
(2010) 03 GAU CK 0063

In the Gauhati High Court

Case No : Writ Petition (C) No's. 90 and 91 of 2008

Md. Jameruddin and Others

APPELLANT

Vs

State of Manipur and Others

RESPONDENT

Date of Decision : 19-03-2010

Acts Referred:

Constitution of India, 1950 — Article 14, 19, 21

Citation : (2010) 2 GLD 350 : (2010) 4 GLT 945

Hon'ble Judges : T. NK. Singh, J

Bench : Single Bench

Advocate : N. Jotendro, for the Appellant; Th. Ibohal Singh, Sr. Govt Advocate, for the Respondent

Final Decision : Dismissed

Judgement

T. NK. Singh, J.—Two petitions, challenging the common impugned orders on the similar question of laws and facts, were jointly heard for disposal by a common judgment and order. The writ petitioners, constables of the Manipur Police, are assailing the order of the Superintendent of Police, Bishnupur District, Bishnupur being No. B-8/3/PC/SP-BPR/04, Bishnupur, dated 30.8.2007 (Annexure-A/6 to the writ petition), for imposing the ultimate penalty of removal from service with immediate effect to them and the order of the appellate authority i.e., Deputy Inspector General of Police (Range-III), Manipur being No. 25(42)/R-III/07, Imphal dated 3.12.2007 (Annexure-A/7 to the writ petition), for rejecting the appeals filed by the writ petitioners against the order of the Superintendent of Police, Bishnupur District dated 30.8.2007, only on the ground that the ultimate penalty or major penalty of removal from service imposed to the writ petitioners, is disproportionate or/too harsh for the charge framed against them. This Court, for the reasons mentioned below is not interfering the impugned orders of the authorities for imposing the ultimate penalty or major penalty of dismissal from service to the petitioners.

2. Heard Mr. N. Jotendro, learned Counsel appearing for the petitioners as well as

Mr. Th. Ibohal Singh, learned senior Government Advocate appearing for the respondents.

3. FACTUAL BACKGROUNDS:

There is a chequered history for filing the present writ petitions inasmuch as the present petitions are the second round of legal battle for the same incident on 13.3.1999, in which, the sophisticated weapons like SM Carbines, SLRs, issued to the writ petitioners, had been taken away by the underground elements without any resistance from their side. On 13.3.1999 at 0630 hrs, the present petitioners were detailed for escorting the departmental Tata Truck bearing No. MN-1G/1067 to collect water for use of the Reserve Line Mess of Bishnupur District from Chiniingkhoh Water Reservoir and sophisticated arms and ammunitions were issued to them for the said escort duty. On the way to the said reservoir, a group of extremists overpowered the petitioners and snatched away all the arms and ammunitions issued to them. It is admitted fact for both the parties that there was no resistance from the side of the petitioners by firing the sophisticated arms issued to them to the members of the extremists, rather, the petitioners surrendered the sophisticated arms and ammunitions issued to them to the members of the extremists.

4. For the said incident on 13.3.1999, the Superintendent of Police, Bishnupur District, Manipur issued an order dated 17.3.1999 for placing the petitioners under suspension in contemplation of the departmental enquiry for the said incident with immediate effect. A departmental enquiry being No. 3/99/SP-BPR was initiated against the petitioners for their misconduct and show of extreme cowardice of timidly surrendering their weapons and ammunitions to the members of the extremists' organization on 13.3.1999 at Chingning Khul, near a water reservoir. The Inquiry Officer of the departmental enquiry had submitted his report stating that the charges levelled against the petitioners were proved. The disciplinary authority, i.e., the Superintendent of Police, Bishnupur District, was in complete agreement with the finding of the inquiry officer for the said charges levelled against the petitioners and the disciplinary authority was fully convinced that the petitioners acted in a most cowardly manner by not offering even the mildest resistance before parting away their weapons which should have been held dearer to their life as members of police force and, therefore, their conduct amounted to most stringent kind of punishment, i.e., dismissal from service. But the disciplinary authority i.e., the Superintendent of Police, Bishnupur District issued an order being No. B-8/3/PC/SC- BPR/98/2298 dated 21.8.1999, imposing a minor penalty of stoppage of five years increments with immediate effect and reinstated to the service.

5. The petitioners filed a writ petition being WP (C) No. 1604 of 1999, challenging the said order of the disciplinary authority i.e., the Superintendent of Police, Bishnupur District dated 21.8.1999, wherein this Court passed a judgment and order dated 25.9.2002 directing the respondents to re-instate the petitioners to their former post by giving 50% of the back wages/salaries from the date of

dismissal from service till the date of reinstatement in service, within a period of one month from the date of passing the judgment and order. In compliance of the said order of this Court dated 25.9.2002, by an order of the disciplinary authority, i.e., the Superintendent of Police, Bishnupur, Manipur dated 30.4.2005, re-instated the petitioners with 50% of the back wages/salary from the date of dismissal.

6. In an appeal i.e., WA No. 65 of 2004, filed by the respondents against the judgment and order of this Court (Single Bench) dated 25.9.2002 passed in WP (C) No. 1604 of 1999, this Court (Division Bench) passed a judgment and order dated 8.8.2006 by interfering the judgment and order of the learned single Judge dated 25.9.2002 to the extent that "the impugned judgment and order is interfered with to the extent that the appellants would be at liberty, if so advised, to draw up a fresh enquiry against the respondents/writ petitioners within a period of four months from today failing which they would be debarred from doing so. If a fresh departmental proceeding is commenced, the petitioners/respondents would be treated to be under suspension from the date of their first suspension and would be paid subsistence allowances according to the rules. The arrears of subsistence allowances would be paid within three months from today". Pursuant to the judgment and order of this Court (Division Bench) dated 8.8.2006, passed in WA No. 65 of 2004, a fresh departmental enquiry was initiated for the said charges of misconduct and show of extreme cowardice of timidly surrendering their weapons and ammunitions to the extremists" organization on 13.3.1999 without offering even the mildest resistance before parting away their weapons which should have been held dearer to their life as members of police force. The Enquiry Officer conducted the enquiry in complete compliance of the principle of natural justice for holding a departmental enquiry and submitted his report that the charges levelled against the petitioners were held proved. The disciplinary authority issued show-cause notice to the petitioners giving a chance to put their cases or their show-cause statements as to why, for the reasons mentioned in the show-cause notice, the major penalty of dismissal from service (tentative) should not be imposed to them.

