



2026:GAU-AS:603

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

WP(C) No. 7558 of 2015

Sri Pradip Saikia,
S/o- Sri Puspa Saikia,
R/o- Chariali Part-VI, Kalyanpur,
P.O.- Biswanath Chariali,
District- Sonitpur, Assam.

.....Petitioner

-Versus-

- 1.** The State of Assam, represented by the Commissioner and Secretary to the Govt. of Assam, Revenue Department, Dispur, Guwahati-06.
- 2.** The Commissioner, North Assam Division, P.O: Tezpur, Sonitpur, Assam, PIN: 784004.
- 3.** The Deputy Commissioner, Sonitpur, Tezpur.
- 4.** The Sub-Divisional Officer (Civil), Biswanath Chariali, Sonitpur.
- 5.** The Certificate Officer, Biswanath, in the office of SDO (Civil), Biswanath Chariali, Sonitpur.

..... Respondents

- B E F O R E -

HON'BLE MR. JUSTICE KAUSHIK GOSWAMI

For the Petitioner(s) : Mr. K. P. Pathak, Advocate.

For the Respondent(s) : Mr. T. C. Chutia, Additional Senior
Government Advocate.

Date on which judgment

is reserved : **N/A**

Date of pronouncement

of judgment : **20.01.2026**

Whether the pronouncement

is of the operative part

of the judgment ? : **No.**

Whether the full judgment

has been pronounced : **Yes.**

JUDGMENT & ORDER (ORAL)

Heard Mr. K. P. Pathak, learned counsel appearing for the petitioner. Also heard Mr. T. C. Chutia, learned Additional Senior Government Advocate appearing for all the respondents.

2] By way of this writ petition under Article 226 of the Constitution of India, the writ petitioner is assailing the impugned order dated 16.02.2012 issued by the Deputy Commissioner, Sonitpur, Tezpur, whereby the service of the petitioner was dismissed upon drawing an enquiry against him by show cause notice dated 14.12.2009 issued by the

respondent No. 3 and the impugned enquiry report dated 26.09.2010 out of the said proceedings.

3] The brief facts of the case are that the petitioner, while discharging his duties as a Senior Assistant of the Touzi Navis Branch in the office of the SDO (Civil) Biswanath Chariali, was issued a show cause notice by the SDO (Civil) Biswanath Chariali on 07.05.2007 alleging, *inter alia*, that some cash receipts, challans, were not properly recorded by him in accordance with the present procedure. The three charges that were drawn against the petitioner read as under:

“1. Therefore you are charged with misappropriation of govt money, thorough fraudulent means amounting to a sum of Rs. 3,88,742.00 i.e. preparing 129 Nos. of treasury challan by yourself, passed it by yourself on behalf of B.O. T.N. Branch, you did not deposit the cash in the State Bank of India, Biswanath Chariali through treasury during the period February/2006 to March/2007 details of which is shown above. In the Treasury challan no initial/ signature of S.D.O. (Civil), Biswanath and Branch Officer of T.N/ Branch is seen. But you got the Treasury challan passed by TO. and S.B.L., Biswanath

2. That you have misappropriated the commission bill of mouzadars amoenting to Rs. 60,58,952.00 detail is shown above. Amount drawn in the name of mouza commission bills, not a single challan was seen in the hand of mouzadars and also receipt schedule under the head of accounts- 0029, T.V. No. and drawal date shown in the table above. You are charged with misappropriation of the govt. mouza commission bill amounting to Rs. 60,58,952.00.

3) That you have not deposited an amount of Rs. 2,17,455.00 with criminal intention. By the above action, you are charged with unbecoming of a govt. servant, bringing bad name of not only to the Sub-Division but to District Administraion as well as Govt. also for the above act done by you. You are also

charged with concealment of facts with criminal intention of misappropriating of govt. money amounting to Rs. 2,17,455.00 and therefore also charged with insubordination and unbecoming of a govt. servant by misappropriation of govt. money and dereliction of govt. duty.”

