

GAHC010008492015



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

Case No. : WP(C)/727/2015

SMTI. DIPTY BAISHYA
W/O SRI DHRUBA KANTA BARUAH, R/O ESAT MALIGAON, RAILWAY
QUARTER NO.250-A, EAST MALIGAON, GHY-11, KAMRUP METRO, ASSAM

VERSUS

THE ASSAM CO-OPERATIVE APEX BANK LTD. and ANR
HAVING ITS HEAD OFFICE AT PANBAZAR, GHY-01, KAMRUP, ASSAM, REP.
BY ITS MANAGING DIRECTOR

2:THE MANAGING DIRECTOR
THE ASSAM CO-OPERATIVE APEX BANK LTD.
PANBAZAR
GHY-0

Advocate for the Petitioner : MR.A N CHOWDHURY

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

Date : 20-06-2024

Date of hearing : 20.06.2024

Date of Judgment : 20.06.2024

Judgment & order(Oral)

Heard Mr. S. Kataki, learned counsel for the petitioner. Also heard Mr. K. Gogoi, learned standing counsel, Assam Co-operative Apex Bank Ltd., appearing on behalf of all the respondents.

2. The petitioner, herein, by way of instituting this present proceeding, has prayed, in view of the substitution of penalty imposed upon her from "reversion" to a lower grade to that of "censure", for regularizing her period of suspension as on duty with all consequential benefits.

3. The petitioner in pursuance to a Disciplinary Proceeding initiated against her vide order, dated 31.07.2000, was imposed with a penalty of reversion to a lower grade. The said order, dated 31.07.2000, was assailed by the petitioner, before this Court, by way of instituting a writ petition being WP(c)171/2004. This Court on consideration of the issue arising in the present proceeding, vide judgment, dated 08.12.2009, was pleased to interfere with the penalty as imposed upon the petitioner vide order, dated 31.07.2000. However, this Court on noticing that the petitioner was rightly found guilty with regard to Article of

charge No. 1, as levelled against her in the Disciplinary Proceeding so initiated; the matter came to be remanded back to the disciplinary authority for taking a fresh decision for imposing a lesser penalty. This Court had further directed that the respondents would also consider as to how the period of suspension undergone by the petitioner, is to be now treated.

4. In pursuance to the directions passed by this Court; the respondent No. 2 i.e. Managing Director, Assam Co-operative Apex Bank Ltd., vide order, dated 17.06.2011, on a re-consideration of the matter; proceeded to impose upon the petitioner, the penalty of "censure" with consequential directions as to the manner in which the service of the petitioner would now be so regulated.

5. Vide the said order, dated 17.06.2011, it was further held that the Board of Directors(BoDs), on consideration of the matter, in pursuance of the directions passed by this Court, noted-above, had decided the period of suspension of the petitioner, would be so regulated by restricting the pay and allowances to the extent of the subsistence allowance drawn by the petitioner during her period of suspension, basing upon the earlier decision of the Board in the matter, as taken in its meeting held on 08.04.2022.

6. Being aggrieved by the above order, dated 17.06.2011, the petitioner has instituted the present proceeding.

7. The respondents by way of filing an affidavit in the matter, after narrating the developments as taking place leading to the issuance of the order, dated

17.06.2011, had contended that the Board of Directors(BoDs) in its meeting held on 08.04.2002, having decided to restrict the pay and allowances of the petitioner during her period of suspension, to the subsistence allowance drawn by her during the said period; the Board of Directors(BoDs) in its subsequent meeting held on 25.02.2011; had decided not to interfere with such decision.

8. I have heard the learned counsels appearing for the parties and also perused the materials available on record.

9. The initial penalty as imposed upon the petitioner vide order, dated 31.07.2000, being one of "reversion" to the lower grade, having been interfered with by this Court and this Court having required the respondents Assam Co-operative Apex Bank Ltd., to consider imposition of a lesser penalty in the matter upon the petitioner in connection with the Article of Charge No. 1 levelled against her in the proceedings so instituted, with further direction for consideration of her period of suspension, the initial penalty having been so interfered with by this Court; the decisions as arrived at by the Board of Directors(BoDs) in the matter leading to the imposition of the penalty of "reversion" and other ancillary issues, also, should be deemed to have been interfered with.

10. The petitioner now having been imposed with the penalty of "censure"; the Board of Directors(BoDs) were duty bound to re-consider the manner in which the period of suspension undergone by the petitioner, herein, in the matter, would now be required, to be so regulated.

11. Inspite of a categorical direction passed by this Court vide order, dated 08.12.2009, in WP(c)171/2004; the Board of Directors(BoDs) of the respondents Assam Co-operative Apex Bank Ltd., while proceeding to consider the issue, had not taken a fresh decision on the issue although the penalty as imposed upon the petitioner was reduced from "reversion" to that of "censure".

12. In view of the above position; the order, dated 17.06.2011, and the decision of the Board of Directors(BoDs) as basing on which the said order was so issued insofar as it concerns the manner in which the period of suspension undergone by the petitioner, would be regulated; stands interfered with.

13. This Court having interfered with the manner in which the period of suspension undergone by the petitioner, herein, was so regulated; the petitioner, herein, is directed to submit a representation before the respondent No. 2 viz. Managing Director, Assam Co-operative Apex Bank Ltd., Guwahati, praying for regularization of her said period of suspension in the manner, she contemplates it, ought to have been so done.

14. The respondent No. 2, on receipt of such representation from the petitioner, shall place the matter before the Board of Directors(BoDs) for a fresh decision thereon. The Board of Directors(BoDs) while considering the said representation of the petitioner for regularizing the period of suspension undergone by her; shall consider the same by also taking note of the fact that the penalty as imposed upon the petitioner initially was reduced vide order,

dated 17.06.2011, to that of "censure" and also by keeping in view the directions passed by this Court in this connection vide order, dated 08.12.2009, in WP(c)171/2004, and thereafter; arrive at a fresh decision pertaining to the manner in which the period of suspension, in question, of the petitioner, would now be so regulated.

15. The decision that would now be arrived at in the matter by the Board of Directors(BoDs) be communicated to the petitioner in the form of a speaking order issued by the respondent No. 2 viz. Managing Director, Assam Co-operative Apex Bank Ltd., Guwahati. Further, in terms of the decision now required to be so arrived at by the Board of Directors(BoDs) of the Bank, any amount becomes due to the petitioner; the same shall be so computed and released to the petitioner by the respondent No. 2.

16. The exercise as now required to be carried-out in terms of the directions passed by this Court hereinabove, shall be initiated and concluded by the respondents within a period of 3(three) months from the date of receipt of a representation as now required to be preferred by the petitioner, in the matter, along with a certified copy of this order.

17. With the above directions and observations, this writ petition stands disposed of.

JUDGE

Comparing Assistant