

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

AIZAWL BENCH: AIZAWL

W.P.(C) No. 26 of 2013

1. Shri F.R. Ralsun
S/o H.L. Sela(L),
R/o Bazaar Bungkawn, Aizawl.

..... Petitioner

-Versus-

1. Mizoram Rural Bank, represented by
its Chairman, B-5, Babu Tilla,
Zarkawt, Aizawl.
2. The Chairman, Mizoram Rural Bank,
B-5, Babu Tilla, Zarkawt, Aizawl.
3. The Branch Manager, Mizoram
Rural Bank, Khatla Branch, E-31,
Khatla Dawrkawn, Aizawl.

..... Respondents

B E F O R E
THE HON'BLE MR.JUSTICE L.S. JAMIR

For the petitioner	:-	Mr. C. Lalramzauva, Sr. Advocate, Mr. A.R. Malhotra, Advocate, Mr. K. Laldinliana, Advocate, Mr. Zoramchhana, Advocate, Ms. Lalhruaitluangi, Advocate Chhangte.
For the respondents	:-	Mr. M.M. Ali, Advocate, Mr. T. Lalnunsiana, Advocate, Mr. B. Vanlalnunkima, Advocate, Ms. Lalhriatpuii, Advocate, Ms. Elizabeth K. Lalrinmawii, Advocate.
Date of hearing	:-	01-08-2013
Date of Judgment & Order	:-	01-08-2013

JUDGMENT AND ORDER (ORAL)

Heard Mr. A.R. Malhotra, learned counsel appearing for the petitioner as well as Mr. T. Lalnunsiam, learned counsel appearing for the respondents.

[2]. The case in brief is that the petitioner was placed under suspension in contemplation of disciplinary proceedings w.e.f. 10.02.2009. The respondent No. 2 issued Show Cause Notice to the petitioner on 11.05.2009 and the petitioner submitted the reply to the Show Cause Notice on 25.05.2009. Thereafter, the respondent No. 2 issued Memorandum dated 7.07.2009 alongwith the article of charges framed against him. As stipulated in the Memorandum dated 7.07.2009, the petitioner submitted his written statement of defence on 21.07.2009.

[3]. The respondent No. 3, by letter dated 2.11.2009 addressed to the petitioner, had informed him that the respondents proposed to hold an enquiry on the Show Cause Notice served to him and asked him to be present in the office of the Branch Manager, Mizoram Rural Bank, Chanmari Branch on 11.11.2009 at 2:30 p.m. Pursuant to the letter dated 2.11.2009, the petitioner presented himself before the Branch Manager, Mizoram Rural Bank, Chanmari Branch on 11.11.2009 where the respondent No. 3 was also present. On that day, i.e., 11.11.2009, the respondent No. 3 had asked the petitioner a few

questions and thereafter, no further proceeding has taken place till date and the petitioner is still under suspension.

[4]. The respondents have filed affidavit-in-opposition stating *inter alia* that under the Mizoram Rural Bank (Officers and Employees) Service Regulations, 2010, Regulation No. 49 provides for right to appeal wherein it states that an officer or employee may prefer an appeal against any order passed under these regulations to the appellate authority mentioned in Regulation 50 within a period of 5 (five) days from the date of receipt of such order. The respondents, in their affidavit, have stated that the petitioner has directly approached this Court without first preferring an appeal as provided under Article 49 and therefore, the writ petition may be dismissed.

Another ground taken in their affidavit-in-opposition is for non-joinder of parties and as such, they had stated that the writ petition may also be dismissed on this ground.

[5]. I have considered the submissions of the learned counsels of both the parties and on examination of their affidavit-in-opposition filed by the respondents, it is seen that the reliance made on Regulation No. 49 is not applicable in the instant case inasmuch as no order has been passed by the disciplinary authority.

[6]. In the present case in hand, the petitioner has been under suspension since 2009 and the disciplinary proceeding has not proceeded any further since 11.11.2009. Such delay causes prejudice

to the delinquent officer. The respondents have also not shown any reasons that the disciplinary proceeding has been delayed due to the petitioner inasmuch as the affidavit-in-opposition of the respondents are completely silent on this issue.

[7]. Considering the manner in which the disciplinary proceeding is being stalled without any reasons, this Court finds it to be a fit case for quashing and setting aside the disciplinary proceeding. However, considering the fact that the charges against the petitioner is serious inasmuch as huge amount of public money is involved, this Court finds it appropriate to direct the respondents to take steps and complete the disciplinary enquiry within a period of 3 (three) months from the date of receipt of the judgment and order of this Court.

[8]. It is also provided that in the event the respondents are not in a position to complete the proceeding within the prescribed period of 3 (three) months, the disciplinary enquiry initiated against the petitioner shall be deemed to be set aside and quashed. In such an event, the suspension order dated 10.02.2009 of the petitioner shall also stand set aside and quashed and the suspension period of the petitioner shall be deemed to be as on duty and he shall be entitled to all consequential service benefits.

[9]. With the above observations and directions, this writ petition stands disposed of.

JUDGE

Sushil