

GAHC010294002023



2025:GAU-AS:2748-DB

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

Case No. : WA/29/2024

ASSAM GRAMIN VIKASH BANK AND 3 ORS.
REPRESENTED BY THE CHAIRMAN, HEAD OFFICE AT ADAMS PLAZA,
CHRISTIAN BASTI, G.S. ROAD, GUWAHATI, PIN- 781005.

2: THE CHAIRMAN GRAMIN VIKASH BANK
HEAD OFFICE AT ADAMS PLAZA
CHRISTIAN BASTI G.S. ROAD GUWAHATI PIN- 781005.

3: THE BOARD OF DIRECTORS ASSAM GRAMIN VIKASH BANK
REPRESENTED BY THE CHAIRMAN HEAD OFFICE AT ADAMS PLAZA
CHRISTIAN BASTI G.S. ROAD GUWAHATI PIN- 781005.

4: MANOJ KUMAR DAS
EX-GENERAL MANAGER AND ENQUIRY OFFICER
ASSAM GRAMIN VIKASH BANK C/O- ASSAM GRAMIN VIKASH BANK
HEAD OFFICE AT ADAMS PLAZA
CHRISTIAN BASTI G.S. ROAD GUWAHATI PIN- 781005

VERSUS

RAMKRISHNA SARMA RETIRED CHIEF MANAGER,
(SENIOR MANAGEMENT, SCALE-IV), ASSAM GRAMIN VIKASH BANK,
NALBARI REGIONAL OFFICE, PNC ROAD, NALBARI, PIN- 781335, DIST.
NALBARI, ASSAM, ORDINARILY RESIDENT OF HOUSE NO. 124, A-1,
SNEHASHISH, M.C. ROAD, CHENIKUTHI, GUWAHATI-781003, DIST.
KAMRUP(M), ASSAM

Advocate for the Petitioner : MR. A DHANUKA,

Advocate for the Respondent : FOR CAVEATOR, MS S SHARMA,MR. R B PHOOKAN,MR. D
DAS SR. ADV,MR P R SARMA,MS U SHARMA

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

Date of hearing : 05.03.2025

Date of Judgment & Order: 17.03.2025

JUDGMENT & ORDER(CAV)

(N. Unni Krishnan Nair, J.)

Heard Ms. P. Banerjee, learned counsel, appearing on behalf of the appellant Bank *via* video conference, along with Mr. Adarsh Dhanuka, learned counsel. Also heard Mr. Diganta Das, learned senior counsel, assisted by Mr. Indrajit Bhuyan, learned counsel, appearing on behalf of the sole respondent.

2. The present intra-Court appeal has been instituted by the appellant Bank, herein, assailing the judgment & order, dated 23.11.2023, passed by the learned Single Judge in WP(c)1525/2023, interfering with the penalty imposed upon the sole respondent by the appellant Bank vide order, dated 01.02.2023.

3. The facts, in brief, requisite for adjudication of the issue arising in the present proceeding, is noticed, as under:

A departmental proceeding came to be instituted against the respondent, herein, vide issuance of a charge-sheet, dated 30.08.2022, proposing to hold an inquiry under the provisions of Regulation 39.1(b) of the Assam Gramin Vikash Bank Officers and Employees Service Regulations, 2010(as amended).

It is seen that as many as 6(six) allegations came to be levelled against the respondent, herein. The allegations so levelled against him, pertained to the manner in which the respondent as a member of a Committee, had approved sanction of loans and also enhancement of the credit limit to different borrowers.

The respondent, herein, submitted his written statement of defence, pursuant to the charge-sheet, dated 30.08.2022, on 30.09.2022, and therein, dealt with each of the allegations so levelled against him. The respondent, herein, while denying the allegations so levelled against him, had also contended that the said allegations were also perverse to the records as maintained in connection with each of the financial credits, so sanctioned.

After the respondent had submitted his written statement on 30.09.2022, the disciplinary authority had issued an addendum on 21.12.2022, and therein, had effected certain corrections with regard to the dates of sanction of loans pertaining to 3(three) of the 6(six) borrowers involved in the charge-sheet, dated 30.08.2022. The respondent, herein, vide his additional written statement of defence on 06.01.2023, replied to the addendum, dated 21.12.2022. In the additional written statement of defence submitted by the respondent on 06.01.2023, he again dealt with each of the allegations so levelled against him and prayed that the same be dropped.

The disciplinary authority not being satisfied with the written statement of defence as submitted by the respondent in the matter; directed for

holding of an inquiry into the allegations so levelled against him vide the charge-sheet, dated 30.08.2022.

On conclusion of the disciplinary proceeding, the Inquiry Officer submitted his Inquiry Report on 21.01.2023, which was duly forwarded to the respondent, herein. The respondent, thereafter, submitted his representation against the inquiry report and therein, highlighted the inconsistencies so existing in the conclusions reached by the Inquiry Officer with regard to the charges so held to have been partially established against him.

