



## **IN THE GAUHATI HIGH COURT**

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

### **ITANAGAR PERMANENT BENCH**

### **WP(C) NO. 206 (AP) OF 2012**

**PETITIONER:**

SHRI LALIT KUMAR SINGH,  
S/O. LATE ARJUN SINGH DAMAI,  
R/O. NAHARLAGUN,  
DISTRICT-PAPUMPARE, ARUNACHAL PRADESH.

**By Advocates :**

Mr. D. Mazumdar,  
Mr. A. K. Singh,  
Mr. R. Sarmah,  
Mr. K. Mengu,  
Mr. L. Laa.

**RESPONDENTS :**

1. THE ARUNACHAL PRADESH RURAL BANK,  
REPRESENTED BY ITS CHAIRMAN,  
HEAD OFFICE-'E' SECTOR,  
SHIV MANDIR ROAD,  
NAHARLAGUN, ARUNACHAL PRADESH.
2. THE CHAIRMAN,  
ARUNACHAL PRADESH RURAL BANK, H.Q. NAHARLAGUN.
3. SHRI NK HAZARIKA, (INQUIRY AUTHORITY),  
CHIEF MANAGER, RURAL BUSINESS UNIT AT SBI,  
LOCAL HEAD OFFICE, GUWAHATI.

4. THE APPELLATE AUTHORITY AND BOARD OF DIRECTORS,  
(REPRESENTED BY THE MANAGING DIRECTOR),  
ARUNACHAL PRADESH RURAL BANK, NAHARLAGUN,  
ARUNACHAL PRADESH.

**By Advocate:**

None appeared

**BEFORE  
HON'BLE MR. JUSTICE MANASH RANJAN PATHAK**

DATE OF JUDGMENT AND ORDER : 21<sup>st</sup> OF APRIL, 2017.

**JUDGMENT AND ORDER**

Heard Mr. Dilip Mazumdar, learned senior counsel, assisted by Mr. Abhay Kumar Singh, learned counsel, appearing for the petitioner. None appeared for the respondents.

2] This Court, on 04-06-2012, while issuing notice to the respondents-Arunachal Pradesh Rural Bank and its officials, directed the petitioner to take necessary steps for causing service of notice upon the respondent Nos. 1 to 4 by registered post with A/D Cards within three days and in addition to that permission was also granted to the counsel of the petitioner for serving notice of the case on the respondent Nos. 1 to 4 by *dasti* (personal) service.

3] Though the petitioner took steps by registered post on the respondent Nos. 1 to 4 and the office note dated 06-02-2012 reveals that after due service of notice on the respondents, the A/D Cards returned back to the Registry.

Further, on 18-06-2012 the petitioner filed an affidavit along with acknowledgements to show that notice on the respondent Nos. 1 to 4 were

served through *dasti* (personal) service on 07-06-2012, which they duly received with proper signature, seal and date.

4] Hence, the Court, by its order dated 27-06-2012 observed that the notice on the respondent Nos. 1 to 4 is deemed to have been duly served and affected and accordingly issued Rule in the matter. But the respondents neither entered their appearance in the matter nor filed any affidavit it contesting the claims of the petitioner.

5] The matter relates to disciplinary proceeding of the petitioner. The petitioner was serving as a Branch Manager under the respondent No. 1, Arunachal Pradesh Rural Bank (hereinafter referred to as 'the Bank') having its Head Office at Naharlagun, Arunachal Pradesh. While he was serving as a Branch Manager of the Bank at its Basar Branch, by an order dated 24-01-2009, the Chairman of the Bank-cum-Disciplinary Authority, respondent No. 2 placed him under suspension, under Rule 45 of the Arunachal Pradesh Rural Bank (Officers and Employees) Service Regulations, 2001 (in short, '2001 Regulations') indicating that he would be paid usual subsistence allowance at the rate of one third of the basic pay plus pro-rata dearness and other allowances for the first three months and thereafter, at the rate of half of the basic pay plus pro-rata dearness and other allowances.

