

GAHC010088242018



2026:GAU-AS:6257

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

Case No. : WP(C)/2730/2018

MONOLITH DEB
S/O LT. MANMATHA BIJAY DEB
R/O PANCHAYAT ROAD,
SILCHAR- 788004, DIST. CACHAR, ASSAM

VERSUS

THE UNION OF INDIA AND 4 ORS.
REP. BY THE SECRETARY, MINISTRY OF FINANCE, DEPARTMENT OF
FINANCE SERVICES JEEVAN DEEP BUILDING PARLIAMENT STREET,
NEW DELHI- 110001.

2:PUNJAB NATIONAL BANK
PLOT NO.4
SECTOR-10
DWARKA
NEW DELHI- 110075 (REPRESENTED BY ITS CHAIRMAN- CUM
MANAGING DIRECTOR).

3:GENERAL MANAGER (HR)
PUNJAB NATIONAL BANK 11
HEMANTA BASU SARANI
KOLKATA- 700001.

4:CHIEF MANAGER (STAFF PENSION)
PUNJAB NATIONAL BANK UNITED TOWER
13th FLOOR (STAFF PENSION DEPARTMENT) 11
HEMANTA BASU SARANI
KOLKATA-700001.

4.1:CHIEF MANAGER
PUNJAB NATIONAL BANK CIRCLE OFFICE NILGIRI MANSION

SATSANG VIHAR BHANGAGARH
GUWAHATI- 781 005.

4.2:CHIEF MANAGER
PUNJAB NATIONAL BANK (EUBI) SILCHAR BRANCH
CENTRAL ROAD
SILCHAR
788001
CACHAR
ASSA

Advocate for the Petitioner : MR A DASGUPTA, MR. S CHAKRABORTY,MS B DAS,MR B DAS,MR. R SARKAR

Advocate for the Respondent : ASSTT.S.G.I., MS K BORAH(R-4.1,4.2),MR. S DUTTA (R-4.1,4.2),MR SISHIR DUTTA(R-4.1,4.2)

BEFORE
HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

For the Petitioner : Mr. A. Dasgupta, Senior Advocate, assisted by
Ms. B. Das, Advocate.

For the Respondents : Mr. S. Dutta, Senior Advocate, assisted by Mr. S.
Dutta, Advocate for the respondent Nos.2 to 4.

Date of hearing : 30.04.2026.

Date of Judgment : **30.04.2026.**

JUDGMENT & ORDER (ORAL)

Heard Mr. A. Dasgupta, learned Senior Counsel, assisted by Ms. B. Das, learned counsel for the petitioner. Also heard Mr. S. Dutta, learned Senior Counsel, assisted by Mr.

S. Dutta, learned counsel for the respondent Nos.2, 3 & 4. None has appeared for the respondent No.5.

2. The petitioner in the present writ petition has assailed a communication dated 20.02.2016 issued by the Chief Manager (Staff Pension), towards revising the pension and pensionary benefits, authorized to the petitioner pursuant to his superannuation from service.

3. The facts in brief requisite for adjudication of the issue arising in the present writ petition is noticed as under.

3.1. The petitioner had joined the services of United Bank of India as a Clerk on 22.12.1977. He, by riding the ladder of promotion, was promoted as a Scale-IV Officer in the month of June, 2010 and on his such promotion, the petitioner was posted as Chief Manager, Silchar Branch. While the petitioner was so posted as the Chief Manager, Silchar Branch, he came to be appointed as Chairman, Manipur Rural Bank, vide an order dated 13.07.2011. The petitioner accordingly, proceeded to join as the Chairman of Manipur Rural Bank. It is to be noted that United Bank of India, at the relevant point of time, was the sponsor Bank of Manipur Rural Bank. The initial appointment of the petitioner as the Chairman of the Manipur Rural Bank, was for a period of 3(three) years. However, the same was further extended vide a Notification dated 31.12.2014 with effect from 01.01.2015 till, the date of retirement of the petitioner, which was to occasion on 30.04.2015.