The disciplinary authority, thereafter, vide order, dated 01.02.2023, by concurring with the findings of the Inquiry Officer and also coming to the conclusion that the charges so levelled against the respondent, herein, was established beyond doubt; proceeded to impose upon the respondent, penalty of "Reduction of Basic Pay by 1(one) stage with cumulative effect.

The respondent, herein, was further barred from appearing in any promotional interview/test of the appellant Bank for a period of 1(one) year with effect from the date of issuance of the order, dated 01.02.2023.

The respondent preferred an appeal in the matter. However, the same was rejected by the Board of Directors(BoDs) of the appellant Bank. Such rejection was communicated to the respondent, vide communication, dated 27.02.2023.

Being aggrieved, the respondent, herein, had approached the writ Court by way of instituting a writ petition being WP(c)1525/2023.

The learned Single Judge upon considering the issues arising in the said writ petition, was pleased vide judgment & order, dated 23.11.2023, to allow the said writ petition being WP(c)1525/2023, by interfering with the order of penalty, dated 01.02.2023.

Being aggrieved, the authorities of the appellant Bank, have instituted the present intra-Court appeal before this Court.

4. The challenge, herein, being so made to the judgment & order, dated 23.11.2023, passed by the learned Single Judge in WP(c)1525/2023; the operative part thereof, being relevant, is extracted hereinbelow:

“9. Considering the nature of controversy involved in this proceeding, this Court is of the opinion that it would be necessary to reproduce the articles of charges contained in the charge-sheet dated 30.08.2022. Therefore, relevant part of the charge-sheet contains the article of charges, is reproduced herein below for ready reference :-

“(A) Article of charges During your tenure of service as Senior Manager, Credit and Recovery from 07.05.2007 to 03.08.2010 (with additional charge of P & D and CS department from 01.12.2010 to 03.08.2011), as Chief Manager (P & D and CS) from 04.08.2011 to 09.12.2011 (with additional charge of credit and recovery department), as Chief Manager (P & D, CS & Recovery) from 11.12.2011 to 18.05.2013, and as Chief Manager (P & D and CS) from 20.05.2013 to 10.12.2014 at Bank’s Head Office, you have failed to discharge your duties without negligence with utmost sincerity while recommending loans and advances for sanction. The details of negligence observed in your part are illustrated below :

“Account Name : Gargi & Associates Pvt. Ltd.

***A/C No.: 728125000073, Sanction date: 28.12.2010
RO : Guwahati.***

B/O Chandmari,

There was no discussion regarding the margin and its sources in the process

note. Also, the credentials of the borrowing company was not verified before sanction of the Limit. You as a recommending authority have failed to ensure proper due diligence before recommending the loan for sanction.

Account Name: IR Associates. A/C No.:7284250000240 Sanction date: 04.10.2013, B/O Fancy Bazar RO: Guwahati.

CIBIL report was not discussed anywhere in the process note. Further, as per statement of account there are only two credit entries amounting to Rs.15 lakh only and both the entries were not related to PWD and IOCL. However, the limit was recommended for enhancement by you within a period of eight months from Rs.65.00 lakh to Rs.100.00 lakhs without any justification or complying with any financial parameters.

Account Name : Kaushika Tea Industries.

A/C No.: 7185250000824 Sanction date : 18.12.2010 B/O Moran RO : Dibrugarh.

Necessary Permission/License for opening tea factory was not obtained from Tea Board. Also there is no discussion regarding draw down schedule for disbursement of Term Loan in the process note. You as a recommending authority have failed to ensure proper due diligence and processing before recommending the loan for sanction.

Account Name : Progressive Motors.

A/C No.: 7220250000040 Sanction date : 11.05.2009

B/O Golaghat RO : Golaghat.

The terms and conditions were not laid down clearly in the power of attorney executed in favour of Mr. Sandip Agarwal. Verification of Genuineness of power of attorney had not been done at the time of sanction of limit. Also, the property under patta no.157 dag no.68/680 belongs to Mrs. Krishna Dol who leased the land to Mr. T. K. Angami, (prop. Of M/S Progressive Motors) for 30 years vide registered deed no.1711/1394 dated 28.09.2000. Thereafter Mr. Angami provided a special power of attorney in favour of Mr. Sandip Agarwal for execution of EM of the property without the consent being taken from Shri Krishna Dal (Lessor) and there is no evidence of joint execution of document with Shri Dol and so, the EM is invalid.

As per photocopy of hand written sale deed dated 16.06.2005 executed between Mr. T. K. Angami and Mr. Sandip Agarwal for sale of M/s Progressive Motors is not registered with any authority, therefore the transfer of business is not valid.