4] While furnishing the show cause notice and the charge-sheet, the list of documents and the list of witnesses, along with the statement of allegations, were also furnished to the petitioner. Thereafter, the petitioner, by letter dated 27.02.2010, furnished his show cause reply to the said show cause notice, wherein he denied all the allegations. Thereafter, an enquiry was held against the petitioner and upon completion of the enquiry, charge No. 2 was found to be proved, while the other charges Nos. 1 & 3, were found not to have been proved. Thereafter an enquiry report was submitted to the disciplinary authority, i.e., Deputy Commissioner, Sonitpur, Tezpur, on 26.09.2010.

5] Pursuant to the submission of the enquiry report, the Deputy Commissioner, Sonitpur, by order dated 16.02.2012, was of the opinion that since all the charges leveled against the petitioner were found to have been established, and the offences being very serious, the petitioner is required to be dismissed from service and accordingly dismissed the petitioner from service with effect from the date of issue of the said order. Situated thus, the present writ petition has been filed.

6] The principle ground of challenge urged by Mr. K. P. Pathak, learned counsel for the petitioner is that the enquiry report was not furnished to the delinquent prior to imposition of the major penalty of dismissal from service. It is further contended that the non supply of the enquiry report and/or non issuance of the second show cause notice post completion of the enquiry has caused grave prejudice and amounts to a gross violation of the principles of natural justice.

7] *Per contra*, Mr. T. C. Chutia, learned Additional Senior Government Advocate, appearing for the State respondents, fairly submits that there is nothing on record to show that either the enquiry report has been furnished to the petitioner prior to the issuing of the dismissal order dated 16.02.2012 or the second show cause notice has been issued to the petitioner post completion of the enquiry.

8] Having heard the learned counsels appearing for the parties and having perused the material available on record, it appears that the punishment of dismissal from service has been issued to the petitioner without issuing a copy of the enquiry report.

9] It appears that the petitioner was proceeded against departmentally on three articles of charge relating to alleged misappropriation of revenue. The inquiry officer submitted his report on 26.09.2010, wherein charge No. 2 alone was found proved, whereas charges Nos. 1 & 3 were not found proved. However, it appears from the impugned dismissal order that

the disciplinary authority, while imposing punishment, proceeded on the footing that all three charges stood proved, and accordingly, imposed the extreme penalty of dismissal.

10] In the opinion of this court, this aspect assumes significance. Had the inquiry report been furnished to the petitioner prior to the decision on punishment, the petitioner would have had a meaningful opportunity to point out, amongst others, that the enquiry officer had not held all charges proved and as to why the disciplinary authority ought not accept the finding of the enquiry officer in relation to charge No. 2, which was proved in the said enquiry.

11] Non-furnishing of the enquiry report deprives the delinquent of an effective opportunity to make a representation not only on the findings but also on the consequential punishment. The requirement of furnishing the inquiry report is an integral facet of fairness and natural justice in disciplinary proceedings, particularly where a major punishment is proposed.

12] The law is well settled that supply of the enquiry report is mandatory, and non-supply thereof, when prejudice is demonstrated, vitiates the final punishment order (Refer: - ***Managing Director ECIL Hyderabad -vs- B. Karunakar***, reported in **1993 (4) SCC 727** and ***Union of India and Ors. -vs- Mohd. Ramzan Khan***, reported in **1991 (1) SCC 588**)

13] On the facts of the present case, prejudice is apparent on the face of the record. The disciplinary authority treated all charges as proved; though the enquiry officer

found only one charge to be proved. Therefore, the impugned dismissal order dated 16.02.2012 cannot be sustained.

14] In such facts and circumstances, this court is not inclined to adjudicate the merits of the allegations at this stage. The proper course would be to set aside the dismissal order and remand the proceedings back to the stage of furnishing the enquiry report to the delinquent, permitting the respondents to proceed afresh in accordance with law from that stage.

15] In view of the above, the dismissal order dated 16.02.2012, is hereby set aside and quashed.

16] It is needless to clarify that the disciplinary authority are at liberty to furnish a copy of the enquiry report to the petitioner, if so advised and restart the proceedings afresh from that stage strictly in accordance with law.

17] The writ petition accordingly stands allowed.

JUDGE

Comparing Assistant