6] On 20-03-2009, the Chairman of the Bank issued him a show cause notice with six accusations stating that he had committed serious irregularities while working as its Branch Manager at Basar Branch, during the period from 18-12-2008 to 21-01-2009 and directed him to submit his reply within seven days from the date of the receipt of the same, with the observation that failure on his part to reply the said show cause would be construed that he does not have any explanation to offer and the Bank shall proceed accordingly.

7] On 26-03-2009, the petitioner submitted his reply to the said show cause notice dated 20-03-2009 with prayer to the Chairman-cum-Disciplinary Authority to give him the opportunity of personal hearing and till the final hearing of the matter, the order of suspension may be kept in abeyance and to allow him to discharge his duties in his original position.

8] On 06-05-2009, the Bank decided to initiate a disciplinary proceeding against the petitioner. The Chairman of the Bank, being the disciplinary authority, issued a charge sheet serving memorandum of charges along with statement of article of charges against him, which consists of six charges, statement of allegations (imputations) against him, list of documents in support of allegations against him and the list of witnesses in respect of alleged frauds committed by him in the Basar Branch of the Bank.

9] The Disciplinary Authority made an accusation against the petitioner that while he was working as Branch Manager of Basar during the period of 18-12-2008 to 21-01-2009, he acted with gross negligence and committed serious irregularities in various accounts, e.g. SB A/C, Sundry Deposit A/C, Suspense A/C, Link Branch A/C etc. without following the Bank's instructions, in gross violation of Bank's laid down instructions, which are mentioned in the enclosed article of charges and his such action tantamount to misconduct in terms of Rules 17 and 19 of the 2001 Regulations and as such a disciplinary proceeding under Rule 38 of the 2001 Regulations has been initiated against him. By the said memorandum of charges dated 06-05-2009, the petitioner was to submit his written Statement of Defence within 15 days from the date of receipt of the said memorandum, with the observation that if he desires, before submitted his statement of defence, he may refer/peruse the relevant records/documents at Basar Branch of the Bank with prior permission of Its Branch Manager, but he will not be permitted to take copy of the records and/or documents and further informed him that if such statement of defence is not received

from him within the time specified, the bank shall proceed in terms of Rule 38 of the said 2001 Regulations.

10] The petitioner on 19-05-2009 submitted his charge-wise reply and by order dated 10-08-2009, the Disciplinary Authority opined that with regard to the article of charges and statement of allegations alleged against him on 06-05-2009, there are grounds for enquiring into the matter and accordingly ordered to hold the departmental enquiry into the imputation of lapses alleged against the petitioner. For the same, the Disciplinary Authority appointed the respondent No. 3 deputed from the sponsored Bank State Bank India, as Inquiry Authority (IA), as per Rule 40 of the 2001 Regulations and one Sri B Deuri of the Bank as Presenting Officer.

11] On 31-08-2009, the I.A. informed the petitioner that he shall hold the enquiry at the Head Office premises of the Bank at Naharlagun on 11-09-2009 at 10.00 am and on subsequent days, if necessary and directed the petitioner to continue to remain present at the enquiry on the date, time and place as specified throughout the enquiry on that date and on the subsequent dates along with all of his witnesses and evidence. The IA further informed the petitioner that if any assistance of Defence Representative (DR) is needed, he should ensure the same and to inform the IA regarding the same so that necessary arrangement can be made for his for his relieve.

12] On 08-09-2009, the IA informed the petitioner that instead of 11-09-2009 at 10.00 p.m., he shall hold the enquiry in the same premises on 10-09-2009 at 2.30 p.m. and accordingly rescheduled the date and time for enquiry earlier communicated on 31-08-2009.

13] On 10-09-2009, the Presenting Officer submitted list of 2 witnesses namely, (i) Mr. G. K. Deori, Branch Manager, Basar Branch of the Bank and (ii) Mr. Ranju Debnath, Cashier-cum-Clerk of the Basar Branch of the Bank.

on behalf of the said Bank in connection with the Departmental Proceeding against the petitioner.