3.2. It is projected in the writ petition that the petitioner, on attaining the age of superannuation, proceeded on retirement with effect from 30.04.2015. On his such

retirement, the pension and pensionary benefits of the petitioner was finalized by reckoning the pay and allowances drawn by the petitioner as the Chairman of Manipur Rural Bank. Accordingly, the said computation being made, the basic pension of the petitioner after reckoning the revision coming into being, was fixed at Rs.38,105/- (Rupees Thirty Eight Thousand One Hundred Five) and accordingly the other pension and pensionary benefits of the petitioner was so computed and calculated to the petitioner.

3.3. However, vide a communication dated 20.02.2016, the petitioner was intimated that his pension and pensionary benefits would now mandate to be revised and re-fixed, inasmuch as, an error had occasioned in fixation of his pension and pensionary benefits as the same was so computed by reckoning the pay drawn by the petitioner as Chairman, Manipur Rural Bank. Accordingly, vide the said communication dated 20.02.2016, the basic pension of the petitioner was reduced and fixed at Rs.34,775/- (Rupees Thirty Four Thousand Seven Hundred Seventy Five). It was further stipulated, therein, that an amount of Rs.1,61,248/- would be mandated to be recovered as excess pension already paid to the petitioner.

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

4. Mr. A. Dasgupta, learned Senior Counsel, by reiterating the facts noticed, hereinabove, has submitted that the petitioner, on being transferred and posted as the Chairman of Manipur Rural Bank, in terms of the provisions so made, was authorized the pay of a Senior Management Grade Scale-V Officer. He submits that the petitioner prior to his transfer as Chairman, Manipur Rural Bank, was working as the Chief Manager, Silchar Branch of the Respondent No.2/Bank and was drawing his pay and allowances in Senior

Management Grade Scale-IV. Thereafter, on the promotion of the petitioner in his parent Bank to that of Scale-V, he was authorized his pay and allowance as the Chairman of Manipur Rural Bank with effect from 13.06.2013 in the Scale-VI. Mr. Dasgupta submits that the petitioner, while being so authorized his pay and allowances in Scale-VI, proceeded to superannuate from his services with effect from 30.04.2015.

4.1. Mr. Dasgupta further submits that the pension contributions made by the petitioner, during the period he had continued as the Chairman of Manipur Rural Bank, was so made by reckoning the scale of pay authorized to him during his such posting. Mr. Dasgupta submits that the deductions as made towards pension contribution, was admittedly being made at a higher scale of pay than that the petitioner would have drawn if he had continued in his parent Bank. Mr. Dasgupta accordingly, submits that the pension being determined by reckoning the emoluments payable to an employee for the past 10 (ten) months prior to the date of superannuation of such employee, such calculation being required to be so made by reckoning the pay of the petitioner as authorized to him in Scale-VI, as the Chairman of Manipur Rural Bank, the computation as made with regard to the pension and pensionary benefits receivable by the petitioner initially at the time of his superannuation was correctly made and the same had not mandated any revision.

4.2. Mr. Dasgupta has further referred to the provisions of Section 11 of the Regional Rural Banks Act, 1976, to highlight that the contention of the respondent Bank that the petitioner had proceeded on deputation to be erroneous, inasmuch as Sub-Section (1) of Section 11 mandates that the Sponsor Bank shall appoint an individual,

including an Officer of the Bank, to be the Chairman of a Regional Rural Bank. He submits that there is no element of deputation involved in the matter and the petitioner was also not authorized any deputation allowance while he was so posted as the Chairman of Manipur Rural Bank.

4.3. In the above premises, Mr. Dasgupta submits that the communication dated 20.02.2016, issued toward revising the pay and allowances of the petitioner only on the ground that the petitioner although had continued as Chairman of Manipur Rural Bank, with a higher scale of pay, would not be entitled to reckon the pay and allowances drawn by him as Chairman, Manipur Rural Bank and his emoluments for pension would have to be reckoned by treating the pay of the petitioner, otherwise would have drawn if he had continued in his parent Bank, to be clearly unsustainable and submits that the communication dated 20.02.2016, would mandate an interference from this Court.

