

**HIGH COURT OF TRIPURA
AGARTALA**

WA 68 of 2025

Oil And Natural Gas Corporation Limited and Ors

---Appellant(s)

Versus

Sri Subrata Debbarma

---Respondent(s)

For Appellant(s)	:	Mr. S. M. Chakraborty, Advocate General Mrs. Paromita Dhar, Advocate. Mr. John Debbarma, Advocate. Mr. Manash Debbarma, Advocate. Mr. Hirojit Debbarma, Advocate.
For Respondent(s)	:	None.
Date of hearing and date of judgment and order	:	23.07.2025
Whether fit for reporting	:	No

**HON'BLE JUSTICE DR. T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT**

Judgment & Order (Oral)

Dr. T. Amarnath Goud, J

[1] This is an appeal under Rule B(A) of Chapter VIII of the High Court of Tripura Rules, 2023 read with Articles 226 of the Constitution of India preferred against the judgment and order dated 07.05.2025 passed by the learned Single Judge in WP(C) 10 of 2023.

[2] It is the case of the appellant that a departmental proceeding was initiated against the respondent herein under Rule 36 of ONGC Conduct, Discipline Appeal Rules, 1994. The disciplinary authority passed an order dated 09.10.2018 imposing penalty of removal from service which would not be a disqualification for future employment under the Government or the corporation/company owned or controlled by the Government. Challenging the order of penalty, the respondent herein preferred Writ Petition which was registered as W.P. (C) No. 1192 of 2018. By judgment dated 21.11.2019 the article of charges No. 2 & 3 were quashed but found sufficient materials in respect of article of charge No. 1.

[3] The appellants herein preferred appeal which was registered as Writ Appeal No. 184 of 2020 and the matter was disposed by judgment dated 12.08.2022 remitting the matter and directing the respondent to submit representation. That, in terms of the direction of this Court the respondent herein submitted his appeal on 24.08.2022 and the appellate authority vide order dated 01.11.2022 dismissed the said appeal by affirming the penalty.

[4] The respondent herein thereafter filed a Writ Petition - WP(C) 10 of 2023, for quashing the order dated 09.10.2018 and the appellate order dated 01.11.2022 and the learned Single Judge by judgment dated 07.05.2025 quashed the impugned order dated 01.11.2022 and directed the appellate authority to decide the matter afresh with regard to the nature and quantum of penalty.

[5] Being aggrieved this appeal is therefore preferred seeking to set aside the judgment dated 07.05.2025 and uphold the Appellate Authority's order dated 01.11.2022, being lawful, reasoned, and passed after due consideration of proportionality and service record in accordance with the applicable rules and judicial directions.

[6] It is contended by the counsel for the appellants that the Learned Single Judge erred both in law and jurisdiction by interpreting the Division Bench's phrase 'must be taken into consideration' as creating a binding obligation on the Appellate Authority to reduce the penalty. The findings of the Learned Single Judge in paragraph 34 of the impugned judgment dated 07.05.2025 amounts to wrongful exercise of jurisdiction vested in it by constraining the appellants to reach only one conclusion.

[7] Firstly, the expression "it became now obligatory" transforms a judicial observation made by the Division Bench into a binding command, which was never the intent of the Division Bench.

[8] Secondly, for the sake of clarity and brevity, the relevant portion of paragraph 34 of the impugned judgment dated 07.05.2025 is reproduced hereunder:

"The words 'must be taken into consideration' cannot and should not be understood and interpreted with such laxity and elasticity so as to enable the appellate authority to sit over such observation and to affirm the penalty as was imposed by the disciplinary authority, on the same set of facts based on which

such observations were made by both the Ld. Single Judge and then by the Division Bench."

[9] It is further submitted by the appellants that the Appellate Authority in compliance with the directions issued by the Division Bench in W.A. No. 184 of 2020 had duly considered the proportionality of the penalty and gave exhaustive reasons, including repeated misconduct deliberately, performance records, the organizational impact and aggravating circumstances warranting removal from service as apparent from paragraph 10, 11 and 12 (Annexure 10 of the Writ Petition). But from the aforesaid extract, the phrase 'sit over such observation and to affirm the penalty' reflects an erroneous understanding of the role of the Appellate Authority under Rule 51(2) of the ONGC Conduct, Discipline and Appeal Rules, 1994. The Division Bench, while remanding the matter did not set aside the penalty but directed that the proportionality must be considered, which the Appellate Authority had done. To suggest that the authority cannot affirm the penalty, even after proper consideration, would render the appellate process illusory and mechanical. In the aforesaid extract, the phrase 'must be taken into consideration' is again transformed from a judicial observation made by the Division Bench into a binding one, narrowing the scope of the Appellate Authority and excluding the possibility of any independent evaluation.

[10] Heard and perused the record.

[11] It is apparent from the record that a departmental proceeding was initiated against the respondent under Rule 36 of ONGC Conduct, Discipline Appeal Rules, 1994 under the following three articles of charges:

"1. He is habitually irregular in attendance, wilfully and habitually absents himself from duty without leave and absents himself from his place of work after signing the attendance register whereby he remains absent from his appointed place of work without permission or sufficient cause. Latest example of his unauthorised absence is from 02.01.2017 to 30.04.2017.