14] By communication dated 18-09-2009, the IA informed the petitioner, the delinquent that due to Id holiday on 21-09-2009, the scheduled date fixed during the course of first preliminary hearing on 10-09-2009, may be treated as cancelled and that the next date of hearing shall be in the last week of September, 2009.

15] It is stated by the petitioner that the concerned IA did not inform him regarding the next date of hearing of the enquiry of the said proceeding and very surprisingly by communication dated 19-10-2009, the Presenting Officer of the said enquiry forwarded a copy of the Brief of the Departmental Enquiry against him and on receipt of the same, the petitioner could learn that the final hearing of the enquiry against him was already completed, without informing him as to when such hearing of said enquiry against him had taken place after the aforesaid communication of the IA dated 18-09-2009. As per the said Brief Report of the Presenting Officer, accusations of all the six charges were proved against the petitioner behind him.

16] To ensure certainty of the receipt of the said Brief Report of the Presenting Officer, the IA again on 04-11-2009 forwarded another copy of such Report with an observation that the 'exhibits' mentioned in the report were already with the petitioner that were exchanged and possession of which were acknowledged during the course of enquiry. The concerned IA by the said letter 04-11-2009 also directed the petitioner to send his point-wise reply within 20-11-2009. As the petitioner received the said communication dated 04-11-2009 of the IA lately, he on 18-11-2009, requested the IA to give him some more time to reply fixing another date within December, 2009 and accordingly, the IA by his communication dated 02-12-2009 allowed such prayer of the petitioner, informing him to

file his reply on or before 11-12-2009 and the petitioner accordingly filed his reply.

17] The Disciplinary Authority, on 03-03-2010, forwarded the certified copy of the Inquiry Report dated 08-02-2010 submitted by the concerned Inquiry Authority and directed the petitioner to give his reply within seven days from the date of receipt of the said Report, From the said Inquiry Report, dated 08-02-2010 of the concerned IA, it is seen that the Charge Nos. 1, 2 4 and 5 were found to be proved, Charge No. 6 was partly proved, whereas Charge No. 3 was not proved. The petitioner on 20-03-2010, submitted his reply denying the accusations made against him, before the Disciplinary Authority requesting to discharge him from the said departmental proceeding, considering his submissions made in the said reply and also to revoke the order of suspension against him, so that he can discharge his duties with full pay and allowances.

18] On 12-10-2010, the petitioner again submitted an appeal before the Disciplinary Authority requesting to have mercy on him to save his children in continuing their studies as he has no option, except to depend on the institution (the Bank) where he has been serving since 1985 with further prayer that if he had committed any human error, he should be forgiven.

19] By letter dated 18-10-2010, the Disciplinary Authority informed the petitioner that he had gone through the evidence placed during the Inquiry alongwith the Inquiry Report and that he agreed with the said findings of the enquiry held against him and by the said communication, the DA directed the petitioner to file his reply within fifteen days from the date of receipt of the same as to why the penalties mentioned in the said letter should not be imposed upon him under Rule 38 of the 2001 Regulations.

20] Pursuant to the said communication dated 18-10-2010, the petitioner on 01-11-2010, submitted his reply requesting the Disciplinary Authority to pardon him for his any such misconduct for once on the strength of the gravity of the unavoidable and sudden nature of circumstances under some threat perception, which could not be avoided by him for the sake of his family and to consider his case sympathetically, not to punish him and his family.

21] After going through the charge sheet of the Departmental Proceeding, statement of defence of the petitioner, the Enquiry Report-cum-findings and also the written submissions of the petitioner, the Chairman-cum-Disciplinary Authority of the Bank hold that the petitioner has committed gross misconduct and accordingly by his Final Order dated 10-12-2010, inflicted the following punishment upon the petitioner :-

*(i) Removal from service in terms of Rule 38(b)(iv) of the 2001 Regulations and*

*(ii) Fine of Rs. 6,28,160/-with interest @ 14% pm with effect from 05-01-2009 equivalent to the pecuniary loss caused to the Bank,*

with the direction that the period spent by the petitioner under suspension to be treated as not on duty. In the said order it was also observed that as per Clause 47 of the 2001 Regulations of the Bank if the petitioner desires, he may prefer appeal before the Appellate Authority against the said order of penalty within a period of 45 days from the date of receipt of the said order of punishment.