Further, in case of sanction second limit for Rs.178.00 lakh to Mr. Sandip Agarwal it has been seen that Mr. Agarwal applied for change in ownership of

M/S Progressive Motors by submitting a sale agreement dated 11.07.2008 between him and Mr. Angami but the change of ownership was not updated in the Trade Certificate.

Also the existence of the mother unit of the MUL Dealership at Dimapur, Nagaland of M/S Progressive Motors was not considered in assessment of WC limit of the concern. Segregation of Current Assets between two units (one at Dimapur and other at Rangajan, Golaghat) was also not considered. You as a recommending authority have failed to ensure proper due diligence and appraisal of the proposal before recommending the same for sanction.

Account Name : Shree Sanyeeji Rolling Mills.

A/C No.: 7284250000268 Sanction date : 05.10.2013

B/O Fancy Bazar,Guwahati RO : Guwahati.

The firm was supposed to tie up with SBI & State bank of Hyderabad for working capital as per the discussions in the lead Bank's process note, but there is no discussion or comments in the process note as to why firm did not take loan from SBI/SBH.

The limit was sanctioned to M/S Shree Sanyeeji Rolling Mills as a partnership firm but as per credit report of CRISIL, it is noticed that the firm got converted to Private limited co. as on 23rd January 2012 as per the record available at the MCA site. You, as a recommending authority had failed to gather the correct information. So due diligence regarding the firm/company was not done properly before recommending the loan. The source of Margin Money of the firm was also not discussed anywhere in the process note.

The limit for Rs.1000.00 lakhs to M/S Shree Sanyeeji Rolling Mills as partnership firm was sanctioned on 17.10.2012 by the Board of AGVB. However, as per Certificate of Incorporation dated 23.01.2012 and special resolution of the 2023:GAU-AS:11926 Page No.# 9/15 company dated 05.03.2012 the existing TMT Rolling Mill unit was taken over by M/S Shree Sanyeeji Rolling Mill. Therefore, the partnership firm which was financed had no existence at the time of sanction of limit. The facts of conversion of partnership to Company was suppressed by the partners of the firm willingly and you as a recommending authorities failed to do proper due diligence of the borrower.

Due diligence of collateral security was not done by you as recommending authority before recommending the loan. It was mentioned in the process note that the bank may accept the title search opinion of the empanelled lawyer/advocate of PNB on the various properties offered as securities by the firm for the aggregate WC credit exposure. As per sanction letter No.AGVB/CR/LC/17/2012-13 dated 22.10.2012 it was mentioned that M/S Shree Sanyeeji Rolling Mills shall provide a sketch map of the properties, to be certified by the firm, where it has its existing facilities. It should clearly state the access path/route to its unit from the public road. However, as per the

sketch map it is found that there is no direct access to some of the properties and some of the mortgaged properties are occupied by other company/firm impacting the salability/marketability of the properties. You as a recommending authority have not ensured the actual position of the properties and relied on the declaration of the firm. Thus the due diligence of the collateral security was not done by you before recommending of the loan for sanction.

Account Name : Sri Goverdhan Prasad Atal

A/C No.: 720330000930 Sanction date : 14.02.2011

B/O Jorhat RO : Golaghat.

Mr. Goverdhan Prasad Atal has been sanctioned a loan for Rs.23.74 lakh for construction of residential apartment by way of taking over from SBI Jorhat Branch and as per statement of account of SBI Jorhat Branch, outstanding balance of the loan account was Rs.47.67 lakh and Drawing power was Rs.41.39 lakh. As per record of recovery, the statement of account and sanction letter of SBI Jorhat branch, the account of SBI Jorhat Branch was NPA and by violating the lending policy of AGVB the account was taken over with almost six-time enhancement without any justification (vide guideline of Take over finance of AGVB lending policy).

Further, the authenticity of infusion of fund through unsecured loan as per declaration of borrower was not verified by you before recommending the loan for sanction.

Mr. Goverdhan Prasad Atal has been sanctioned a loan of Rs.234.74 lakh for construction of residential apartment and as per sanction letter of SBI, the loan should have been adjusted on 31.08.2013. The rating was assumed as AGVBCR-3 for green field project whereas as per the record of recovery the project should have been completed well before the takeover. The rating has not been made at the actual position i.e. existing balance sheet of the borrower. Hence, you as a recommending authority have failed in ensuring proper appraisal of the proposal before recommending the same for sanction.”

10. As has been noted herein above, the Enquiry Officer had found that the first three charges brought against the petitioner i.e. those pertaining to the accounts of (1) M/S Gargi & Associates Pvt. Ltd., (2) M/S IR Associates and (3) M/S Kaushika Tea Industries were partially proved whereas, the remaining charges were found to have been not proved. Based on the aforesaid enquiry report, the Chairman of the Bank, who is Disciplinary Authority, had imposed the following penalty upon the petitioner, which is reproduced herein below :-

“Reduction of Basic Pay by 1(one) stage with cumulative effect”

Consequently, his Basic Pay of Rs.89890.00 plus stagnation Rs.5230.00 drawn in the month of January, 2023, shall come down to Rs.87390.00 plus stagnation Rs.5230.00 with effect from 01.02.2023. Further, he is debarred from appearing any promotional interview/test of the Bank for a period of 1(one) year, with immediate effect.”

