

GAHC030005492024



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

Case No. : WA/15/2024

C.Zanghinglova
S/o Chalkunga (L), R/o Leitan Ramthar, Durtlang, Aizawl, Mizoram

VERSUS

Mizoram Rural Bank and Anr.
R/b its Chairman, MINECO, Khatla, Aizawl, Mizoram 2:The Chairma

Advocate for the Petitioner : Mr. T Lalnunsiana

Advocate for the Respondent : Mr C Zoramchhana, Standing Counsel, MRB

Linked Case : I.A.(Civil)/156/2024

C.Zanghinglova
S/o Chalkunga (L)
R/o Leitan Ramthar
Durtlang
Aizawl
Mizoram

VERSUS

Mizoram Rural Bank and Anr.
R/b its Chairman
MINECO
Khatla
Aizawl
Mizoram

2:The Chairman
Mizoram Rural Bank Head Office
MINECO
Khatla
Aizawl
Mizoram

Advocate for the Petitioner : Mr. David Lalawmpuia
Advocate for the Respondent :

Before
Hon'ble Mr. Justice ROBIN PHUKAN
HON'BLE MRS. JUSTICE MARLI VANKUNG

Date of Hearing : **05.03.2025**

Date of Judgment : **25.04.2025**

JUDGMENT AND ORDER

Heard Mr. T. Lalnunsiana, learned counsel for the appellant and also heard Mr. C. Zoramchhana, learned standing counsel, Mizoram Rural Bank (MRB), appearing for the respondents.

2. This intra court appeal is directed against the judgment and order dated 24.05.2024 passed by the learned Single Judge in WP(C) No.41/2023. It is to be noted here that vide impugned judgment and order dated 24.05.2024, the learned Single Judge has dismissed the petition preferred by the appellant herein for setting aside the impugned Final Order, dated 20.05.2022, by which the appellant had been removed from service.

BACKGROUND FACTS:-

3. The background facts leading to filing of the present appeal is briefly stated as under:-

The appellant, namely, C. Zanghinglova was serving as Senior Officer i.e. Chief Manager, Asset Management Hub (AMH) under the Mizoram Rural Bank, Bawnkawn, Aizawl. He joined Mizoram Rural Bank as an Officer on 20.07.1988. During the period of his service, the appellant/petitioner was placed under suspension on 05.04.2021. Thereafter, the respondent No.2 had issued notice to him on 26.07.2021, with allegation of commission of irregularities against 16 numbers of loan accounts. The appellant then submitted his reply on 16.08.2021 explaining the allegations leveled against him. Thereafter, departmental proceeding was initiated against him and he was charge-sheeted on 10.01.2022. In the said proceeding, the appellant herein submitted his written statement on 18.01.2022. Thereafter, memorandum of charge was furnished to the appellant/petitioner on 24.01.2022 having not been satisfied with the statement furnished by him. The proceeding so initiated against him, continued and in the meantime, he retired on 28.02.2022 at the age of 60 years.

Thereafter, the enquiry was completed and the enquiry report cum findings was given to the appellant/petitioner on 16.03.2022 asking him to furnish his reply. Then, the appellant herein, submitted his reply on 30.03.2022. Thereafter, one show-cause notice was issued to him on 13.04.2022 and he had submitted his reply on 28.04.2022. The Disciplinary Authority then heard the appellant personally. Thereafter, vide order dated 20.05.2022, the appellant herein was removed from service.

Thereafter, on 07.07.2022, the appellant herein preferred an appeal before the appellate authority. But, the same came to be dismissed on 19.01.2023. Thereafter, the appellant herein preferred WP(C) No.41/2023 challenging the impugned order dated 20.05.2022 and also the order dated 19.01.2023, and after hearing both the parties, the learned Single Judge was pleased to dismiss the petition vide judgment

and order dated 24.05.2024.