5. Per contra, Mr. S. Dutta, learned Senior Counsel appearing for the respondent Nos.2 to 4, has submitted that the petitioner's appointment as Chairman of Manipur Rural Bank being an appointment beyond his parent service, the same can only be construed to be one so effected on deputation. He submits that the deputation allowance not being released to the petitioner, would not change the character of the appointment effected in respect of the petitioner, inasmuch as, in lieu of a deputation allowance, the Officer so posted to the Rural Bank was authorized a scale of pay at the next higher grade than that what was being drawn by him in the parent Bank. He submits that the petitioner, at the time when he was selected for posting as the Chairman of Manipur Rural Bank, was a Scale-IV Officer. However, on his such appointment in the Rural Bank, in question, the

petitioner was authorized initially Scale-IV and thereafter, Scale-VI on his promotion to Scale-V in the parent Bank.

6. Mr. Dutta has further submitted that in terms of the provisions holding the field for the purpose of fixation of pension and other pensionary benefits, the emoluments drawn by an Officer of the Bank during the period of 10 (ten) months prior to the date of superannuation of such Officer is reckoned. An Officer, on deputation being so appointed in a different service other than the parent service in the Bank, for treating such period of foreign service to be a service rendered in the Bank and also to treat such service as qualifying service for pension and pensionary benefits, the Officer concerned of the organization to which such Officer is deputed, is required to make monthly payments towards pension contribution of the Officer concerned at the rates specified in the Regulations of the Parent Bank and/or at the rate that may be so specified by the Bank concerned. Mr. Dutta submits that the petitioner was remitting his pension contribution by making deductions @10% per month of the basic pay at the higher scale authorized to him. Accordingly, he submits that the period of service rendered by the petitioner as Chairman of Manipur Rural Bank, would be deemed to be qualifying service for the purpose of computation of his pension and pensionary benefits in the respondent Bank.

7. Having made the said submissions, Mr. Dutta, learned Senior Counsel has further submitted that reckoning the said period as qualifying service would not have the automatic effect of also requiring the respondent Bank to compute the pension and pensionary benefits of the petitioner by also reckoning the emoluments drawn by the petitioner at a higher stage as Chairman of Manipur Rural Bank for the purpose of fixation

of his pension and pensionary benefits. It is submitted that the pension and pensionary benefits of the petitioner, on his superannuation is permissible only to be computed by reckoning the pay and allowances that the petitioner would have so drawn had he continued during the said period as an Officer in the parent Bank.

8. Mr. Dutta has further placed reliance upon a communication dated 11.01.1999, issued by the Indian Banks' Association to highlight that the issue on being taken up with the Government of India in the Ministry of Finance (Banking Division), it was advised that the pay that an Officer would have otherwise drawn in the parent Bank, but for his deputation, was to be taken as the pay for calculation of average emoluments for the purpose of pensionary benefits and not the actual pay drawn by the Officer in a higher scale in the loanee organization. Mr. Dutta submits that on an error committed by the Bank, the pension and pensionary benefits of the petitioner came to be so calculated after his superannuation from services, by reckoning the pay drawn by the petitioner as Chairman of Manipur Rural Bank and the same on being finalized, the benefits, thereunder, was released to the petitioner. However, the error committed on fixation of the pension of the petitioner having come to the notice of the authorities, a revision was carried out in the matter and a recalculation of the pension and pensionary benefits receivable by the petitioner, by applying the permissible parameters was carried out and vide Notification dated 20.02.2016, the same was intimated to the petitioner. Mr. Dutta, submits that on account of revision of the pension and pensionary benefits, an amount of Rs.1,61,248/-(Rupees One Lakh Sixty One Thousand Two Hundred Forty Eight) was determined to be recovered from the petitioner for the pension and pensionary benefits

released to him for the period 01.05.2015 to 31.01.2016, basing on the erroneous calculation made earlier.

9. In the above premises, Mr. Dutta submits that the petitioner cannot take advantage of an error committed by the Bank in computing his pension and pensionary benefits and in the attending facts and circumstances of the matter, the computation of pension and pensionary benefits as made vide the communication dated 20.02.2016, being in tune with the procedure mandated in this connection, the communication dated 20.02.2016, would not mandate any interference from this Court.