11. Mr. Das has candidly submitted that his client is due for retirement on attaining the age of superannuation with effect from 30.11.2023 and hence, that part of the penalty pertaining to his debarment from appearing in promotional interview/ test for a period of one year would not be relevant at this point of time. Although Mr. Sahewalla has argued that notwithstanding the penalty, the petitioner was allowed to participate in the promotional process, this Court does not consider it necessary to enter into that aspect of the matter in this proceeding in view of the categorical submission of Mr. Das that the said aspect of the matter has lost its relevance at this point of time.

12. In so far as the other part of the penalty pertaining to reduction of basic pay is concerned, what is to be noted herein that under the Assam Gramin Vikash Bank Officers and Employees Service Regulations, 2010 (herein after referred to as the Regulations of 2010) the grounds on which penalties can be imposed upon an officer of the Bank is described in Regulation 39, which is quoted herein below :-

“39. Penalties – Without prejudice to the foregoing regulations of this Chapter, an officer or employee who commits a breach of these regulations or who displays negligence, inefficiency or indolence or who commits acts detrimental to the interest of the Bank or in conflict with its instructions, or who commits a breach of discipline or is guilty of any other acts of misconduct, shall be liable for any one or more penalties as follows, namely, --“

From the scheme of the Regulations of 2010 it is clear that unless the conditions specified in regulation 39 is met, the question of imposing any penalty upon an employee of the Bank, be it minor penalty or major penalty, would not arise in the eyes of law.

13. From a careful reading of the articles of charges, this Court finds that although there are statements of allegations contained therein, yet, there was no specific charge framed against the petitioner, within the meaning of regulation 39. From the charge memo it is not clear as to in what manner the alleged lapses would amount to misconduct within the meaning of Rule 39. There is also no finding recorded by the Enquiry Officer that the petitioner had violated any of the regulations of the Bank or has acted in a manner contrary to the interest of the Bank or has shown inefficiency or is found guilty of any other form of misconduct including breach of discipline etc. leading to loss being suffered by the Bank. All that the article of charges indicates is certain lapses on the part of the petitioner, in his failure to verify certain documents and/or records which he ought to have done as a member of the recommending authority. However, what is to be noted herein is that as per the materials on record, at no point of time was the petitioner individually processing the loans as he was all along a part of the team of recommending committee which had processed the proposals. That apart, it is also evident from the materials on record that there are other organs of the Bank which were actively involved in processing the loan which included the inspection team. There is nothing on record to show as to in what manner, such other officials had discharged their responsibilities in processing the loans.

14. The Hon'ble Supreme Court has held in the case of Bongaigaon Refinery & Petrochemicals Ltd. and others (supra) that where the decision was taken by the committee, one individual member of the committee cannot be held responsible for the decision. What would be significant to note herein is that the materials on record do

not even remotely indicate as to what was the decision taken by the petitioner which had caused loss, if any, to the Bank. There is also no individual role ascribed to the petitioner in the entire matter. It cannot, therefore, be said that even a proper charge sheet was served upon the petitioner, giving him an opportunity to effectively defend his cause.

15. Coming to the other argument advanced by Mr. Das by relying on Clause 10.2(b) of the AGVB Staff Accountability Policy, 2021, it would be pertinent to extract Clause 10.2(b) herein below for ready reference:-

“10.2(b) Further, in case of investigation conducted subsequent to two Regular inspections after sanction/ disbursement of credit facilities, no fresh “pre sanction lapses” other than those pointed out through Regular Inspection Report be considered for fixing of accountability unless there is element of fraud/malafide etc., within the following stipulations – (i) If the fraud has been perpetrated by the borrower on the bank, the clause of two successive inspection report shall continue. (ii) In case of malafide action or collusion of staff with the borrower or fraud is perpetrated on bank by the staff members, then the time line shall not be applicable. (iii) If a fraud is perpetrated/committed by any staff member, stern action will be taken against such staff member in terms of this policy.”

16. A plain reading of Clause 10.2(b) of the Policy goes to show that the said policy clearly puts in place a time line beyond which, the Bank would be debarred from enquiring into any lapses regarding sanction of loan and/or pre-sanction lapses. The only exception provided under the aforesaid clause is pertaining to cases of fraud or collusion involving the Bank’s employees or staff.

17. As noted herein above, there is no allegation of fraud and/or collusion against the petitioner in this case. If that be so, it is apparent on the face of the record that the departmental proceeding was clearly time barred and therefore, hit by Clause 10.2(b) of the AGVB Staff Accountability Policy, 2021 which clause was obviously binding even on the Bank and its officials.