22] The petitioner on 10-01-2011, submitted an appeal before the Chairman-cum-Appellate Authority of the Bank and by letter dated 03-08-2011, the Chairman-cum-Disciplinary Authority of the Bank informed the petitioner that the Appellate Authority and the Board of Directors of the Bank in its meeting held on 29.03.2011, rejected the said appeal of the petitioner with the finding that -

- (i) the petitioner's said appeal does not have any merit and it does not requires any consideration;
- (ii) considering the serious irregularities committed by him the punishment given to the petitioner is befitting and
- (iii) the total amount due from the petitioner and his family members, including the un-reconciled entry of Rs. 6.45 Lakhs while the petitioner served as Branch Manager of the Bank at its Sille Brach is more than Rs. 16,00,000/- and all efforts should be made to recover the said amount from the petitioner.

23] Being aggrieved with such rejection of his appeal, the petitioner on 05-03-2012 submitted a petition before the Chairman-cum-Disciplinary Authority of the Bank for review of the matter regarding his removal from service; but on 09-03-2012, the Chairman-cum-DA informed the petitioner that since his appeal, after due consideration, was dismissed by the Board of Directors of the Bank in its meeting held on 29.03.2011, which was already communicated to him; therefore, his further appeal cannot be considered.

24] On 10-04-2012 the petitioner submitted an application under RTI Act before the Chief Vigilance Officer & Public Information Officer of the Bank seeking relevant information and on 12-04-2012, the authority informed him that the matter regarding the information that he sought for on 10-04-2012 had been referred to the sponsored Bank SBI, Guwahati for its legal opinion and only after receipt of the advice from the said sponsoring Bank, information sought for, shall be provided to him.

25] As no information was received from the Bank, the petitioner preferred this writ petition praying amongst others for setting aside and to quash the impugned order dated 10-12-2010 imposing the Major Penalty of his removal from service and fine of Rs. 6,28,160/- with interest @ 14% per annum with effect from 05-01-2009, being bad in law and passed without giving him any opportunity of hearing by the Inquiry Authority during the

enquiry of said disciplinary proceeding. It is submitted that without holding any hearing by the IA, without producing any documentary or oral evidence in support of the charges levelled against him in such inquiry, without the documents being examined during the enquiry and without giving any opportunity to cross-examine the two listed witnesses of the Bank, whose names were recorded on 10-09-2009 at the time of preliminary hearing of the enquiry; except submitting the Written Brief by the Presenting Officer indicating some exhibits as 'PEX' and asking the petitioner to submit his reply to the said Brief submitted by the Presenting Officer; the decision taken by the Disciplinary Authority on the basis of such Inquiry Report, imposing major penalty upon the petitioner by the impugned order dated 10-12-2010 is illegal and liable to be set aside.

26] During the pendency of this petition, the Chief Vigilance Officer and Public Information Officer of the Bank vide communication dated 17-08-2012 provided the relevant information to the petitioner that he sought for through RTI in April, 2012 and by an affidavit filed on 18-06-2012 in this matter, the petitioner placed those information before the Court as provided to him. By the said information dated 17-08-2012, the respondent Bank clarified that – (a) since there is no order sheet of the IA (hearing authority), the same cannot be provided, (b) hearing was held twice, (c) deposition of witnesses were not made at the time of inquiry, (d) comments of the Chief Auditor of the Bank being not available, it cannot be furnished and (e) in the Memorandum of Board of Directors, Meeting dated 25-03-2011, the Agenda No. 11 relates to the appeal of the petitioner regarding his removal from service, which the Board decided to discuss.