GROUND:-

4. Being aggrieved, the appellant herein has preferred this appeal on the following grounds:-

- (i) That, the learned Single Judge has not considered the materials placed on record and also the submission, so advanced by the learned counsel for the appellant herein.
- (ii) That, the learned Single Judge has failed to consider the fact that mere irregularities in repayment of loan could in fact, not amount to gross misconduct which may amount to dismissal from service and the learned Single Judge has also failed to consider the fact that out of 6 number article of charges, 2 nos. of loan accounts were already closed as those were fully repaid and payment of remaining 4 loan accounts are going on.
- (iii) That, the learned Single Judge had failed to consider that the appellant herein appeared before the Disciplinary Authority to make his own argument which does not amounts to acceptance of charges and as such the observation made by the learned Single Judge, in para No. 12 of the impugned Judgment is the result of improper appreciation of facts.
- (iv) The learned Single Judge has also failed to consider that the appellant approached the writ court on the main ground that the penalty imposed upon him was not commensurate with the charges and allegations and it is well settled that writ court can interfere with the findings of the departmental enquiry if there exists such a ground of the nature of shocking to the conscience of the Court and the case of the appellant is also of such a nature and the allegations against him are baseless and he rendered more than 33 years of service as an Officer under the Mizoram Rural Bank and as such, imposition of major penalty i.e. removal from

service is perverse and liable to be interfered with and this aspect was not considered by the learned Single Judge.

- (v) The learned Single Judge in paragraph No.20 of the impugned judgment and order, arrived at the finding that the bank authority suffers loss due to misconduct of the appellant herein. But, during the whole process of departmental enquiry, neither the Inquiry Officer nor the Disciplinary Authority found financial loss of the bank. There is also no mention of the amount of loss allegedly suffered by the bank and in such situation, the Court's finding of loss of bank by the learned Single Judge, without any evidence, is liable to be set aside and quashed.
- (vi) The learned Single Judge referred to the provision of Payment of Gratuity Act, 1972 in the impugned judgment and order at paragraph Nos.27 and 28, but the appellant is governed by the Mizoram Rural Bank (Officers and Employees) Service Regulations, 2010 (hereinafter referred to as the Service Regulations, 2010) and as such, the provision of Payment of Gratuity Act, 1972 is specified in the Service Regulations, 2010 and therefore, the Payment of Gratuity Act, 1972 could no way come into play and hence the impugned judgment and order is liable to be set aside.
- (vii) The learned Single Judge has also failed to consider the respondents' gross violation of procedure in the departmental proceeding and the authority failed to submit charge-sheet within 90 days. Further, the departmental proceeding exceeded a period of one year in violation of the decision of the Apex Court and hence the impugned judgment and order dated 24.05.2024 is liable to be set aside and quashed.
- (viii) Even though the appellant is removed from service, he would be entitled to service/pension benefits as shown in the service rules and the learned

Single Judge, in the impugned judgment and order, dated 24.05.2024, has failed to consider the said averments and submission of the counsel for the appellant herein and therefore, it is contended to interfere with the impugned judgment and order.

SUBMISSIONS:-

5. Mr. Lalnunsiana, learned counsel for the appellant mainly assailed the impugned Judgment and Order on the ground that the punishment, so imposed by the disciplinary authority, upon the appellant herein, is disproportionate to the gravity of the article of charges proved against him and as such, the same is liable to be interfered with. Mr. Lalnunsiana also submits that in the impugned judgment and order, the learned Single Judge has arrived at the finding that by the conduct of the appellant herein, loss was caused to the bank, but in the impugned judgment and order and in the departmental proceeding the loss caused to the bank has not been mentioned and as such, the finding of the learned Single Judge is liable to be set aside. Further contention of Mr. Lalnunsiana is that while denying the claim of the appellant, the learned Single Judge has relied upon the Payment of Gratuity Act, 1972. But the aforementioned Act is not at all applicable since the Service Regulations, 2010 provides for payment of gratuity and as such, the Payment of Gratuity Act would not come into the way of giving the benefit of gratuity to the present appellant. Under the abovementioned facts and circumstances, Mr. Lalnunsiana submits that the impugned judgment and order is liable to be set aside and quashed. In support of his submission, Mr. Lalnunsiana has referred the decision of Hon'ble Supreme Court in the case of **Roop Singh Negi v. Punjab National Bank & Ors.**, reported in (2009) 2 SCC 570.