18. The petitioner has also taken the plea of violation of the principles of natural justice due to non-furnishing of relevant documents along with the charge-sheet. However, such allegation has been denied and disputed by the Bank. Be that as it may, for the reasons indicated herein above, this Court is of the unhesitant opinion that the departmental proceeding conducted against the petitioner was not only in breach of embargo imposed by Clause 10.2(b) of the AGVB Staff Accountability Policy, 2021 but the same was also conducted in violation of the principles of natural justice as well as the provisions of the Service Regulations, 2010 thus causing serious prejudice to the interest of the petitioner. That apart, there was no justifiable ground for the Disciplinary Authority to impose the major penalty upon the petitioner in the manner indicated herein above,

19. In the result, this writ petition succeeds and is hereby allowed. The order of penalty dated 01.02.2023 is hereby set aside.”

5. Ms. Banerjee, learned counsel for the appellant Bank, assailing the judgment & order, dated 23.11.2023, passed by the learned Single Judge in WP(c)1525/2023, has, at the outset, submitted that the learned Single Judge had exceeded his jurisdiction in proceeding to re-appreciate the evidence coming on record in the inquiry to nullify the conclusions reached by the Inquiry Officer, which was also accepted by the disciplinary authority. The learned counsel has further submitted that the writ Court ought not to have proceeded to re-appreciate the evidence coming on record in the disciplinary proceeding, in-as-much as, there was no plea of perversity raised in the writ petition.

6. Ms. Banerjee, learned counsel, has submitted that the learned Single Judge in exercise of the power of judicial review, must have restricted itself to a determination as to whether, in the disciplinary proceeding so held against the respondent, herein; the principles of natural justice were complied with and as to whether the finding of a misconduct is based on some evidence. It has been further submitted by Ms. Banerjee, learned counsel, that the learned Single Judge had erred in re-appreciating the evidence for the purpose of arriving at a conclusion as to whether the evidence brought on record in the disciplinary proceeding instituted against the respondent; were sufficient to hold the allegations levelled against him, to have been so established.

7. Ms. Banerjee, learned counsel, has further submitted that the learned Single Judge vide the judgment & order, dated 23.11.2023, in WP(c)1525/2023; had referred to the Assam Gramin Vikash Bank Staff Accountability Policy-2021, more particularly, to Clause 10.2(b) thereof; to

arrive at a conclusion that the proceedings so instituted against the respondent, herein, was clearly barred in view of the time-line so set-out in the provisions of Clause 10.2(b) of the Assam Gramin Vikash Bank Staff Accountability Policy-2021, for initiation of such proceedings.

8. Ms. Banerjee, learned counsel, by relying upon the conclusions of the Head Office Vigilance Committee, more particularly, the decision so arrived at by the said Committee in its meetings held on 19.04.2019, and 09.05.2022, has contended that the loan accounts which were so approved for disbursement by the Committee which included the respondent, herein, was found to be actuated by fraud. The learned counsel has further submitted that the loan accounts having been declared to be a fraud, the time-line as provided under the provisions of Clause 10.2(b) of the Assam Gramin Vikash Bank Staff Accountability Policy-2021, would have no application and it was open to the appellant Bank to institute appropriate proceedings against the respondent, herein, for the misconduct on his part coming to the forefront.

9. Ms. Banerjee, learned counsel, has further submitted that the disciplinary proceeding against the respondent, herein, was so instituted with the issuance of the charge-sheet, dated 30.08.2022, and on the date of issuance of the said charge-sheet; the Assam Gramin Vikash Bank Staff Accountability Policy-2021, had ceased to have effect and the same was superseded by the provisions of "Assam Gramin Vikash Bank Staff Accountability Policy-2022", which had come into effect w.e.f. 01.04.2022.

10. Ms. Banerjee, learned counsel, by referring to the provisions of Clause

14.2(b) of the Assam Gramin Vikash Bank Staff Accountability Policy-2022, has submitted that in accounts where fraud has been reported, it was permissible for an investigation to be carried-out to find-out the involvement of any staff of the appellant Bank. The learned counsel has further submitted that in terms of Clause 14.2(b); the time-line as mandated for carrying-out an investigation, would have no application, in the event, there is an element of fraud/mala fide, etc., detected. The learned counsel has also submitted that in the dealings of the respondent, admittedly, a fraud having been detected and for the involvement therein of the respondent, herein, a proceeding having been instituted against him in the matter; the same could not have been interfered with by the learned Single Judge on the ground that the same was so instituted after the time-line prescribed for institution of such proceedings, had expired.

11. Ms. Banerjee, learned counsel, has submitted that the penalty as imposed upon the sole respondent, herein, is clearly proportionate to the allegations proved against him in the inquiry so held in the matter and accordingly, on the said count also; the said penalty was not mandated to be so interfered with by this Court.

