



Serial No. 01
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WA No. 25 of 2024

Date of order: 11.04.2025

Amzad Khan

...Appellant

- versus -

1. State of Meghalaya represented by the Commissioner and Secretary to the Government of Meghalaya, Home (Police) Department.
2. The Director General of Police, Meghalaya, Shillong.
3. The Inspector General of Police (TAP), Meghalaya, Shillong.
4. The Assistant Inspector General of Police (A), Meghalaya, Shillong.
5. The Deputy Inspector General of Police (TAP), Meghalaya, Shillong.
6. The Commandant 1st MLP Battalion, Mawiong, Shillong.

...Respondents

Coram:

Hon'ble Mr. Justice I.P. Mukerji, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Appellant : S. Deb, Adv.

For the Respondents : Mr. N.D. Chullai, AAG with
 Mr. E.R. Chyne, GA

i)	Whether approved for reporting in Law journals etc.:	Yes
ii)	Whether approved for publication in press:	No

JUDGMENT: (per the Hon'ble, the Chief Justice) (Oral)

We have gone through the impugned judgment and order dated 13th April, 2023 passed by a learned single judge of this Court dismissing the writ petition.



The learned judge is absolutely right in observing and holding that the writ court will not appraise the evidence in a departmental proceeding as a court of appeal. Very rightly his lordship did not interfere with the findings arrived at by the inquiry officer and by the appellate authority. But we have a point to make. It is with regard to the proportionality of punishment. The appellant has been removed from service.

Admittedly, during the material period, he was hospitalised, undergoing psychiatric treatment coupled with treatment for detoxification so as to cure him from alcohol dependence. It is also pointed out by learned counsel for the respondents that inspite of obtaining a medical fitness certificate, he did not join duty.

Although both the adjudicating authorities have narrated the facts and have also enumerated the evidence before them, we find that there is insufficient analysis of the evidence preceding the finding.

The first adjudicating authority, being the Commandant in his order dated 12th June, 2020 observed as follows:

“Thus, in view of the above facts and circumstances, and after carefully examining the findings of the EO who has proved the charge framed against the delinquent, that he had wilfully remain absent from duty w.e.f. 14th December 2019 till 18th March 2020 and thereby the delinquent has failed to maintain absolute integrity and devotion to duty, which by itself is an act which is unbecoming of a member of the discipline force. Moreover, on perusing the service records of the delinquent, it can also be seen that the delinquent is a habitual absentee who has been frequently found to be absent from duty without obtaining prior permission



or approval of the Competent Authority; despite his pay being held up and leave without pay being awarded in several occasions for unauthorized absence from duty, the delinquent has not yet improve his misdemeanours and the same has been articulated in length in this instant DP. Therefore, based upon these enunciated facts I do hereby pass this order without prejudice, impartiality and biasness, keeping in mind the principles of natural justice, that the delinquent is hereby awarded the punishment of "**REMOVAL FROM SERVICE**" from the date of passing this order."

First of all, past absence was not the subject matter of this departmental proceeding.

Secondly, how the "EO... has proved the charge against the delinquent" is not discussed.

The Appellate authority in his order dated 15th February, 2021 has held as follows:

"vii. The Enquiry was conducted by Shri. B.P. Joshi, MPS, Asstt. Commandant, 1st MLP Bn, Mawiong and Sub-Inspector Shri Andarning Nongrum, Reserve Officer, 1st MPL Bn., Mawiong, was appointed as the Presenting Officer. The Enquiry Officer duly conducted the enquiry and after observing all the basic requirement of an enquiry wherein the petitioner has been offered a fair and reasonable opportunity to defend himself, the enquiry officer had discharged his duty without bias and without vindictiveness, and the Disciplinary Authority had conducted himself objectively and dispassionately in dealing with evidences and materials or record when drawing up the final order which he had complied with and submitted his report that the charges against Ex-U/Lnk Amzad Khan **were proved beyond reasonable doubt**. The Disciplinary, namely, Commandant, 1st MLP Bn vide B.O. No. 3347 dated 12.06.2020 removed the Ex-U/Lnk Amzad Khan from service.



viii. In the above premises, I have applied my mind and examined the documents on records and found that the Department Enquiry was conducted in a free and fair manner and all opportunity have been given to the appellant to defend himself. Hence, taking into consideration the appeal of Ex-U/Lnk Amzad Khan for reinstatement into service is rejected. The indiscipline conduct cannot be condoned and the quantum of punishment is not excessive. **Hence I find no reason to interfere with the order of “Removal from Service” passed by the Disciplinary Authority, namely, Commandant, 1st MLP Bn., Thus, the appeal preferred by Ex-U/Lnk Amzad Khan stands disposed.”**

No intelligible reasons have been advanced by the Appellate authority.

On the basis of this kind of inquiry and analysis into the alleged misconduct of the appellant, the punishment of removal from service appears to us to be a little disproportionate.

We have considered the types of punishment that can be inflicted on a delinquent, under the rules.

We dispose of this appeal by substantially affirming the impugned judgment and order of the learned single judge but directing the Appellate authority, the Deputy Inspector General of Police (TAP), Meghalaya, Shillong to substitute any punishment apart from dismissal from service, removal from service or compulsory retirement for the punishment imposed within four weeks of communication of this order.

This order will not operate to reinstate the appellant in service. He is to be reinstated within two weeks of the punishment



order, in terms of our order being made by the Deputy Inspector General of Police (TAP).

We warn the appellant that in case of future delinquency, no leniency shall be shown to him.

(W. Diengdoh)
Judge

(I.P. Mukerji)
Chief Justice