10. I have heard the learned counsel for the parties and also perused the materials brought on record.

11. The petitioner who was working as a Scale–IV Officer with the Sponsor Bank was vide order dated 13.07.2011, placed as the Chairman, Manipur Rural Bank. A perusal of the said order dated 13.07.2011, would reveal that the petitioner was transferred and posted as the Chairman, Manipur Rural Bank. The petitioner accordingly, assumed the charge of the transferred post.

12. Vide communication dated 07.03.2012, guidelines for appointment of Chairman of Rural Banks by the Sponsor Bank was laid down. In terms of the said procedure, the Chairman of RRB is to be appointed for a period of 05 (five) years and a periodical monitoring of the performance of such Officer as the Chairman of the Rural Bank, was mandated. Further, in terms of a minutes of a meeting held between the Government of India, Rural Banks, Sponsor Banks and Associations/Unions of Rural Banks held at NABARD headquarters on 22.11.2013, it was decided that the Officer of the Sponsor Bank

on being appointed as Chairman of the Rural Bank, is to be provided his pay at one grade higher than the scale of pay drawn by him in the sponsor Bank. It was further stipulated that in case of a Officer who is appointed as Chairman RRB, is promoted to Scale-VII in his parent bank, the pay of such Officer would be required to be fixed in Scale-VII and a deputation allowance is to be paid to him in lieu of a next higher scale of pay. In terms of the said provisions made, the petitioner was authorized on his initial posting effected vide order dated 13.07.2011, as the Chairman, Manipur Rural Bank, his paid is Scale-V. Thereafter, on the promotion of the petitioner in his parent bank to Scale-V, the petitioner was authorized his pay and allowance in Scale- VI w.e.f. 13.06.2013.

13. It is to be noted that on the initial posting of the petitioner as Chairman, Manipur Rural Bank, effected vide order dated 13.07.2011, having come to an end, the authorities of the sponsor Bank, had vide notification dated 31.12.2014, proceeded to direct for his continuance as Chairman, Manipur Rural Bank w.e.f. 01.01.2015, till the date of his superannuation which was to occasioned on 30.04.2015.

14. The petitioner having continued as the Chairman, Manipur Rural Bank, from the date of his joining against the said post in pursuance to an order dated 13.07.2011, till the date of his superannuation, and his pension contribution being remitted by making deduction, by reckoning the higher scale of pay drawn by him as Chairman, Manipur Rural Bank, on his superannuation, the petitioner in terms of the provisions of 10th bipartite settlement was required to be authorized his pension and pensionary benefits by reckoning the pay actually drawn by him for the last 10 (ten) months prior to the date of his superannuation i.e. by reckoning the pay drawn by the petitioner as Chairman,

Manipur Rural Bank at the higher scale of pay.

15. As the petitioner was enjoying the said settlement made in his favour of his pension and pensionary benefits, the respondent bank vide communication dated 20.02.2016, unilaterally proceeded to revise the pension and pensionary benefits of the petitioner and fixed the same at lower stage. The said revision of pension of the petitioner is so projected to have been carried out on account of an error committed by the parent bank of the petitioner in computing his emoluments for pension by reckoning the pay scale drawn by him as Chairman of Manipur Rural Bank. It is projected by the respondents that the petitioner's such posting in Manipur Rural Bank as its Chairman was infact a deputation. Accordingly, the respondent bank after computing the emoluments which would have been permissible to be drawn by the petitioner, had he continued in the services of the Bank, proceeded to effect the said revision.

16. At the outset, this Court notices that the Revision of pension and pensionary benefits of the petitioner as effected vide communication dated 20.02.2016, was so effected without issuing a notice to the petitioner. The revision as effected in the pension and pensionary benefits being drawn by the petitioner having visited the petitioner with civil consequences, such a course of action was not permissible to be taken by the Sponsor Bank without first affording to the petitioner an opportunity of hearing.

