GAHC010205542019

2026:GAU-AS:9056

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

Case No. : WP(C)/6307/2019

GOPAL CHANDRA DAS
S/O. LT. RAJEN CHANDRA DAS, R/O. HOUSE NO.16, CHANDRA CHOUDHURY PATH, BYE LANE RUDRAPUR, BHETAPARA, GUWAHATI, P.O. BELTOLA, DIST. KAMRUP (M), ASSAM, PIN-781028.

VERSUS

THE ASSAM GRAMIN VIKASH BANK AND ANR.
HAVING ITS HEAD OFFICE AT BHANGAGARH, G.S. ROAD, GUWAHATI, DIST. KAMRUP (M), ASSAM, PIN-781005, REP. BY ITS CHAIRMAN.

2:THE CHAIRMAN

ASSAM GRAMIN VIKASH BANK
SITUATED AT BHANGAGARH
G.S. ROAD
GUWAHATI
DIST. KAMRUP (M)
ASSAM
PIN-781005

Advocate for the Petitioner : MR. A SARMA, MR E SHITIRI,MR A DAS

Advocate for the Respondent : MR SISHIR DUTTA, MR. S DUTTA,MS M BORCHETIYA

BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 22-06-2026

Heard Mr. A. Sarma, learned counsel for the petitioner. Also heard Mr. S. Dutta, learned Senior counsel, assisted by Ms. S. Musahary, learned counsel for the respondent Bank.

2. The present writ petition was heard at length on 27-05-2026 and was directed to be listed today for delivery of the order.

3. The petitioner, by instituting the present writ petition, primarily seeks a direction to the respondent authorities to release his Gratuity, which has been withheld following his discharge from service by way of imposition of a penalty of Compulsory Retirement vide order dated 23-12-2015.

4. As projected in the writ petition, a disciplinary proceeding was instituted against the petitioner, culminating in the order dated 23-12-2015, whereby the penalty of Compulsory Retirement was imposed. Upon his discharge from service, the petitioner approached the respondent authorities for the release of his pension and other pensionary benefits, including gratuity. Aggrieved by the non-release of these benefits, the petitioner has approached this Court.

5. Mr. A. Sarma, learned counsel for the petitioner, submitted at the outset that the petitioner is not challenging the penalty of Compulsory Retirement in the present proceeding, rather, the petitioner claims service benefits that he remains legally entitled to receive despite the imposition of the said penalty. Mr. Sarma submitted that the petitioner is entitled to receive gratuity alongside other retirement benefits, such as leave encashment and the Group Savings Linked Insurance (GSLI) pension.

5.1. Mr. Sarma submits that since the petitioner is already in receipt of his regular

pension, that specific prayer is not pressed. Mr. Sarma fairly conceded that no material has been brought on record regarding the claims for leave encashment and GSLI. Accordingly, he prayed that the petitioner be granted liberty to approach the respondent authorities by filing a fresh application seeking the release of those two benefits. Accordingly, he submits that the scope of the present writ petition be confined solely to the petitioner's claim for the release of Gratuity.

5.2. Mr. Sarma submitted that the provision governing the release of Gratuity is found under Regulation 72 of the Assam Gramin Vikash Bank (Officers and Employees) Service Regulations, 2010. He submitted that every officer or employee is eligible for gratuity upon the termination of service in any manner, except by way of punishment, provided they have completed 10 years of service. Mr. Sarma by referring to the proviso to Sub-Regulation (2) of Regulation 72 has submitted that the same stipulates that an employee's gratuity cannot be forfeited upon dismissal for misconduct unless such misconduct has caused a quantifiable financial loss to the Bank, and even then, forfeiture is restricted only to the extent of that loss.

5.3 Mr. Sarma submitted that because gratuity is a beneficial financial provision for retirees, it must be released to the petitioner, especially since no financial loss to the Bank was ever quantified in the disciplinary proceedings concluded against the petitioner. He argued that the beneficial rules applicable to an "employee" should similarly extend to the petitioner, who holds the rank of an "officer."