6. Per contra, Mr. Zoramchhana, learned standing counsel for the respondent Mizoram Rural Bank (MRB) submits that the impugned judgment and order suffers from no infirmity or illegality requiring any interference of this Court. Mr. Zoramchhana

further submits that this appeal is barred by law of limitation and while the judgment was passed by the learned Single Judge on 24.05.2024, the appeal was filed on 22.08.2024 and in view of the decision of Hon'ble Supreme Court in the case of **Noharlal Verma v. District Cooperative Central Bank Limited, Jagdalpur**, reported in (2008) 14 SCC 445, limitation goes root of the matter and if a suit, appeal or application is barred by limitation, a Court or an adjudicating authority has no jurisdiction, power or authority to entertain such suit, appeal or application and to decide it on merits. It is also submitted that the conduct of the appellant herein caused loss to the bank and same has been observed by the disciplinary authority and also the same has been stated in the affidavit-in-opposition filed by the respondent authorities and as such, there is no infirmity in the findings so recorded by the learned Single Judge. Further, Mr. Zoramchhana submits that the charge leveled against the appellant and the punishment so imposed upon him is commensurate with the nature and gravity of the article of charges and as the action of the appellant caused financial loss to the bank, the respondent bank is at liberty to retain the appellant in service or not and that the respondent bank had rightly removed the appellant herein from the service. Mr. Zoramchhana further submits that the learned Single Judge has rightly discussed the Payment of Gratuity Act and also taken note of the provision of Regulation 45 of the Service Regulations, 2010 and thereafter, arrived at the decision and the punishment so imposed upon the appellant is not shocking to the conscience of the Court and on such count, the same warrant no interference of this Court and therefore, it is contended to dismiss the appeal.

7. Mr. Zoramchhana has also referred following decisions in support of his submission:-

- (i) **State Bank of India v. Ram Lal Bhaskar & Anr.**, reported in (2011) 10 SCC 249.
- (ii) **Apparel Export Promotion Council v. A.K. Chopra**, reported in (1999) 1 SCC 759.

- (iii) **B.C. Chaturvedi v. Union of India & Ors.**, reported in (1995) 6 SCC 749.
- (iv) **Union of India & Ors. v. Ex. Constable Ram Karan**, reported in (2022) 1 SCC 373.

8. Having heard the submission of learned counsel for both the parties, we have carefully gone through the memo of appeal and the grounds mentioned therein and also perused the impugned judgment and order dated 24.05.2024 and also gone through the decisions referred by Mr. Lalnunsiana, learned counsel for the appellant and Mr. Zoramchhana, learned standing counsel for the respondent MRB.

PRECEDENTS:-

9. Before a discussion is directed into the issues raised in this intra-court appeal it would be in the interest of justice to understand the legal proposition concerning the scope and power of the writ court to interfere with the finding in disciplinary proceeding, specially with the punishment imposed upon the charge officials.

10. While dealing with the issue in the case of **Noharlal Verma (supra)**, Hon'ble Supreme Court has held that normally in exercise of power of judicial review, a writ court will not substitute its own judgment or decision for the judgment or decision of the disciplinary authority unless it comes to the conclusion that it has shocked the conscience of the Court of the punishment is such that no reasonable man would impose such punishment or the decision is so absurd that the decision maker at the time of making the decision must have taken leave of his senses.

11. In the case of **Ram Lal Bhaskar (supra)**, Hon'ble Supreme Court has held that in a proceeding under Article 226 of the Constitution of India, the High Court

does not sit as an appellate authority over the findings of the disciplinary authority and so long as the finding of the disciplinary authority are supported by some evidence the High Court does not re-appreciate the evidence and come to a different and independent finding on the evidence.

12. In the case of **Apparel Export Promotion Council vs. A.K. Chopra** reported in (1999) 1 SCC 759, while dealing with jurisdiction of High Court or Tribunal it has been held that judicial review, not being an appeal from a decision, but a review in the manner in which the decision was arrived at, the Court while exercising the power of judicial review must remain conscious of the fact that if the decision has been arrived at by the administrative authority after following the principle established by law and the rules of natural justice and the individual has received a fair treatment to meet the case against him, the Court cannot substitute its judgment for that of the administrative on a matter which fell squarely within the jurisdiction of that authority.

13. In the case of **B.C. Chatruvedi (supra)**, Hon'ble Supreme Court has held that the disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has co-extensive power to re-appreciate the evidence or the nature of punishment. In a Disciplinary Enquiry, strict proof of legal evidence and finding on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the court/tribunal.