27] It is submitted by the petitioner that the report of the IA dated 08-02-2010, on the basis of which the Disciplinary Authority inflicted major penalty upon the petitioner on 10-12-2010, clearly reveals that the concerned IA considered the Daily Order Sheet, evidence produced by the

Presenting Officer and numbers of documents prefixed by 'PEX', whereas the RTI report furnished by the Bank on 17-08-2012 clearly reveals that the IA during the inquiry did not maintain any Order Sheet, as such the same could not be provided to the petitioner. The said RTI report provided by the Bank also reveals that depositions of the witnesses were not made at the time of the inquiry. Further, from the perusal of the Report/Findings of the Inquiring Authority dated 08-10-2010, it can be seen that he had gone through only the brief of the Presenting Officer dated 19-10-2009 and reply given by the petitioner in his defence to the show cause, considered the evidence allegedly produced before the IA by the Presenting Officer and submitted the report of the enquiry by giving his finding against the petitioner though it is clear from the RTI information of the Bank that there is no order sheet of the IA.

28] Mr. D Mazumdar, learned senior counsel appearing for the petitioner relying upon the Judgments of the Hon'ble Supreme Court in the cases of (i) *Union of India -Vs- H.C. Goel*, reported in *AIR 1964 SC 364*, (ii) *B.C. Chaturvedi -Vs- Union of India*, reported in *(1995) 6 SCC 749*, (iii) *Union of India -Vs- Gyan Chand Chattar*, reported in *(2009) 12 SCC 78* and (iv) *Nirmala J. Jhala -Vs- State of Gujarat*, reported in *(2013) 4 SCC 301* and submitted that as settled by the Hon'ble Supreme Court, the impugned order of major penalty dated 10-12-2010 removing the petitioner from service of the Bank should be set aside and quashed.

Perused and considered the Judgments placed on behalf of the petitioner.

29] Rule 38 of the Arunachal Pradesh Rural Bank (Officers and Employees) Service Regulations, 2001 relates to penalties of the officers of the said Bank including its Branch Manager, like the petitioner and sub-Rule (iv) of (b) Major Penalties of said Rule 38 of 2001 Regulations provides that – *“Removal from service which shall not be disqualification for further*

*employment*". The second proviso to the Rule 38(I)(b) of the said 2001 Regulations of the Bank provides that – *no order imposing any of the major penalties specified therein shall be made except by an order in writing signed by the Competent Authority and no such order shall be passed without the charge or charges being formulated in writing and given to the officer and enquiry held so that he shall have reasonable opportunity to answer the charge or charges and defend himself.*

30] The Hon'ble Supreme Court in the case of *LIC -Vs- Ram Pal Singh Bisen*, reported in *(2010) 4 SCC 491*, a case related to departmental enquiry, have held that –

*"Contents of the document cannot be proved by merely filing in a court. It is necessary that contents of documents are required to be proved either by primary or by secondary evidence. At the most, admission of documents may amount to admission of contents but not its truth."*

31] The Hon'ble Supreme Court in the case of *Union of India -Vs- T.R. Verma* reported in *AIR 1957 SC 882* have held that –

*"... stating it broadly and without intending it to be exhaustive it may be observed that rules of natural justice require that a party should have the opportunity of adducing all relevant evidence on which he relies, that the evidence of the opponent should be taken in his presence, and that he should be given the opportunity of cross-examining the witnesses examined by that party, and that no materials should be relied on against him without his being given an opportunity of explaining them."*

32] The Hon'ble Apex Court in the said case of *T.R. Verma (supra)* have also held that –

*"The right to cross-examine witnesses who give evidence against a delinquent officer is a very valuable right and if effective exercise of that right is prevented by the enquiry officer by not giving to officer relevant document to which he is entitled, the enquiry cannot be said to have been held in accordance with the principles of natural justice."*

33] The Hon'ble Apex Court in the case of *State of Assam -Vs- Mahendra Kumar Das* reported in (1970) 1 SCC 709, a case of dismissal of a police Sub-Inspector in pursuance of a disciplinary enquiry have held that –

*"If the enquiry officer collects material behind the back of the delinquent officer and such material is relied upon by the enquiry officer without being disclosed to the delinquent officer, the enquiry proceedings would be vitiated."*

34] In the case of *Chandrama Tewari -Vs- Union of India*, reported in 1987 *Supp SCC 518*, matter related to departmental enquiry have held that –

