

GAHC010014512014



2026:GAU-AS:326

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

Case No. : WP(C)/4415/2014

MD. KHALILUR RAHMAN
S/O LT. SHOWKAT ALI, R/O KENDUGURI, P.O. TINSUKIA, DIST- NAGAON,
ASSAM

VERSUS

THE STATE OF ASSAM and 5 ORS,
REP. BY THE PRINCIPAL SECY. TO THE GOVT. OF ASSAM, PANCHAYAT
AND RURAL DEVELOPMENT, DISPUR, GHY-6

2:THE COMMISSIONER
PANCHAYAT AND RURAL DEVELOPMENT DEPTT. TO THE GOVT. OF
ASSAM
DISPUR
GHY-6

3:THE DIRECTOR
PANCHAYAT AND RURAL DEVELOPMENT DEPTT. TO THE GOVT. OF
ASSAM
PANJABARI
GHY-37

4:THE JT. DIRECTOR AND ENQUIRY OFFICER
O/O THE COMMISSIONER
PANCHAYAT AND RURAL DEVELOPMENT DEPTT. PANJABARI
JURIRPAR
GHY-37

5:THE PROJECT DIRECTOR OF DRDA
NAGAON

6:THE CHIEF EXECUTIVE OFFICER

NAGAON
ZILLA PARISHA

Advocate for the Petitioner : MR.F K R AHMED, MR.A F N U MOLLAH,MR.K ISLAM

Advocate for the Respondent : MR. K. KONWAR, ADDL. AG,ASSAM, MR. K. KONWAR, SC, P
AND R.D.,GA, ASSAM,

B E F O R E

HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

For the Petitioner : Mr. A F N U Mollah

For the Respondents : Mr. K Konwar

Date of Hearing : 21.11.2025

Date of Judgment : 06.01.2026

JUDGMENT AND ORDER (CAV)

Heard Mr. A F N U Mollah, learned counsel for the petitioner and Mr. K Konwar, learned Additional Advocate General, Assam, appearing for the State respondent.

2. The petitioner in the present proceedings has presented a challenge to an order dated 18.10.2012 issued towards imposing upon him the penalty of removal from service upon completion of a departmental proceeding instituted against him.

The petitioner, herein, was appointed as a Gaon Panchayat Secretary and while working in such capacity in Hatipukhuri Gaon Panchayat, his services as a Gaon Panchayat Secretary came to be regularized by the respondent authorities vide issuance of a Memorandum dated 10.06.2003. The petitioner was, thereafter, redeployed to Singimari Gaon

Panchayat as its Secretary. While working as Secretary, Singimari Gaon Panchayat, the petitioner was placed under suspension vide an order dated 11.12.2007. The said suspension of the petitioner was so ordered in pursuance to an enquiry report submitted by the Block Development Officer, Rupahi Development Block, wherein, it was alleged that the petitioner, herein, had misappropriated huge amount of Government money, meant for Rural Development Program during his incumbency as the Secretary of Fakali Gaon Panchayat. Thereafter, the Director, Panchayat & Rural Development, Assam had instituted a departmental proceeding against the petitioner vide a show cause notice dated 29.09.2008. Three charges came to be leveled against the petitioner in the said show cause notice. The first charge was with regard to the misappropriation of Government money under IAY Schemes for the years 2004-2005 and 2005-2006 and under the SGRY Scheme for the year 2005-2006, while he was serving as the Secretary of Fakali Gaon Panchayat. The second charge leveled against the petitioner was with regard to the non-handing over of the accounts of Fakali Gaon Panchayat after he was transferred therefrom and appointed as Secretary of Singimari Gaon Panchayat. The third charge as leveled against the petitioner vide the show cause notice dated 29.09.2008 was with regard to the misappropriation of Government money earmarked and released for construction of IAY houses for the year 2006-2007 and 2007-2008, while he was serving as the Secretary of the Singimari Gaon Panchayat.

The petitioner submitted his written statement denying the allegations so leveled against him vide show cause notice dated 29.09.2008. The show cause reply submitted by the petitioner not being found to be satisfactory, the disciplinary authority of the petitioner directed for holding of a departmental enquiry in the matter with regard to the charges framed against the petitioner vide show cause notice dated 29.08.2008. On conclusion of the said departmental proceeding, the disciplinary authority of the petitioner vide order dated 18.10.2012 proceeded to impose upon the petitioner the penalty of removal from service along with a direction for recovery of an amount of Rs.5,25,000/- along with 24% compound interest from the petitioner, herein.

