GAHC030003052024

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

Case No. : WP(C)/41/2024

Sh. Chawngsangliana
S/o C. Hmingliana
R/o Venglai, Lunglei, Mizoram

VERSUS

The Chairman and Disciplinary Authority, Mizoram Rural Bank and Anr.
H.O. New Capital Complex (MINECO), Khatla, Aizawl, Mizoram

2:The Branch Manager
Mizoram Rural Bank
Serkawn Branc

Advocate for the petitioner : Mr. T. Lalzekima
(Legal Aid Counsel)

Advocates for the respondents : Mr. C. Zoramchhana
Sr. Counsel

Mr. Issac Lalremruata, Adv

BEFORE
HON'BLE MR. JUSTICE NELSON SAILO

Date on which judgment is reserved : 01.09.2026

Date of pronouncement of Judgment : 10.09.2026

Whether the pronouncement is of the Operative part of the judgment? : No

Whether the full judgment has been
Pronounced? : Yes

JUDGMENT & ORDER (CAV)

Heard Mr. T. Lalzekima, learned Legal Aid Counsel, appearing for the petitioner and Mr. C. Zoramchhana, learned senior counsel assisted by Mr. Issac Lalremruata, learned counsel for the respondents.

2. By filing this writ petition, the petitioner has challenged the order dated 07.06.2007 (Annexure-9), passed by the Chairman of the respondent Bank, by which the petitioner has been dismissed from service with immediate effect and also the communication dated 30.11.2007 (Annexure-11), by which the appeal preferred by the petitioner upon being considered by the Board in its meeting held on 21.08.2007 was rejected.

3. Brief facts of the case as projected by the petitioner is that he was appointed as an Officer of the Mizoram Rural Bank (the Bank) vide order dated 26.07.1988 and he was posted at Thingfal Branch of the Bank. As per the said order, the petitioner was to be on probation for a period of 02(two) years and would be confirmed in service subject to satisfactory report with regard to his character antecedent and his service in the Bank. The petitioner was thereafter regularized vide order dated 30.01.1992 w.e.f. 26.07.1990.

4. The petitioner while being posted as the Branch Manager, Serkawn Branch, Lunglei, certain allegations were made against him and for which reason, he was placed under suspension. Following his suspension, a Memorandum of Charge was issued to him on 11.10.2006 (Annexure-4) along with statement of Articles of Charge framed against him. As per the memorandum, he was required to submit his written statement of defence within a period of 15(fifteen) days from the date of receipt of the memorandum. Article-I of the Charge was that the petitioner while working in the Bank at Serkawn Branch for the period w.e.f. 31.07.2003 to 14.05.2002, fraudulently withdrew Rs.4,19,000/- (rupees four lacs nineteen thousand) on various occasions, violating the Regulations 17 and 19 of the Mizoram Rural Bank (Officers and Employees) Service Regulations, 2003 (Regulations of 2003). Article-II of the Charge was that for the same period of time, the petitioner acted prejudicial to the interest of the bank by availing rural housing loan in the name of one Mr. K. Lalramthanga and thereby, violating Regulations 17 and 19 of the Regulations of 2003. Article-III of the Charge was that during the same period of time, the petitioner allegedly issued bank guarantee amounting to Rs.6,30,764.10 (rupees six lacs thirty thousand seven hundred sixty four and ten paisa) without proper document and security and thereby, violating Regulations 17 and 19 of the Regulations of 2003. Article-IV of the Charge was that the petitioner for the said period allegedly issued bank guarantee amounting to Rs.12,65,528.20/- (rupees twelve lacs sixty five thousand five hundred twenty eight and twenty paisa) without proper document and security and thereby, violating Regulations 17 and 19 of the Regulations of 2003.