12. Ms. Banerjee, learned counsel, in support of her submissions, has relied upon the following decisions of the Hon'ble Supreme Court rendered in the case of:

(i). United Bank of India v. Bachan Prasad Lall, reported in **(2022) 4 SCC 358**, for the proposition that merely on the ground that the delinquent had superannuated, in the meanwhile, would not absolve

him from the misconduct which he had committed in discharge of his duties. A Bank employee who holds the position of trust where honesty and integrity are sine qua non, it would not be advisable to deal with such matters leniently and accordingly, the penalty, as imposed upon the respondent, herein, not being shockingly disproportionate; would not be called to be interfered with.

(ii). *State of Karnataka & anr. v. Umesh*, reported in **(2022) 6 SCC 563**, for the proposition that the learned Single Judge in exercise of the power of judicial review, was not acting as an appellate authority over the findings of the disciplinary authority and ought not to have re-appreciated the evidence on the basis of which the findings of misconduct were arrived at against the respondent, herein, in course of the disciplinary proceeding.

(iii). *Union of India & ors. v. M. Duraisamy*, reported in **(2022) 7 SCC 475**, for the proposition that the delinquent officer holding a post of trust, the misconduct committed by him having affected the goodwill, name and fame of the Bank and also its reliability amongst the public; it was not open to the writ Court to interfere with the quantum of punishment imposed by the disciplinary authority.

13. In the above premises, Ms. Banerjee, learned counsel, has submitted that the judgment & order, dated 23.11.2023, passed by the learned Single Judge in WP(c)1525/2023, would call for an interference and the penalty as imposed upon the sole respondent, herein, vide order, dated 01.02.2023, would be called to be so restored.

14. Per contra, Mr. Das, learned senior counsel appearing for the respondent, herein, has, at the outset, submitted that a mere perusal of the allegations so levelled against the respondent in the charge-sheet, dated 30.08.2022, would bring to the forefront that there was no allegation of the respondent having committed any fraud and/or having colluded with the borrowers involved for the sanction of the loans, in question, causing a loss to the Bank. The learned senior counsel has further submitted that the Inquiry Officer has also not brought on record any materials to indicate the commission of fraud and/or the collusion with the borrowers with regard to the allegations so levelled against the respondent, herein, which was held to partially established in the inquiry.

15. Mr. Das, learned senior counsel, by referring to the provisions of Clause 10.2(b) of the Assam Gramin Vikash Bank Staff Accountability Policy-2021, as well as the provisions of the provisions of Clause 14.2(b) of the Assam Gramin Vikash Bank Staff Accountability Policy-2022(now relied upon by the appellant, herein), has further submitted that the Bank stands debarred from inquiring into any lapses regarding sanction of loan and/or pre-sanction lapses after the time-line so prescribed therein, had lapsed.

16. Mr. Das, learned senior counsel, has submitted that the only exception provided under the said clause is pertaining to the case of detection of fraud or collusion involving the Bank employees. No allegation of fraud having been levelled against the respondent, herein, the charge sheet, dated 30.08.2022, having admittedly been so issued beyond the time-line so prescribed under the provisions of the Clause 10.2(b) of the Assam Gramin Vikash Bank Staff Accountability Policy-2021, and/or the provisions

of Clause 14.2(b) of the Assam Gramin Vikash Bank Staff Accountability Policy-2022; it was contended that no proceeding in the matter was permissible to be drawn against the respondent, herein.

17. Mr. Das, learned senior counsel, by referring to the charge sheet, dated 30.08.2022, has submitted that the allegations levelled against the respondent, herein, at best, can be said to have reflected negligence on his part. The learned senior counsel has further submitted that the allegations so levelled, not having also alleged that the respondent had discharged his duties with a view to obtain illegal advantage for himself; mere negligence on the part of the respondent, herein, would not tantamount to a misconduct being committed by him in the matter.

18. Mr. Das, learned senior counsel, has further submitted that although in the process of sanctioning the loans involved and/or enhancement of the credit limits, the matter was also processed by the other organs of the Branch of the Bank, in question, including the examination of the same by its internal Auditors, however, the Bank for reasons best known to it; had singled-out the respondent, herein, for initiation of proceedings, that too, without ascribing any individual role to the respondent in the entire matter.

19. Mr. Das, learned Senior counsel, has accordingly, submitted that the proceedings so instituted against the respondent, was clearly not maintainable. The learned Senior counsel by referring to the conclusions reached by the learned single Judge in the impugned judgment & order, has submitted that the learned single Judge on a close examination of the allegations so levelled against the respondent, herein, in the light of the

provisions of Regulation 39 of the Assam Gramin Vikash Bank Officers and Employees Service Regulations, 2010(as amended), as well as the provisions of Clause 10.2(b) of the Assam Gramin Vikash Bank Staff Accountability Policy-2021, having concluded that no misconduct was borne out against the respondent, therefrom; no error can be stated to have been committed by the learned single Judge, in the matter.

