelevant matters before imposing punishment?

11. In the present case, the misconduct of the delinquent employees is allowing the 5 nos. of container trucks containing illegal Burmese areca nut to enter into the territory of Assam without checking with malafide intention, thereby failing to do their assigned duties at their Naka point sincerely and honestly. Thus, the charges brought against the petitioners are of gross misconduct and dereliction of duties. Considering

the measure, magnitude and degree of the misconduct of the petitioners and also taking the relevant facts and circumstances of the *lis* in hand, this Court is of the opinion that the punishment imposed is not disproportionate to the gravamen of the offence.

12. Therefore, this Court finds no illegality or infirmity in the punishment imposed by the disciplinary authority. As such, these writ petitions fail.

The writ petitions stand dismissed.

No cost.

JUDGE

Comparing Assistant