5. In response, the petitioner submitted his written statement of defence admitting to the Article of Charge Nos. I and II. However, in respect of Article of Charge No.-I, the petitioner admitted misuse of a sum of Rs.2,59,000/- (rupees two lacs fifty nine thousand) while stating that he had also paid back the amount. The remaining amount according to him was perhaps the correction made from the previous wrong transaction. In so far as Article of Charges III and IV were concerned, the petitioner stated that he was not the one who made the bank guarantees and that it was not issued by him. He also denied knowing Mr. P.C. Zokaia or any of his family members. The petitioner also pleaded his ignorance on the subject and he came to learn about the F.I.R only after the police arrested him. That as he was ignorant on the subject, he requested the Court of Additional District Magistrate (J) to investigate and to make a decision and pending such decision, he requested the authorities to keep the matter in abeyance. The respondent authorities concerned however, did not accept the written statement of defence submitted by the petitioner and upon examining the Memorandum of Charge, the written statement of defence submitted by the petitioner and the Enquiry Report dated 17.04.2007, submitted by the Enquiry Officer, passed the impugned order dated 07.06.2007, dismissing the petitioner from service with immediate effect.

6. The petitioner thereafter, filed an appeal before the Chairman, Board of Directors, Mizoram Rural Bank on 17.07.2007 praying for reconsideration of the penalty of dismissal from service inflicted upon him on the ground that the misconduct was not intentional, such indulgence was not habitual and he has the goodwill to repay the loan. The petitioner, therefore, sought for an imposition of any other penalty other than dismissal from service such as reduction to a lower grade or post or even compulsory retirement under the Regulations of 2003. However, the appeal of the petitioner came to be rejected by the Board in its meeting held on 21.08.2007 and the same was communicated to the petitioner on 30.11.2007. Aggrieved, the petitioner is before this Court.

7. Mr. T. Lalzekima, learned Legal Aid Counsel submits that the petitioner was not given a copy of the Enquiry Report and he was not aware about the findings recorded therein. It was only in the year 2021 when the petitioner submitted an application through RTI, the Chief Information Commissioner directed the respondent Bank to give him a copy of the Enquiry Report on 29.11.2021 and it was then only that the Enquiry Report was given to him. The learned Legal Aid Counsel further submits that another reason for not approaching this Court earlier is because the petitioner was not aware about that fact that he did not cause any financial loss to the Bank. Sometime in the month of March, 2021, the petitioner fortunately came to know that the Public Works Department admitted that the demand notice served to the Bank was illegal and therefore, they took no further action. Likewise, the Bank too did not meet the demand of the Public Works Department. The petitioner otherwise was all along under the impression that he had caused huge financial loss to the Bank and therefore, did not find himself in a position to question the penalty awarded to him. The learned Legal Aid Counsel submits that even in a case which are more severe than the alleged charge drawn against the petitioner, this Court after finding that due opportunity had not been given to the delinquent Officer had interfered with the order of dismissal from service. Therefore, the petitioner in the instant case also falling in the same category, the impugned order of dismissal and the rejection of his appeal may be set aside by this Court. In this connection he relies upon the Judgment and Order dated 01.04.2015, passed by a Co-ordinate Bench of this Court in WP(C)/7/2014 (***Shri R. Lalthanzama v. Mizoram Rural Bank and 2 Ors***). Referring to the said case, the learned Legal Aid Counsel submits that the Court after coming to a finding that prejudice has been caused to the petitioner as a result of the respondent's failure to hold an enquiry against him in a fair manner, interfered with the decision of the disciplinary authority and the consequential order that was passed by directing initiation of fresh proceedings from the stage of holding the enquiry and recording of the enquiry proceeding by the Enquiry Officer and the Presenting Officer.

8. The learned Legal Aid Counsel also relies upon the decision of a Co-ordinate Bench of this Court rendered in WP(C)/4398/2022, vide Judgment and Order dated 14.09.2022 (***Mukti Nath Rai v. the Executive Director FCI and 8 Ors.***) to contend that there is no limitation prescribed to file a writ petition under Article 226 of the Constitution of India and taking the same into account relief was granted to the petitioner in that case.