5.4. By referring to the provisions of Regulation 44 of the Assam Gramin Vikash Bank (Employees' Pension) Regulations, 2018, Mr. Sarma submitted that the Rules governing

the release of provisional pension draws no distinction between an employee and an officer. He maintained that the term "employee" in Sub-Regulation (1) of Regulation 44 is used generically to describe all personnel in the service of the Bank. Under Sub-Regulation (2) of Regulation 44, Gratuity is to be paid upon the conclusion of proceedings, subject to adjustments for any recoveries. Therefore, he argued that the term "employee" in the proviso to Regulation 72(2) of the 2010 Regulations must be read in harmony with Regulation 44 of the 2018 Regulations to give it a wider and more inclusive meaning.

5.5. In support of his contentions, Mr. Sarma relied upon the judgment of the Hon'ble Supreme Court in ***Shyam Lal Vs. State of U.P. & Ors.*** reported in ***(1954) 1 SCC 572***. He also cited a decision of a Coordinate Bench of this Court in ***Boloram Bordoloi Vs. Lakhimi Gaolia Bank*** (Order dated ***03-04-2009*** in ***W.P.(C) No. 219/2006***), which was subsequently upheld by the Division Bench in ***W.A. No. 361/2008*** and by the Hon'ble Supreme Court in ***Civil Appeal No. 4394/2010***. Relying on ***Shyam Lal (Supra)***, Mr. Sarma argued that a penalty of Compulsory Retirement cannot be equated to a penalty of dismissal or removal from service, and thus cannot act as an absolute bar to the entitlement of gratuity and retirement benefits.

6. Per contra, Mr. S. Dutta, learned Senior counsel appearing for the respondent Bank, referred to the definitions under Regulation 2 of the Assam Gramin Vikash Bank (Officers and Employees) Service Regulations, 2010, to demonstrate that the terms "employee" and "officer" carry distinct legal meaning.

6.1. Mr. Dutta submitted that while both Officers and Employees are generally eligible

for gratuity under Regulation 72(2), an officer whose services are terminated by way of a penalty, is expressly excluded from such eligibility. He emphasized that the proviso to Sub-Regulation (2) of Regulation 72 applies strictly to an "employee" and cannot be stretched to cover an "officer."

6.2. Mr. Dutta further pointed out that the petitioner has not claimed gratuity under the Payment of Gratuity Act, 1972, but has based his claim on Regulation 72 of the 2010 Regulations; hence, the 2010 Regulations must strictly govern the field. It is further submitted that as the penalty of compulsory retirement severed the employer-employee relationship by way of punishment, the disqualification clause under Regulation 72(2)(e), is squarely attracted in the case of the petitioner.

6.3. In support of his submissions, Mr. Dutta relied upon the Division Bench decision of this Court in ***United Bank of India Vs. Sujoy Kr. Roy*** (***W.A. No. 59/2015***, decided on ***26-05-2016***), as well as the Hon'ble Supreme Court's ruling in ***P. Rajan Sandhi Vs. UoI & Ors.*** reported in ***(2010) 10 SCC 338***.

6.4. Mr. Dutta, with regard to the submission of the learned counsel for the petitioner that the term 'employee' as finding mention in the provisions of Regulation 44 of the Pension Regulation of 2018 must be given an inclusive meaning, submits that the term 'employee' cannot be given a meaning contrary to the 2010 Regulations. He noted that while 'officer' is not explicitly defined within the 2018 Pension Regulations, Sub-Regulation (2) of Regulation 2 of the 2018 Regulations explicitly mandates that any terms undefined, therein, but defined in the 2010 Regulations shall carry the meanings assigned to them under the 2010 Regulations. Mr. Dutta further submits that the provisions of Regulation

44 of the Pension Regulations of 2018, applies in case of an employee, who retires from his services during the pendency of a departmental or judicial proceedings instituted against him and/ or continued. He submits that the provisions of Sub-Regulation (2) of Regulation 44 of the said regulations mandates the manner in which the Gratuity of an employee, against whom a departmental enquiry or judicial proceeding is pending on the date of his superannuation is to be regulated. He submits that the manner in which a Gratuity to such employee is to be released, upon conclusion of the departmental proceeding or judicial proceeding instituted against him, would be governed by the provisions of Regulation 72 of the Regulation of 2010.