17. As noticed, hereinabove, the petitioner at the time when he was initially transferred as the Chairman, Manipur Rural Bank, was drawing his pay and allowances in the Sponsor Bank in the Scale-IV. On his posting as Chairman, Manipur Rural Bank, he was authorized his pay and allowance in Scale-V in terms of the decision available in the

matter. Thereafter, the petitioner on being promoted to Scale-V in the Sponsor Bank, his pay as Chairman of Manipur Rural Bank, was again revised to Scale- VI, which the petitioner continued to receive till the date of his superannuation. The projection made by the Sponsor Bank in the present matter is to the effect that the petitioner on his posting as Chairman of Manipur Rural Bank is to be deemed to have been so posted on deputation and accordingly, his pension and pensionary benefits on his superannuation would have to be so computed by ignoring the pay drawn by the petitioner while he was posted as the Chairman of Manipur Rural Bank, on deputation and his pension and pensionary benefits, is to be so determined by reckoning the substantive pay, the petitioner would have otherwise drawn in his parent bank, but for his deputation.

18. As noticed, hereinabove, the petitioner's posting as the Chairman of Manipur Rural Bank was so effected on transfer. The decision as arrived at in the meeting held on 22.11.2013, it is only in the event, Scale- VII Officer is posted as Chairman of a Rural Bank, such posting would be deemed to be a deputation, inasmuch as, such Officer is required to be continued to be paid his emoluments in Scale- VII, along with a deputation allowances. Accordingly, other than an Officer placed in Scale-VII in the Sponsor Bank, the posting of other Officers placed in scale of pay below, Scale- VII, as Chairman of a Rural Bank, there is no concept of deputation involved. In the case of the petitioner also considering the manner in which he was so posted as Chairman of Manipur Rural Bank, there is no concept of deputation being brought into operation, inasmuch as, it is a settled position of law that while posting an employee on deputation, his consent is mandatorily required to be so taken, no such consent is projected to have been taken

from the petitioner while his posting was so effected as Chairman of Manipur Rural Bank and/or for his continuation in such capacity till the date of his superannuation. In absence of a deputation being effected in respect of the petitioner, herein, the normal procedure required to be followed for the purpose of determining the pension and pensionary benefits, in respect of a deputed employee by his parent organization, is found to be not attracted to the case of the petitioner. This Court finds that the actual emoluments drawn by the petitioner for the period of 10 (ten) months prior to the date of his superannuation is required to be so construed for the purpose of fixing his pension and pensionary benefits of the petitioner. Accordingly, this Court finds that the initial computation of pension and pensionary benefits made in respect of the petitioner immediately after his superannuation from the services was correctly made.

19. The revision of pension of the petitioner effected vide the communication dated 20.02.2016, in the considered view of this Court has been so made by misconstruing the very basis of the posting of the petitioner as Chairman of Manipur Rural Bank and accordingly the said computation in the considered view of this Court would mandate an interference.

20. At this stage it is to be noted that the petitioner on his posting as the Chairman of Manipur Rural Bank, was regularly remitting his pensionary contribution at the rate of 10% of his pay drawn by him as Chairman of Manipur Rural Bank. The Parent Bank of the petitioner was regularly receiving the same without raising any objection with regard to the manner in which the pension contribution were being deducted from the pay of the petitioner. Accordingly, the said aspect of the matter would also go to reveal that the

respondent bank had also treated the petitioner during the period of his posting as Chairman of Manipur Rural Bank to be not effected on deputation but to be effected by way of a transfer. Accordingly, the subsequent revision effected, in pension and pensionary benefits already settled in respect of the petitioner, vide the communication dated 20.02.2016 is clearly erroneous.

21. In view of the above discussion, the communication dated 20.02.2016 stands set aside. The petitioner be continued to be paid his pension and pensionary benefits in terms of the computation made in this connection earlier, prior to issuance of the said communication dated 20.02.2016. Accordingly, the communication dated 20.02.2016, being interfered with, the petitioner be continued to be released his pension and pensionary benefits in terms of the earlier computation made in this connection and the arrears working out in this connection be released to the petitioner within a period of 01 (one) month from the date of receipt of a certified copy of this order. Further it is provided that the communication dated 20.02.2016, having been interfered with by this Court, the stipulation, therein, for recovery of excess pension and pensionary benefits paid to the petitioner would not be mandated to be implemented.

22. With the above observation and directions the present writ petition stands disposed of.

JUDGE

Comparing Assistant