9. The learned Legal Aid Counsel also relies upon the case of ***State of Uttar Pradesh through Principal Secretary Department of Panchayati Raj Lucknow v. Ram Prakash Singh (2025) SCC OnLine SC 891*** to contend that in an appropriate case, the Court upon finding the enquiry proceedings to be vitiated, may also direct the respondent authorities concerned to grant the employee concerned full retirement benefits from the date of attaining their superannuation age instead of remanding the matter back for reconsideration afresh.

10. The learned Legal Aid Counsel also submits that the Criminal Proceedings drawn against the petitioner vide Criminal Trial No.141/2006 ended in his acquittal vide Judgment and Order dated 29.03.2010, passed by the Court of Magistrate 1st Class, Lunglei District as the prosecution failed to prove the guilt of the accused/petitioner beyond reasonable doubt and he was given the benefit of doubt. The learned Legal Aid Counsel submits that in the F.I.R that was submitted by the Branch Manager of the Bank who had replaced the petitioner, the complaint was for recovery of Rs.14,96,000/- (rupees fourteen lacs ninety six thousand) towards guarantorship of contract works as per the communication of the Chief Engineer, Public Works Department, Aizawl to the Bank. However, in the Memorandum of Charge, the amount in Article-III of the Charge is Rs.6,32,764.10/- (rupees six lacs thirty two thousand seven hundred sixty four and ten paisa) and in Article-IV of the Charge Rs.12,65,528.20/- (rupees twelve lacs sixty five thousand five hundred twenty eight and twenty paisa), which adds up to more than Rs.18,00,000/- (rupees eighteen lacs). The learned Legal Aid Counsel therefore, submits that in view of the discrepancies and the manner in which the Enquiry was conducted, the impugned order of dismissal from service cannot be sustained and should be set aside. Likewise, the rejection of the appeal filed by the petitioner also should be set aside.

11. On delay, the learned Legal Aid Counsel also relies upon the case of ***Smt. Sudama Devi v. Commissioner and Others***, reported in ***(1983) 2 SCC 1*** to contend that there is no period of limitation prescribed to file a writ petition and that the maintainability of a writ petition is to be decided by applying the general rule of laches by considering the facts and circumstances of the case. Learned Legal Aid Counsel also relied the case of ***Damoh Panna Sagar Rural Regional Bank and Another v. Munna Lal Jain***, reported in ***(2005) 10 SCC 84***. The petitioner also relies upon the case of ***The State of Punjab and Others v. Bakhtawar Singh and Others***, reported in ***(1972) 4 SCC 730***.

12. Mr. C. Zoramchhana, learned senior counsel on the other hand submits that there has been inordinate delay of about 17 (seventeen) years in filing the writ petition and therefore, the writ petition should be dismissed on this ground alone. He submits that the petitioner has not tendered any reasonable explanation as to why he has approached this Court after such a long delay. Learned senior counsel submits that the Apex Court in a given case had in fact rejected a writ petition, which was filed after a delay of 06(six) years. Learned senior counsel further submits that it is an established principle of law that delay defeats equity and therefore, the petitioner having approached this Court after such a long delay of 17(seventeen) years, cannot seek equitable relief from this Court on account of inordinate delay and laches on his part. In order to support his submission, learned senior counsel has relied upon the case of ***Life Insurance Corporation of India and Others v. Jyotish Chandra Biswas***, reported in ***(2000) 6 SCC 562*** and ***Chairman/Managing Director, Uttar Pradesh Power Corporation Limited and Others v. Ram Gopal***, reported in ***(2021) 13 SCC 225***.

13. Learned senior counsel further submits that in view of the admissions on the part of the petitioner specifically to Article-I and II of the Charges and also to the Articles-III and IV of the Charges, no prejudice has been caused to him for non-furnishing of the Enquiry Report. He submits that the reply submitted by the petitioner to the Memorandum of Charge and also the appeal filed by the petitioner would go to show that he had admitted the charges. In such a situation, it cannot be said that the petitioner has been prejudiced in any manner and moreover, such a claim made being belated and apparently as an afterthought, the writ petition even on this ground would not be maintainable. He also submits that some of the submissions advanced on behalf of the petitioner are also submissions which are beyond pleadings. Learned senior counsel in support of his submission, has relied upon the case of ***Managing Director, ECIL, Hyderabad and Others v. B. Karunakar and Others***, reported in ***(1993) 4 SCC 727***.