2. He has neglected his duty and on various occasions, refused to perform his official assignments/jobs and thereby has disobeyed the lawful orders of his superiors and shown insubordination.

3. He has exhibited threatening, intimidating behaviour and has abused his superiors on being asked to perform his duty or when asked to submit leave applications to regularise his leave. He has also exhibited similar threatening, intimidating behaviour and has

abused other regular/contractual employees of ONGC by using insolent, impertinent and unparliamentary language."

[12] Having considered the materials on record and the submissions advanced by the learned counsel for the parties, we are of the considered view that the learned Single Judge has rendered a reasoned and just decision, which calls for no interference in appeal.

[13] The learned Single Judge, after a detailed analysis of the facts of the case, as well as the prior binding observations of this Court, correctly found that the penalty of removal from service imposed upon the petitioner was shockingly disproportionate to the charges levelled against him. It was further observed, and rightly so, that the appellate authority, despite being duty-bound to give due weight and consideration to the observations and directions of this Court, failed to do so in both letter and spirit.

[14] The appellate authority could not have ignored or diluted the import of the Division Bench's earlier observation that the penalty appeared to be disproportionate. The phrase "must be taken into consideration" was not merely advisory but carried a binding judicial import, especially when neither of the parties chose to challenge the earlier findings. The appellate authority, however, instead of complying with the judicial mandate, substituted its own opinion on the very same set of facts and thereby reaffirmed the penalty in a manner that amounts to judicial indiscipline and administrative arbitrariness.

[15] We are in complete agreement with the finding of the learned Single Judge that such an approach by the appellate authority, disregarding the binding precedents and the principle of proportionality in the imposition of penalty, is not only unsustainable in law but also violates the principles of fairness and reasonableness. Moreover, the matter has been remanded to the appellate authority to decide the matter. It is needless to observe that the appellate authority would pass a reasoned order considering the material available in accordance with law. Now since the matter is with the appellate authority this court is not inclined to express its opinion whether petitioner is guilty or not guilty.

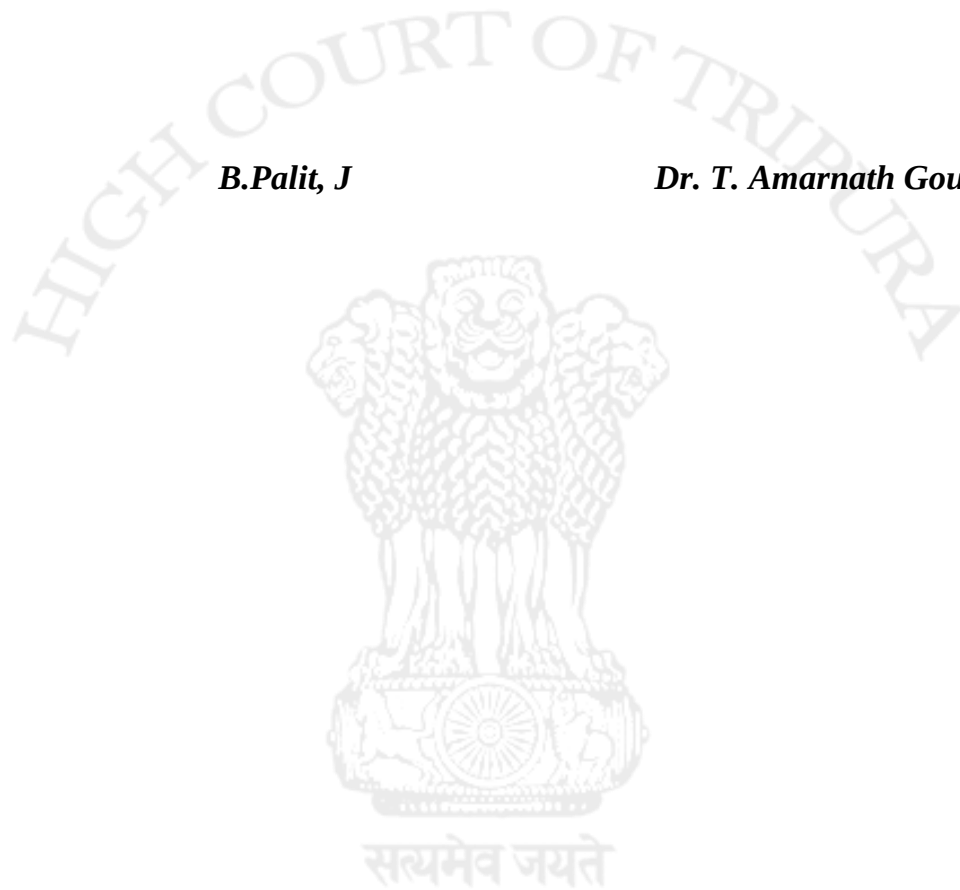
[16] Accordingly, we see no reason to interfere with the well-reasoned judgment and order passed by the learned Single Judge. The appeal is, therefore, devoid of merit and liable to be dismissed.

[17] Accordingly, the appeal stands dismissed. The judgment and order dated order dated 07.05.2025 passed by the learned Single Judge is hereby affirmed.

[18] Accordingly, the appeal is dismissed. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.

B.Palit, J

Dr. T. Amarnath Goud, J



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