14. In the said case, it has also been held as under:-

“A review of above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court or tribunal while exercising the 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 relief, either directing the disciplinary authority/appellate authority to consider the penalty imposed or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reason in support thereof.”

15. In the case of **Union of India & Ors. vs. Ex. Constable Ram Karan** reported in (2022) 1 SCC 373, Hon’ble Supreme Court has held that High Court should not have substituted its own discretion for that of the authority. What punishment was required to be imposed, in the facts and circumstances of the case, was a matter which fell exclusively within the jurisdiction of competent authority and the interference made by the High Court is in a cavalier manner while recording the finding of penalty to be disproportionate without taking into consideration the seriousness of the misconduct committed by the respondent which is unpardonable and not sustainable in law.

CONSIDERATION:-

16. Now, advertent to the facts herein this case, we find from the record that there were as many as six imputation of the charges against the present appellant, which read as under:-

1. Due to his gross negligence and dereliction of duty has sanctioned/disbursed HL 97012237200 of Rs.50.00 lakh to Lalhmunmawia beyond his eligibility by violating Bank’s instructions on eligibility, disbursement, security documents etc. Present outstanding in the Account is Rs.41,66,562/-. The account turned NPA and irregular by Rs.3,40,710/-.
2. Due to his gross negligence and dereliction of duty has sanctioned/disbursed TL-97012082287 Chawngthanhliiri,

Proprietor of M/S CT Business, Limit Rs.50.00 lakh by violating Bank's instructions on scrutiny/verification of unit, disbursement, security documents etc. Unit is not available. Present outstanding in the Account is Rs.48,91,089/-. The account turned NPA and irregular by Rs.7,92,546/-.

3. Due to his gross negligence and dereliction on duty has sanctioned/disbursed TL-97011935679 Lalnunthari Khiangte, Proprietor of M/S P&J Shoe Store, Limit Rs.40.00 lakh by violating Bank's instructions on scrutiny/verification of unit, disbursement, security documents etc. Unit is not available. Present outstanding in the Account is Rs.38,47,213/-. The account turned NPA and irregular by Rs.4,68,515/-.
4. Due to his gross negligence and dereliction of duty has sanctioned/disbursed TL-97011767169, Proprietor of M/S Zik Zak Store, Limit Rs.30.00 lakh by violating Bank's instructions on scrutiny/verification of unit, disbursement, security documents etc. Unit is not available. Present outstanding in the Account is Rs.28,26,467/-. The account turned NPA and irregular by Rs.3,76,273/-.
5. Due to his gross negligence and dereliction of duty has sanctioned/disbursed CC-97011654087 Isak Pharmacy, Proprietor Lalremsiami, Limit Rs.50.00 lakh by violating Bank's instructions on scrutiny/verification of unit, disbursement, security documents etc. Unit is not available. Present outstanding in the Account is Rs.48,85,787/-. The account turned NPA and irregular by Rs.48,85,787/-.
6. Due to his gross negligence and dereliction of duty has sanctioned/disbursed HL-97012070622 Lalremsiami,

Proprietor of M/S Isak Pharmacy, Limit Rs.50.00 lakh by violating Bank's instructions on scrutiny verification of unit, disbursement, security documents etc. The loan is sanctioned for construction of house but unit/house is not constructed in the address/location mentioned in the document. Fund diverted. Present outstanding in the Account is Rs.49,64,072/-. The account turned NPA and irregular by Rs.3,33,804/-.

17. Thus, it appears that in Article of Charge No.1, the loan was granted for a sum of Rs.50.00 lacs and the outstanding in the account is Rs.41,66,562/- and the account turned NPA and irregular by Rs.3,40,710/-. In Article of Charge No.2, the appellant herein granted loan of Rs.50.00 lacs and the outstanding in the account is Rs.48,91,089/- and the account turned NPA and irregular by Rs.7,92,546/-. In Article of Charge No.3, the loan was granted for a sum of Rs.40.00 lacs by violating Bank's instruction and the outstanding in the account is Rs.38,47,213/- and the account turned NPA and irregular by Rs.4,68,515/-. In Article of Charge No.4, it is stated that the appellant herein had sanctioned a loan of Rs.30.00 lacs and the present outstanding in the account is Rs.28,26,467/- and the account turned NPA and irregular by Rs.3,76,273/-. In Article of Charge No.5, indicates that the appellant herein had sanctioned a sum of Rs.50.00 lacs and the outstanding in the account is Rs.48,85,787/- and the account turned NPA and irregular by Rs.48,85,787/-. In Article of Charge No.6, indicates that the appellant herein had sanctioned a sum of Rs.50.00 lacs and the outstanding in the account is Rs.49,64,072/- and the account turned NPA and irregular by Rs.3,33,804/-.