14. Mr. C. Zoramchhana, learned senior counsel further submits that although the petitioner has taken the stand that he has been acquitted by the Criminal Court, but the same by itself does not give the petitioner any benefit in view of the fact that the standard of test in a criminal trial and in a departmental proceedings are different. He submits that the degree of proof in a criminal trial is proof beyond reasonable doubt, whereas in a departmental proceeding, it is only preponderance of probabilities, which is required to be established by the prosecuting authorities. He submits that the petitioner being an employee of a bank, has to maintain the highest standard of trust and therefore, a lenient view cannot be taken in case of a bank employee. In support of his submission, learned senior counsel has relied upon the case of ***Ajit Kumar Nag v. General Manager (PJ), Indian Oil Corporation Limited, Haldia and Others***, reported in ***(2005) 7 SCC 764***.

15. The learned senior counsel also submits that the disciplinary authority upon making a proper assessment of the materials available on record, which includes the reply submitted by the petitioner himself as well as the Enquiry Report, had passed the impugned order of dismissal from service and therefore, the same may not be interfered with by this Court. He submits that it is a settled position of law that disciplinary authority in a departmental proceeding is the sole judge of facts and unless such decision arrived at by the disciplinary authority is a decision, which no reasonable person properly instructed in law would have passed, Courts normally would not interfere. He therefore, submits that the decision of the disciplinary authority and which was later considered and upheld by the appellate authority, may not be interfered with by this Court. In support of his submission, the learned senior counsel relies upon the case of ***Apparel Export Promotion Council v. A.K. Chopra***, reported in ***(1999) 1 SCC 759***.

16. I have heard the submissions made by the learned counsel for the rival parties and have perused the materials available on record.

17. The projection made by the petitioner is that there has been violation of the principles of natural justice, equity and good conscience in view of the fact that a copy of the Enquiry Report had not been supplied to the petitioner and that the order dated 30.11.2007, rejecting the appeal of the petitioner is also a non-speaking order.

18. As already stated, while the petitioner was working as Branch Manager, Serkawn Branch, Lunglei, certain allegations had been made against him and for which, he was placed under suspension and thereafter, disciplinary proceeding was drawn against him with the issuance of the Memorandum of Charge on 11.10.2006, which also contained the statement of Articles of Charges framed against him. The petitioner was required to submit his written statement of defence within a period of 15(fifteen) days. In response to the Memorandum of Charge, the petitioner submitted his written statement of defence and against Article No.I of the Charge Memo, the petitioner stated that due to his severe financial problem, he had misused the bank funds. That although he has repaid the amount, he was greatly embarrassed and regretted what he had done. He therefore, asked for forgiveness from the authorities for what he did and that he would not repeat such a conduct again.

19. In respect of the Article No.II of the Charge Memo, the petitioner's explanation was that his brother-in-law was working as a Junior Engineer in the Public Works Department and his wife was a Teacher in a Middle school. As he had frequent problems in making repayment of the Tipper loan taken by his wife from Tata Company, he requested his brother-in-law to take a housing loan and then to lend him the money as per his convenience. His brother-in-law agreed to the request, but when the amount was sanctioned, his brother-in-law had gone away for training and since he had urgent requirement for the money, he disbursed the amount with an intention to rectify the voucher later on. On return, his brother-in-law refused to take the loan and told him that he would be responsible for taking the loan as it was he who had used the money. He therefore, kept a note on the non-judicial stamp paper that he will take all the responsibility and not his brother-in-law and sent the same to the Head Office. Further, as his wife has already paid of the entire loan taken from the Tata Company, they have decided to sell the vehicle to repay all the loan that they have taken. He accordingly, begged for forgiveness for the mistake he has committed.