Being aggrieved, the petitioner, herein, has instituted the present writ petition.

3. Mr. Mollah, learned counsel for the petitioner has submitted that the order dated 12.11.2012 had come to the knowledge of the petitioner only in the month of August, 2014. Mr. Mollah, submits that the respondent authorities had not conducted any enquiry in the matter and had proceeded to issue the impugned order dated 18.10.2012, imposing upon the petitioner the penalty of dismissal from service. He submits that the order dated 18.10.2012 not being preceded by a departmental proceeding affording to the petitioner a due opportunity to defend the allegations leveled against him, the said order would not be sustainable and would mandate an interference from this Court.

Mr. Mollah, learned counsel for the petitioner has further submitted that a copy of the enquiry report referred to in the impugned order dated 18.10.2012 was also not furnished to the petitioner. Accordingly, he submits that the departmental proceeding having been conducted in clear violation of the principles of natural justice, a prejudice has occasioned to the petitioner, herein and the same being apparent on the face of the records, the order dated 18.10.2012 would mandate an interference from this Court.

4. Per contra, Mr. K Konwar, learned Additional Advocate General appearing for the State respondent, has submitted that the petitioner, herein, in his written statement as submitted to the show cause notice dated 29.09.2008 had admitted that an amount of Rs.2,84,000/- was misused, for the reasons set out, therein and for which he had sought unconditional apology and prayed that he be given an opportunity to complete the constructions involved. Mr. Konwar, has further submitted that the petitioner in the enquiry had submitted his statement as well as executed an undertaking to the effect that he had withdrawn fund for 22 nos. of IAY beneficiaries from the bank, but he had completed construction of only 12 nos. of houses and had not constructed houses for 10 beneficiaries. It was further contended that the petitioner had undertaken to complete the constructions involved within June, 2011.

Mr. Konwar, learned Additional Advocate General, Assam submits that the petitioner having admitted to the charges leveled against him, the Enquiry Officer had submitted his report on 01.11.2010 recording the said position. Mr. Konwar, submits that the admission of the petitioner was noticed by the disciplinary authority in the order dated 18.10.2012 and the charge of misappropriation of the scheme amount being apparent, proceeded to impose upon

the petitioner the penalty of removal from service. Mr. Konwar, submits that in the enquiry all the three charges leveled against the petitioner stood established and accordingly, he submits that the penalty of removal from service as imposed upon the petitioner is not disproportionate to the charges framed against him.

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

6. Upon being placed under suspension vide order dated 11.12.2007, a departmental proceeding was initiated against the petitioner by way of issuance of a show cause notice dated 29.09.2008. The allegations leveled against the petitioner and the charges so framed against him, basing thereon, being relevant is extracted hereinbelow:-

“1. That while you were serving as Secretary of Fakali Gaon Panchayat, you have committed gross financial irregularities thereby misappropriated a huge amount of Govt. money under IAY Schemes for the year 2004-05 and 2005-06, under SGRY Scheme for the year 2005-06, without execution of any visible scheme.

You are therefore, charged with misappropriation of Govt. money, misconduct and criminal breach of trust and gross violation of Govt. instructions

2. That while you were serving as Secretary of Singimari Gaon Panchayat, you have not handed-over the Accounts etc. of Fakali Gaon Panchayat to your successor after your transfer to Singimari Gaon Panchayat with malafied intention.

You are therefore, charged with misconduct, insubordination to superior authority and gross negligence of duties.

3. That while you were serving as Secretary of Singimari Gaon Panchayat under Kathiatoli Anchalik Panchayat, you have committed gross financial irregularities thereby misappropriated a huge amount of Govt. money earmarked and released for construction of IAY houses for the year 2006-07 and 2007-08 under the Singimari Gaon Panchayat.

You are therefore, charged with misappropriation of Govt. money, misconduct and criminal breach of trust and gross violation of Govt. instructions."