20. Mr. Das, learned senior counsel, has submitted that even if it is held that the provisions of the Assam Gramin Vikash Bank Staff Accountability Policy-2022, was applicable; the same would not make any difference with regard to the conclusions drawn by the learned Single Judge in this connection, in-as-much as, the provisions of Clause 10.2(b) of the Assam Gramin Vikash Bank Staff Accountability Policy-2021, is now incorporated in the Assam Gramin Vikash Bank Staff Accountability Policy-2022, as Clause 14.2(b), and both the provisions are *pari materia*.

21. Mr. Das, learned senior counsel, has, by further placing reliance on the decision of the Hon'ble Supreme Court in the case of **Airport Authority of India v. Pradip Kumar Banerjee**, reported in **2025 SCC Online SC 232**, has submitted that in an intra-Court appeal, the finding of fact of the learned Single Judge, unless such finding is concluded by the appellate Bench to be perverse, would not be called to be disturbed. The learned senior counsel has further submitted that merely because another view or a better view is possible; there should be no interference with or disturbance of the order passed by the learned Single Judge unless both sides agree for a fairer approach on relief.

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

23. At the outset, we would proceed to consider the submissions advanced by Ms. Banerjee, learned counsel for the appellant Bank that the learned Single Judge had exceeded his jurisdiction in re-appreciating the evidence coming on record in the inquiry.

24. We have carefully perused the conclusions drawn by the learned Single Judge in the impugned judgment & order, dated 23.11.2023, in WP(c)1525/2023, and we do not find that the learned Single Judge, in any manner, had re-appreciated the evidence brought on record in the inquiry. The learned Single Judge, had, in our considered view, only examined the allegations levelled against the respondent, herein, in the light of the provisions of the Assam Gramin Vikash Bank Officers and Employees Service Regulations, 2010(as amended), to ascertain as to whether the allegations so levelled against him, had brought to the forefront, a commission of misconduct by the respondent, herein.

25. The learned single Judge on examination of the materials including the report of the Inquiry Officer, had concluded that the inquiry report does not reflect that the respondent had violated any of the Regulations of the Bank, or, had acted in a manner contrary to the interest of the Bank or had shown inefficiency, or, was guilty of any other form of misconduct, leading to loss being suffered by the Bank. The learned single Judge had further concluded that the allegations so levelled against the respondent, herein, only indicates certain lapses existing on his part to verify certain

documents and/or records which he ought to have done as a member of the recommending Committee.

26. The learned Single Judge had also concluded that at no point of time, the respondent had individually processed the loans and he had done the same as a member of the recommending committee which was set-up for processing the proposals received in the matter. The learned single Judge had further concluded that the materials on record having reflected that there were other organs of the Bank which were also actively involved in the processing of the loans, including the Inspection Teams; no disclosure is made, therefrom, demonstrating in what manner, such other officials had discharged their responsibilities in processing the loans.

27. Having drawn the above conclusions; the learned single Judge had proceeded further to conclude that the materials on record, does not even remotely indicate as to what was the decision taken by the respondent, herein, which had resulted in loss occasioning, if any, to the Bank. Further, it was concluded that the allegations so levelled against the respondent, herein, did not ascribe an individual role to the respondent in the matter.

28. The above conclusions as drawn by the learned single Judge in the matter would go to show that the same was so done on appreciating the materials coming on record and for the said purpose, the evidence coming on record in the inquiry, were admittedly not re-appreciated. Accordingly, the contentions so raised by the appellant Bank that the learned single Judge had exceeded his jurisdiction in re-appreciating the evidence coming on record in the inquiry, would not mandate an acceptance.

29. The learned single Judge after having drawn the above conclusions, had proceeded to examine the issue of maintainability of the disciplinary proceeding against the respondent, herein, in the light of the provisions of the Assam Gramin Vikash Bank Staff Accountability Policy-2021. On undertaking the said examination, the learned single Judge had come to a conclusion that there being no allegation of fraud and/or collusion leveled against the respondent in the matter; it was apparent on the face of the records of the disciplinary proceeding that the same was clearly time-barred and therefore, hit by Clause 10.2(b) of the Assam Gramin Vikash Bank Staff Accountability Policy-2021, which clause was held to be binding on the Bank and its officials.

30. Ms. Banerjee, learned counsel for the appellant Bank, has contended that the provisions of the Assam Gramin Vikash Bank Staff Accountability Policy-2021, stood superseded by the provisions the Assam Gramin Vikash Bank Staff Accountability Policy-2022, and accordingly, the conclusions drawn by the learned single Judge in the impugned judgment & order, dated 23.11.2023, in WP(c)1525/2023, basing on the provisions of Clause 10.2(b) of the Assam Gramin Vikash Bank Staff Accountability Policy-2021, would not be sustainable.