*"Constitution requires that reasonable opportunity of defence must be afforded to a government servant before he is awarded major punishment of dismissal. It further contemplates that disciplinary enquiry must be held in accordance with the rules in a just and fair manner. The procedure at the enquiry must be consistent with the principles of natural justice. Principles of natural justice require that the copy of the document if any relied upon against the party charged should be given to him and he should be afforded opportunity to cross-examine the witnesses and to produce his own witnesses in his defence. If findings are recorded against the government servant placing reliance on a document which may not have been disclosed to him or the copy whereof may not have been supplied to him during the enquiry when demanded, that would contravene principles of natural justice rendering the enquiry, and the consequential order of punishment illegal and void. These principles are well settled by a catena of decisions of this Court. We need not refer to them. However, it is not necessary that each and every document must be supplied to the delinquent government servant facing the charges, instead only material and relevant documents are necessary to be supplied to him. If a document even though mentioned in the memo of charges is not relevant to the charges or if it is not referred to or relied upon by the enquiry officer or the punishing authority in holding the charges proved against the government servant, no exception can be taken to the validity of the proceedings or the order. If the document is not used against the party charged the ground of violation of principles of natural justice cannot successfully be raised.*

*It is now well settled that if copies of relevant and material documents including the statement of witnesses recorded in the preliminary enquiry or during investigation are not supplied to the delinquent officer facing the enquiry and if such documents are relied in holding the charges framed against the officer, the enquiry would be vitiated for the violation of principles of natural justice. Similarly, if the statement of witnesses*

*recorded during the investigation of a criminal case or in the preliminary enquiry is not supplied to the delinquent officer that would amount to denial of opportunity of effective cross-examination. It is difficult to comprehend exhaustively the facts and circumstances which may lead to violation of principles of natural justice or denial of reasonable opportunity of defence. This question must be determined on the facts and circumstances of each case. While considering this question it has to be borne in mind that a delinquent officer is entitled to have copies of material and relevant documents only which may include the copy of statement of witnesses recorded during the investigation or preliminary enquiry or the copy of any other document which may have been relied on in support of the charges. If a document has no bearing on the charges or if it is not relied on by the enquiry officer to support the charges, or if such document or material was not necessary for the cross-examination of witnesses during the enquiry, the officer cannot insist upon the supply of copies of such documents, as the absence of copy of such document will not prejudice the delinquent officer. The decision of the question whether a document is material or not will depend upon the facts and circumstances of each case."*

35] From the information, obtained by the petitioner through RTI, it can be seen that there is no order sheet regarding such inquiry by the Inquiring Authority, i.e. the hearing authority. Further, said RTI information also reveals that depositions of witnesses were not recorded at the time of inquiry, which clearly reveals that witnesses on behalf of the Bank, the employer, were not examined during the inquiry to prove the alleged charge against the petitioner.

36] From the perusal of the Memorandum of Charges dated 06-05-2009, issued to the petitioner along with the list of documents in support of the accusations against him, it can be seen that for the first five charges, the Disciplinary Authority on behalf of the Bank relied upon 16 (sixteen) numbers of documents and from the Brief of the Presenting Officer dated 19-10-2009 as well as the Inquiry Report dated 08-02-2010 it can be seen that the Inquiring Authority relied upon 28 (twenty eight) numbers of documents i.e. 'PEXs' including those sixteen specified in the list of documents along with the charges 06-05-2009. Further, from the Brief of

the Presenting Officer dated 19.10.2009 it can also be seen that statements of both the witnesses on behalf of the employer Bank, namely Mr. G.K. Deori, Branch Manager, Basar Branch of the Bank and Mr. Ranju Debnath, Cashier-cum-Clerk of the Bank of the Basar Branch were recorded as Witness Nos. - I & II by way of their written statement. Moreover, from the Inquiry Report dated 08-02-2010 it can be seen that the Inquiring Authority relied upon all such documents and statements as evidence put up for examination on behalf of the employer Bank to bring home the charges levelled against the petitioner and gave his findings through the Inquiry Report dated 08-02-2010, holding that the relevant charges were found to be proved. But, as the RTI information discloses that there is no order sheet regarding such inquiry by the Inquiring Authority, therefore, there is no such proof that those documents/PEXs alleged to have been placed by the Presenting Officer produced on behalf of the employer Bank were proved during the inquiry. But those were taken into consideration by the Inquiring Authority in his Inquiry Report dated 08-02-2010, while determining the charges levelled against the petitioner.