18. From a bare perusal of the impugned Judgment and Order, dated 24.05.2024, we find that the learned Single Judge in paragraph Nos. 4 and 5 had taken note of the submissions, so advanced by the learned counsel for the appellant. In the subsequent paragraphs, also the learned Single Judge has taken note of the same and arrived at the finding. And as such, it cannot be said that the learned Single

Judge has not appreciated the contentions, so advanced by learned counsel for the appellant.

19. Further, from a perusal of the affidavit-in-opposition filed by the respondent authorities, we find that in paragraph 19, it has been categorically stated that huge monetary loss was sustained by the bank due to the action/inaction of the appellant. Also, we find that in the final order, enclosed at page No.174 of the memo of appeal, it has been clearly stated that the act of the appellant was like unbecoming to a faithful officer of the bank, to serve the bank with utmost care and due diligent to promote and protect the interest of the bank, which led to exposing the bank at risk and pecuniary loss and as such, he committed gross misconduct in terms of Regulation 18 and 20 of the Service Regulations, 2010.

19.1. This being the factual position, it cannot be said that the finding of the learned Single Judge that due to action/inaction of the appellant, the bank authority suffered loss, is without any basis or ground. It is a fact that the actual amount of pecuniary loss, that the bank had suffered, has not been assessed. But, in the six articles of charges, the same has been categorically mentioned. And that being so, we are of the view that there is no substance in the submission, so advanced by the learned counsel for the appellant herein.

20. The impugned Judgment and Order of the learned single Judge also indicates that apart from discussing Regulation 45 of the Service Regulations, 2010, the learned Single Judge had also discussed the Payment of Gratuity Act, 1972 and arrived at the finding that the appellant herein is not entitled to the gratuity, unless the loss caused to the bank due to his action, is less than what he was to receive as gratuity. Notably, in the Regulation 72 of the Service Regulations, 2010, there is a reference to the Payment of Gratuity Act, 1972. And that being so, no fault can be found with the discussion made by the learned single Judge about Payment of Gratuity Act in the impugned Judgment and Order, and the same to our considered opinion, is

not liable to be interfered with.

21. It also appears from a perusal of the final order passed by the disciplinary authority that all the article of charges against the present appellant stands proved. And as such, the loss suffered by the respondent bank and the punishment imposed upon the appellant, to the considered opinion of this Court, is not disproportionate, rather it appears to be commensurate with the nature and gravity of the charges and as such, we are of the considered opinion that no interference with the finding of the learned Single Judge is warranted.

22. It is to be noted here that the punishment, so imposed upon the appellant, is not of that nature and unreasonable to shock the conscience of the Court and it cannot be termed that no reasonable man would impose such punishment and there is nothing on the record to suggest that the decision of the disciplinary authority is absurd and as such, we are unable to record concurrence with the submission of learned counsel for the appellant that the punishment, so imposed upon the appellant herein, is not commensurate with the article of charges.

23. It is well settled in the case of **B.C. Chatruvedi (supra)** that the disciplinary authority is the sole judge of facts. The disciplinary authority, and on appeal the appellate authority, are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court, while exercising the judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty, unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the Court.

24. We have also carefully gone through the decision, in the case of **Roop Singh Negi (supra)**, referred by the learned counsel for the appellant and we find that the same would not come into aid of the appellant herein as in the said case, the

order of the disciplinary authority, as also the appellate authority are not supported by any reason. The report of the Enquiry Officer, in that case, was based on surmise and conjecture and not supported by any evidence. But, the same is not the case herein.

25. In the result, we find no merit in this appeal and accordingly, the same stands dismissed. The parties have to bear their own cost.

JUDGE

Comparing Assistant