20. The petitioner in respect of the Article of Charge Nos. III and IV, contended that he was not the one who made the bank guarantee and that it was not issued by him. He did not know Mr. P.C. Zokaia nor any of his family members. Since Mr. P.C. Zokaia had expired, he did not have the chance to meet him in person. For the contract work, Mr. P.C. Zokaia had copied his name and seal for the bank guarantee and because of which, the Mizoram Rural Bank received demand notice from the Public Works Department and FIR was filed against the petitioner. The petitioner only came to know about the same when he was arrested by the police and it was only then he came to learn about Mr. P.C. Zokaia and his family and the property owned by him. According to the petitioner, since he was not aware about this issue, he has requested the Court of Additional District Magistrate (Judicial) to find out the truth and that the Court was proceeding with the matter. He therefore stated that the outcome of the Court's verdict may be awaited.

21. With regard to the stand of the petitioner of Article of Charge Nos. III and IV, it may be seen that in the appeal filed by him before the Chairman, Board of Directors, Mizoram Rural Bank, he stated that Mr. M.S Dawngliana of Lunglei Bazar Veng, who is the representative of Mr. P.C. Zokaia (late), the contractor approached him in his house on 29.04.2005 at about 07:30 P.M., had requested him to sign the bank guarantee with a promise to submit the necessary documents and to deposit the required amount of security on 04.06.2005 mentioning the urgency of submission of contract application. The petitioner simply believed him and signed on the ready printed bank guarantee form since he knew Mr. M.S Dawngliana for the last two or three years and considered him to be a reliable person. However, when the promise was not kept, he approached Mr. M.S Dawngliana many times and urged him to do the needful. He soon realized that his efforts were meaningless and he has been cheated and he therefore personally approached and informed the Superintending Engineer, Public Works Department, Lunglei Circle to deduct the bank guarantee amount from the first running bill. However, his request was not acceded to by the Superintending Engineer. The contractor drew his first running bill, which was an amount of not less than Rs.22,00,000/- (rupees twenty two lacs) without his knowledge. He again approached Mr. M.S Dawngliana and the

Department officials concerned and they promised to make necessary deduction of the bank guarantee amount from the final bill which was expected to be drawn after two or three months. However, the contractor Mr. P.C. Zokaia expired unfortunately. The Superintending Engineer then forwarded the case of Mr. P.C. Zokaia to the Chief Engineer of the same Department to demand the bank guarantee amount from the Mizoram Rural Bank. The Chief Engineer accordingly took necessary action.

22. The petitioner approached the late contractor’s wife and Mr. M.S Dawngliana on many occasions and asked them to deposit the bank guarantee amount to the Head Office of the Mizoram Rural Bank. Although they accepted the bank guarantee amount as their debt and were trying to generate the required fund, but they have been unable to do so. According to the petitioner, they have made a promise to repay the debt by swearing an affidavit. The petitioner thus stated that he had committed mistake due to his simplicity, good faith, trust on others and that it was not intentional. He also stated that he did not demand or receive any benefit from the contractor. According to him, the real persons who have cheated the Bank were late Mr. P.C. Zokaia and his works Manager Mr. M.S Dawngliana. He also stated that the legal heirs of late Mr. P.C. Zokaia promised to repay the bank guarantee amount. The petitioner thus requested that he may be forgiven for his misconduct on humanitarian ground and to reduce the penalty imposed upon him to any other penalty such as reduction in lower grade or post or lower time scale including compulsory retirement.

23. From what has been stated above, it can be seen that the petitioner has admitted to the charge made in Article-I of the Charge Memo in so far as the misuse of a sum of Rs.2,59,000/- is concerned. As far the remaining balance amount, he has claimed that the same could only be due to the correction made from the previous wrong transaction. With regard to Article-II of the Charge Memo, the petitioner has also admitted of having withdrawn the loan amount while projecting the same to be a loan availed by his brother-in-law. Likewise, in respect of Article Nos. III and IV of the Charge Memo, the petitioner admitted of having given his signature with seal on the readily printed bank guarantee which according to him was on good faith as can be seen from the explanation given by him in his appeal. It may be seen that the petitioner being the Branch Manager of the Serkawn Branch of the Mizoram Rural Bank, holds a responsible position and one that of trust. The admission on his part that he had misused a sum of Rs.2,59,000/- only demonstrates his lack of integrity and exploitation or misuse of his position while working in an institution such as the Mizoram Rural Bank. In other words, the main concern may not be the loss caused to the Bank by illegally withdrawing and utilizing the money but it is the misuse of one's position while being a responsible officer of the Bank that draws ones attention about the desirability to retain such a Bank Officer. The petitioner from the facts available had acted in such an irresponsible manner.