37] The RTI information also reveals that the depositions of the witnesses were not recorded at the time of inquiry. But, the statements of those two official witnesses, i.e. Witness Nos. - I & II have been allegedly recorded by way written statement and the Inquiry Authority without giving any opportunity to the petitioner to cross-examine those two employer' witnesses, accepted such evidence adduced by them on behalf of the Bank and submitted his Inquiry Report dated 08-02-2010 holding that the charges against the petitioner have been proved.

38] It has already been noticed that the said Inquiry Report dated 08-02-2010 of the Inquiry Authority has been accepted and acted upon by the Disciplinary Authority, the Chairman of the Bank and by order dated 10-12-2010 inflicted major punishment on the petitioner removing him from

service of the Bank, which have also been upheld by the appellate authority as well as the Board of Directors of the Bank in its meeting held on 29-03-2011. Since, without proving and establishing the documents i.e. the 'PEXs' during the inquiry and without affording any opportunity to the petitioner to cross examine the official witnesses as placed by the Presenting Officer and as the concerned Inquiry Authority accepted and relied all those unproved documents and evidence as relevant documents and evidence in his said Inquiry Report and the findings while proving the charges against the petitioner, as a result of which the petitioner delinquent officer was prejudiced in his defence at the enquiry.

39] It is also to be noted herein that the respondents Bank authorities did not appear in the mater in spite of receipt of notice of the case and also not filed any affidavit-in-opposition rebutting the claims of the petitioner. It is settled that in the absence of any rebuttal, there is no reason to disbelief the contentions made by the petitioner that too by swearing an affidavit.

40] For the reasons above, the enquiry report dated 08-02-2010, being in violation of the principle of natural justice, the same is set aside and quashed. Consequently, the order of the Disciplinary Authority and the Chairman of the Arunachal Pradesh Rural Bank dated 10-12-2010, imposing major penalty of removal from service of the petitioner under Clause 38(b)(iv) of the Arunachal Pradesh Rural Bank (Officers and Employees) Service Regulations, 2001 as well as the order imposing fine of Rs. 6,28,160 with interest at the rate of 14% p.a. w.e.f. 05-01-2009, equivalent to the alleged pecuniary loss caused to the Bank and the order of period spent by the petitioner under suspension w.e.f. 24-01-2009 till the order of said major penalty dated 10-12-2010, treating the same as not on duty, and also the decision of the Appellate Authority of the Bank as well as its Board of Directors in its meeting held on 29-03-2011, rejecting the appeal of the

petitioner, communicated by the Disciplinary Authority and the Chairman of the said Bank on 03-08-2011, are hereby set aside and quashed.

41] In view of the above, the petitioner shall be reinstated in service forthwith, with all consequential benefits. The petitioner shall submit certified copy of this order before the Chairman-cum- Disciplinary Authority of the Arunachal Pradesh Rural Bank in its Head Office at Naharlagun, Arunachal Pradesh and shall obtain receipt to that extent.

42] However, if the respondent Bank decides to proceed with the said Disciplinary proceeding initiated against the petitioner vide the Memorandum of Charges dated 06-05-2009, they are at liberty to initiate the same afresh from the stage of inquiry by the Inquiry Authority and in the event of such proceeding being re-initiated, the entire Disciplinary Proceeding against the petitioner shall be completed by the respondent Bank within a period of three months from the date of initiation of such proceeding, clarifying that the petitioner shall co-operate with the said proceeding.

43] With the aforesaid observations and directions, this writ petition stands allowed to the extent above.

**JUDGE**

*Paul*