7. The petitioner submitted his written statement to the said show cause notice dated 29.09.2008 on 29.01.2009. After having submitted his explanations for the delay occasioning in construction of the IAY houses in question, the petitioner, therein, had admitted to the fact that an amount of Rs.2,84,000/- was misused and for the same he had rendered unconditional apology. The petitioner further prayed for grant of an opportunity to complete his job that was entrusted to him and which remained incomplete on account of an inadvertent mistake committed by him as well as natural calamities taking place in the matter. The disciplinary authority not being satisfied with the written statement submitted by the petitioner directed for holding of a departmental enquiry. It is seen that the petitioner had appeared before the Enquiry Officer and had deposed to the effect that he had withdrawn the fund for 22 nos. of IAY beneficiaries from the bank, but had only completed construction of 12 nos. of houses and he could not construct houses for remaining 10 nos. of beneficiaries. The petitioner also deposed that he would construct the remaining houses within June, 2011 and requested for his reinstatement in service. The petitioner is found to have also given an undertaking to the above effect.

8. On conclusion of the enquiry, the Enquiry Officer submitted his enquiry report and therein, noticed the deposition of the petitioner during the enquiry, wherein, he had admitted to the charges leveled against him. The Enquiry Officer in his enquiry report dated 01.11.2010 had recorded the following findings:

"Findings:-

From the enquiry it has been found that-

- 1. Md. Khalilur Rahman had withdrawn fund from bank for construction of IAY houses and for doing works under SGSY but did not utilize the fund properly.*
- 2. During enquiry he has admitted that most of funds meant for IAY were misappropriated by him and that it was mistake on his part.*

3. Now that as he has submitted undertaking stating that he will construct the incomplete IAY houses within June/2011 from his own sources. Hence, perhaps his case of reinstatement may be considered as prayed for, And if he does not complete the construction of IAY houses as per his undertaking he may be placed under suspension again. "

9. The disciplinary authority on receipt of the said enquiry report dated 01.11.2010 had granted opportunity to the petitioner, herein, to make good his default. It having come to the notice of the disciplinary authority that out of the 22 nos. of IAY houses for which amount was withdrawn by the petitioner from the bank, 19 nos. of such houses were not constructed. Accordingly, the disciplinary authority noticing the admission of the petitioner as made by him during the enquiry proceeded vide order dated 18.10.2012 to impose upon the petitioner the penalty of removal from service with immediate effect. The disciplinary authority further directed for recovery of an amount of Rs.5,25,000/- along with interest @24% on the principle amount from the petitioner. The interest was directed to be calculated from the date the money was so withdrawn by the petitioner, herein.

10. Mr. K Konwar, learned Additional Advocate General, Assam has furnished to this Court a Xerox copy of the departmental authority file including the enquiry report. A perusal of the same reveals that the petitioner had admitted to have withdrawn the fund for construction of 22 nos. of houses under the IAY Schemes, but admittedly he had not constructed the said houses. Accordingly, the misappropriation of funds by the petitioner is apparent from the face of the records. Further, the petitioner had also during the enquiry admitted to the said aspect of the matter and had also submitted an undertaking to complete the construction involved within June, 2011.

11. The above being the position, this Court is of the considered view that the charges leveled against the petitioner having been established in the enquiry and there being an admission with regard to the same by the petitioner during his deposition in the enquiry, the contention of the petitioner that there was violation of the principles of natural justice while conducting the enquiry against him would not mandate an acceptance from this Court.

12. The materials brought on record reveals that the petitioner admittedly had withdrawn amounts towards construction of 22 nos. of IAY houses from the bank. However, he had not constructed the houses in the manner required and thereby, committed misappropriation of Government money.

13. In view of the above position as emanating from the records, this Court is of the considered view that given the admission made by the petitioner to the charges framed against him vide show cause notice dated 29.09.2008 and the same having demonstrated misappropriation of Government money by the petitioner, the imposition of the penalty of removal from service upon him in the considered view of this Court is not disproportionate to the allegations so leveled against him. Further, the direction for recovery of the misappropriated amount in the considered view of this Court would also not mandate any interference.

14. In view of the above discussion, this Court finds the present writ petition to be devoid of any merit and accordingly, the same stands dismissed. However, there would be no order as to cost.

JUDGE

Comparing Assistant