24. The petitioner has also raised a grievance that he was not supplied with a copy of the Enquiry Report, but on perusal of the appeal filed by him, he has nowhere taken such a stand. Instead, he has stated that he be given a lesser penalty in view of the fact that the misconduct committed by him was due to his simplicity and an act done in good faith. Therefore, the claim of the petitioner that the impugned dismissal order from service is vitiated due to non-supply of the Enquiry Report, at this stage is not only belated but found to be an afterthought. The contention of the petitioner that the order by which his appeal has been disposed of is a non-speaking order, also appears to be of no consequence in view of the fact that the appeal was rejected vide communication dated 30.11.2007 and the petitioner has chosen to challenge the same by filing the present writ petition only in the year 2024 after 17 years. It may also be noticed that the Enquiry Report dated 17.04.2007 also goes to show that the same is nothing, but a report which says that the petitioner admitted to the Article of Charge Nos. I and II and also admitted that he had issued the bank guarantee to Mr. P.C. Zokaia for an amount of Rs.6,32,764.10/- and Rs.12,65,528.20/- on 30.04.2005.

25. The Apex Court in the Case of ***S.S. Balu v. State of Kerala***, reported in ***(2009) 2 SCC 479***, in the given facts and circumstances of the case held that it is a well settled principle of law that delay defeats equity. That it is now a trite law that where the writ petitioner approaches the High Court after a long delay, reliefs prayed for may be denied on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates who obtained the benefit of the judgment. The said decision was relied upon by the Apex Court in ***Chairman/Managing Director, Uttar Pradesh Power Corporation and Others v. Ram Gopal (supra)***.

26. The Apex Court in ***Managing Director, ECIL, Hyderabad and Others v. B. Karunakar and Others (supra),*** held that if non-supply of the report would have made no difference to the ultimate findings and the punishment given, the Courts/Tribunals should not interfere with the order of punishment. In the present case, it may be seen that the petitioner has admitted to the misconduct committed by him and has prayed for a lenient view by reducing the penalty in the appeal. However, the same was rejected and the petitioner has chosen not to approach this Court since the rejection of his appeal on 30.11.2007 for long 17(seventeen) years.

27. The Apex Court in ***Apparel Export Promotion Council v. A.K. Chopra***

(supra), in the given facts and circumstances of the case held that in departmental proceedings, the disciplinary authority is the sole judge of facts and in case an appeal is presented to the appellate authority, the appellate authority has also the power and jurisdiction to re-appreciate the evidence and come to its own conclusion on facts being the sole fact finding authority. Once the findings of fact based on re-appreciation of evidence are recorded, the High Court in writ jurisdiction ordinarily would not interfere with the same.

28. Learned Legal Aid Counsel for the petitioner had tried to impress upon this Court that there is no period of limitation for filing a writ petition. While accepting the said proposition, this Court however, is of the view that non-prescription of period of limitation to file a writ petition by itself would not justify filing of a writ petition after an inordinate delay. As already stated, the petitioner in the instant case, has approached this Court after more than 17(seventeen) years, after he was dismissed from service and his appeal rejected by the appellate authority. Further, the admission on his part to almost all the charges only shows that no prejudice has been caused to him even if the Enquiry Report was not given to him.

29. Further, having regard to the principle that delay defeats equity, besides other considerations, this Court is of the considered view that the petitioner cannot be said to have any legitimate grievance.

30. In view of above, the writ petition is found to be devoid of any merits and the same is dismissed. No cost.

JUDGE

Comparing Assistant