6.5. Mr. Dutta further submitted that the reliance on ***Shyam Lal (Supra)*** and ***Boloram Bordoloi (Supra)*** is misplaced, as the Compulsory Retirement in ***Shyam Lal (Supra)*** was not imposed as a disciplinary penalty but as a retirement upon the completion of 25 years of service based on administrative suitability.

7. I have heard the learned counsel for the respective parties and meticulously perused the materials available on record.

8. The foundational facts are not disputed. Following the imposition of the penalty of compulsory retirement, a clear cessation of the employer-employee relationship occurred between the petitioner and the respondent Bank. An employee or officer of the Bank is entitled to receive gratuity either under the Payment of Gratuity Act, 1972, or under Regulation 72 of the 2010 Regulations. Since the petitioner has confined his claim to the framework of the 2010 Regulations, his entitlements must be strictly interpreted through the lens of Regulation 72 of the said Regulations.

9. For clarity, the relevant text of Regulation 72(1) and 72(2) of the 2010 Regulations is reproduced below:

> *"72. **Gratuity**. - (1) An officer or employee shall be eligible for payment of gratuity either as per the provisions of the Payment of Gratuity Act, 1972 (39 of 1972) or as per sub-regulation (2), whichever is higher.*
>
> *(2) Every officer or employee shall be eligible for gratuity on, -*
>
> *(a) retirement,*
>
> *(b) death,*
>
> *(c) disablement rendering him unfit for further service as certified by a medical officer approved by the Bank, or*
>
> *(d) resignation after completing 10 years of continuous service, or*
>
> *(e) termination of service in any other way except by way of punishment after completion of 10 years of service:*
>
> *Provided that in respect of an employee there shall be no forfeiture of gratuity for dismissal on account of misconduct except in cases where such misconduct causes financial loss to the bank and in that case to that extent only."*

10. A plain reading of Sub-Regulation (2) mandates the precise contingencies under which an officer or employee qualifies for gratuity. Under clause (e), termination of service qualifies an individual for gratuity only if it is brought about "in any other way except by way of punishment". Because the petitioner's service was terminated as a direct consequence of a disciplinary penalty, namely, compulsory retirement, he is statutorily excluded from claiming gratuity under Regulation 72(2)(e) of the 2010 Regulations. The petitioner's attempt to circumvent this restriction by reading the proviso to Regulation 72(2) alongside Regulation 44(2) of the 2018 Pension Regulations does not alter this legal reality.

11. The proviso to Sub-Regulation (2) of Regulation 72 explicitly restricts its application to an "employee" of the Bank, intentionally omitting any reference to an "officer".

Consequently, this Court is of the considered view that the protection against total forfeiture outlined in the proviso cannot be extended to benefit the petitioner, who was an officer.

12. This Court would now consider the submissions advanced by the learned counsel for the petitioner basing on the provision of Regulation 44 of the 2018 Pension Regulations. The provisions, thereof, being relevant is extracted, here-in-below:

> ***"44. Provisional Pension.*** *— (1) An employee who has retired on attaining the age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings are continued, a provisional pension, equal to the maximum pension which would have been admissible to him, would be allowed subject to adjustment against final retirement benefits sanctioned to him, upon conclusion of the proceedings but no recovery shall be made where the pension finally sanctioned is less than the provisional pension or the pension is reduced or withheld, either permanently or for a specified period.*
> *(2) In cases referred to in sub-regulation (1), the gratuity shall be paid to the employee and only on conclusion of the proceedings and any recoveries to be made from an employee shall be adjusted against the amount of gratuity payable."*

13. Sub-Regulation (1) of Regulation 44 applies strictly to an employee against whom a departmental or judicial proceeding at the time of retirement is pending. Sub-Regulation (2) merely serves as a mechanism to govern the conditional disbursement and adjustment of gratuity for individuals caught in the specific matrix of Sub-Regulation (1). It clarifies that during the pendency of such proceedings, Gratuity is withheld and is payable only upon final conclusion, subject to adjustments for verified financial recoveries.