31. Given the above submissions made by the learned counsel for the appellant Bank, we have perused the provisions of the Assam Gramin Vikash Bank Staff Accountability Policy-2022, and find therein, that the provisions *pari materia* to that of Clause 10.2(b) of the Assam Gramin Vikash Bank Staff Accountability Policy-2021, exists in the provisions of Clause 14.2(b) of the Assam Gramin Vikash Bank Staff Accountability

Policy-2022.

32. The provisions of Clause 14.2(b) of the Assam Gramin Vikash Bank Staff Accountability Policy-2022, being relevant, is extracted hereinbelow:

“14.2 (b) Further, in case of investigation conducted subsequent to two Regular inspections after sanction / disbursement of credit facilities, no fresh "pre sanction lapses" other than those pointed out through Regular Inspection Report be considered for fixing of accountability unless there is element of fraud / malafide etc., within the following stipulations - (i) If the fraud has been perpetrated by the borrower on the bank, the clause of two successive inspection report shall continue. (ii) In case of malafide action or collusion of staff with the borrower or fraud is perpetrated on bank by the staff members, then the time line shall not be applicable. (iii) If a fraud is perpetrated/committed by any staff member, stern action will be taken against such staff member in terms of this policy.”

33. On a perusal of the provisions of Clause 10.2(b) of the Assam Gramin Vikash Bank Staff Accountability Policy-2021, and that of the provisions of Clause 14.2(b) of the Assam Gramin Vikash Bank Staff Accountability Policy-2022; we find that both the provisions are one and the same.

34. Having perused the conclusions reached by the learned Single Judge qua the provisions of Clause 10.2(b) of the Assam Gramin Vikash Bank Staff Accountability Policy-2021, and on applying the provisions of Clause 14.2(b) of the Assam Gramin Vikash Bank Staff Accountability Policy-2022, to the materials brought on record; we are of the considered view that the conclusions reached by the learned Single Judge in the matter, are clearly supported by the provisions governing the issue. The conclusion so drawn by the learned Single Judge in the matter, basing on the provisions of Clause 10.2(b) of the Assam Gramin Vikash Bank Staff Accountability Policy-2021, would not mandate any change even if the provisions of Clause 14.2(b) of the Assam Gramin Vikash Bank Staff Accountability Policy-2022, is so applied to it and accordingly, the conclusions so reached

by the learned single Judge with regard to the maintainability of the disciplinary proceeding initiated against the respondent, herein, in the matter; would not mandate any interference.

35. At this stage, we take notice of the decision of the Hon'ble Supreme Court in the case of **Pradip Kumar Banerjee**(supra), wherein, the jurisdiction of an appellate Court in considering an intra-Court appeal, was considered. The Hon'ble Supreme Court, in this connection, had drawn the following conclusions:

“36. The law relating to the exercise of intra-Court jurisdiction is crystallised by this Court in the case of Management of Narendra & Company Private Limited v. Workmen of Narendra & Company, 30 wherein it was held as under:

“5. Once the learned Single Judge having seen the records had come to the conclusion that the industry was not functioning after January 1995, there is no justification in entering a different finding without any further material before the Division Bench. The Appellate Bench ought to have noticed that the statement of MW 3 is itself part of the evidence before the Labour Court. Be that as it may, in an intra-court appeal, on a finding of fact, unless the Appellate Bench reaches a conclusion that the finding of the Single Bench is perverse, it shall not disturb the same. Merely because another view or a better view is possible, there should be no interference with or disturbance of the order passed by the Single Judge, unless both sides agree for a fairer approach on relief.”

(emphasis supplied)

37. The position is, thus, settled that in an intra-court writ appeal, the Appellate Court must restrain itself and the interference into the judgment passed by the learned Single Judge is permissible only if the judgment of the learned Single Judge is perverse or suffers from an error apparent in law. However, the Division Bench, in the present case, failed to record any such finding and rather, proceeded to delve into extensive re-appreciation of evidence to overturn the judgment of the learned Single Judge.”

36. Applying the decision of the Hon'ble Supreme Court to the facts of the present case, we having not found any perversity with regard to the conclusions reached by the learned single Judge in the impugned judgment and the view taken by the learned single Judge being a plausible view; we are not persuaded by the submissions of the learned counsel for the appellant Bank, to take a different view in the matter. Accordingly, we are

of the considered view that the judgment & order, 23.11.2023, passed by the learned single Judge in WP(c)1525/2023, would not warrant any interference.

37. In view of the above discussions, we are of the considered view that the decisions relied upon by the learned counsel for the appellant Bank, would not advance its case and accordingly, a discussion, thereon, is not made in the present order.

38. In view of the conclusions drawn by us, hereinabove; we are of the considered view that the present intra-Court appeal is bereft of any merit and the same, accordingly, stands dismissed. However, there shall be no order as to costs.

JUDGE

CHIEF JUSTICE

Comparing Assistant