14. This provision cannot be interpreted as overriding or rewriting the substantive eligibility criteria laid down in the 2010 Regulations. Notably, the heading of Regulation 44 explicitly refers to a "Provisional Pension" rather than a final entitlement. It operates as an interim measure, analogous to Rule 22 of the Assam Services (Pension) Rules, 1969,

designed to preserve the status quo during an active inquiry. Therefore, the interpretation advanced by the learned counsel for the petitioner with regard to the applicability of the provisions of Regulation 44 of the Pension Regulations of 2018, to the case of the petitioner cannot be sustained and stands rejected.

15. Having drawn the said conclusions, this Court would now examine the decisions relied upon by the learned counsel for the petitioner. The learned counsel for the petitioner had relied upon a decision of the Hon'ble Supreme Court in the case of ***Shyam Lal (Supra)*** to project that on being compulsorily retired, the delinquent cannot be prevented from receiving his pension and pensionary benefits. On a perusal of the decision of the Hon'ble Supreme Court in the case of ***Shyam Lal (Supra)***, this Court finds that the compulsory retirement as imposed upon the appellant, therein, was so imposed after he had completed 25 years of service and it was found that it was in public interest to dispense with his further services. The compulsory retirement, therein, was not imposed as a manner of penalty. Accordingly, the said decision, in the considered view of this Court cannot advance the case of the petitioner, herein. Further, the decisions of the Coordinate Bench of this Court as well as the Division Bench and the Hon'ble Supreme Court in the case of ***Boloram Bordoloi (Supra)*** would also in the considered view of this Court, not advance the case of the petitioner, herein. The Coordinate Bench in its decision in the case of ***Boloram Bordoloi (Supra)*** had drawn its conclusions basing on the decision of the Hon'ble Supreme Court in the case of ***Shyam Lal (Supra)*** although the petitioner, therein, was imposed with a penalty of compulsory retirement by way of a penalty. Accordingly, this Court is of the considered view that the decisions in the case

of ***Boloram Bordoloi (Supra)*** would also not advance the case of the petitioner, herein.

16. At this stage, this Court would consider the decision of the Division Bench of this Court in W.A. No. 59/2015. The Division Bench of this Court in the said case by considering the provisions similar to the one as contained in the Regulation of 2010, had held that the termination of service of the respondent, therein, having occasioned on account of being imposed with a penalty of dismissal from service, he would not be entitled to receive gratuity in view of the Bar constituted under the provision of Regulation 46 of the Service Regulation of 1979 as applicable, therein. Accordingly, in the present case also there being a bar for authorisation of gratuity to officers of the Bank whose services were terminated by way of imposition of penalty, the petitioner would not be entitled to receive gratuity in terms of the provision of Regulation 79 of the Regulations of 2010.

17. The learned counsel for the petitioner having not pressed the prayer for issuance of a direction upon the respondent authorities for release to the petitioner the amounts due to him against leave encashment and GSLI, this Court provides that the petitioner would be at liberty to approach the respondent authorities by way of filing an application seeking release of the said two benefits. In the event of filing of any such application by the petitioner, the respondent authorities shall consider the same on its merit and pass appropriate order(s) as would be so deemed fit.

18. In light of the foregoing conclusions, and subject to the liberty granted to the petitioner to approach the respondent authorities with a formal application for the release of leave encashment and GSLI benefits, the present writ petition stands dismissed.

19. No order as to costs.

JUDGE

Comparing Assistant