7. The only case of the petitioners in the reply to the show-cause notice was that in the similarly situated cases in the police departmental, major penalty of removal/dismissal from service had not been imposed and, as such, they are expected to be treated equally. The disciplinary authority, after taking into consideration of the reply submitted by the petitioners, and also the findings of the inquiry officer, had come to a finding that loss of arms and ammunitions in a disciplined force like police department is a matter of serious concern and has to be tackled with iron hand in an exemplary manner so that no other policeman can take the cue of the bad precedent of handing over the arms and ammunitions. After such finding, the disciplinary authority, i.e., the Superintendent of Police, Bishnupur, Manipur, issued the impugned order being No. B-8/3/PC/SP-BPR/04 dated 30.8.2007, imposing the major penalty of removal from service with immediate effect to the petitioners. Against the said

order of the disciplinary authority dated 30.8.2007, the petitioners preferred a statutory appeal before the appellate authority i.e., the Deputy Inspector General of Police (Range-III), Manipur. The Deputy Inspector General of Police (Range-III), Manipur, after considering the case of the petitioners and also the relevant records, had dismissed the appeal filed by the petitioners vide order dated 3.12.2007 with the finding that "And whereas, having minutely examined all the relevant Rules on the matter for the time being in force, and after proper application of mind, the undersigned (appellate authority) is of the view that the enforcement of Rule No. 66 of Assam Police Manual Part-III, Rule No. 351(B) of Assam Police Manual Part-III as mentioned above in the present context under the aforesaid circumstances by the disciplinary authority vide Superintendent of Police, Bishnupur District Order No. B-8/3/PC/SP-BPR/04/4172 dated 30.8.2007 removing the above mentioned 5 (five) Ex-Pcs from service and vide No. B- 8/3/PC/SP-BPR/04/4194 dated 30.8.2007 stopping the provisional pension in case of Ex-PC No. 1999 Th. Tampha Singh, are not reasonably unjustifiable at all and any relaxation in the punishment awarded to them cannot be considered proper at this stage except by a Court of Competent jurisdiction.

Now, therefore, the undersigned in exercise of powers conferred in Rule No. 66 of Assam Police Manual Part-III as an Appellate Authority do hereby uphold the orders of the Superintendent of Police, Bishnupur District vide No. B-8/3/PC/SP-BPR/04/4172 dated 30.8.2007 (removing from service) and No. B-8/3/PC/SP-BPR/04/4194 dated 30.8.2007 (stoppage of provisional pension) and subsequently the appeal petitions preferred by 6 (six) Ex-PCs are hereby turned down and the appeals are accordingly disposed of.

With this order in place, the D.E. file, Service Books of the 6(six) Ex-PCs and other connected documents are hereby returned to the Superintendent of Police, Bishnupur District." Hence the present writ petitions assailing the impugned dismissal order of the disciplinary authority dated 3.12.2007 for dismissing the appeal and the order of the Superintendent of Police, Bishnupur District dated 30.8.2007 only on the sole ground that penalty of dismissal from service for the charge levelled against the petitioners is too harsh and disproportionate for the charge levelled against them.

8. Lord Diplock in *Council of Civil Service Unions v. Minister for Civil Service* (called CCSU case) summarized the principle of judicial review of administrative action as based upon one or the other of the following, viz., legality, procedural, irregularity and irrationality. He, however, opined that "proportionality" was a "future possibility". According to my opinion, Lord Diplock is the one who opened the window of "proportionality" in the judicial review of administrative action. Now, the Apex Court in a catena of cases held that "proportionality" is one of the basis for judicial review of the quantum of punishment imposed on the delinquent/employee by the disciplinary authority. While exercising the power of judicial review of the quantum of punishment basing on "proportionality" the Court is applying *Wednesbury Principle* as secondary reviewing authority and also

the Court will not apply "proportionality" as a primary reviewing Court. Therefore, the Court could exercise right of secondary review based only on Wednesbury Principle. Lord bridge explained the primary and secondary review in Brind Case (1991) AC 696 : (1991) 1 All ER 720: (1991) 2 WLR 588 (HL) as follows:

the primary judgment as to whether the particular competing public interest justifying the particular restriction imposed falls to be made by the Secretary of State to whom parliament has entrusted the discretion. But, we are entitled to exercise a secondary judgment by asking whether a reasonable Secretary of State, on the material before him, could reasonably make the primary judgment.

The Constitution Bench E.P. Royappa Vs. State of Tamil Nadu and Another, held that where punishments in disciplinary cases are challenged, question will be whether the administrative order is "rational" or "reasonable" and the test then is the Wednesbury Test.

9. To judge the validity of an administrative order or statutory discretion, normally the Wednesbury test is to be applied to find out if the decision was illegal or suffered from procedural improprieties or was one which no sensible decisionmaker could, on the material before him and within the framework of the law, have arrived at. The Court would consider whether relevant matters had not been taken into account or whether irrelevant matters had been taken into account or whether the action was not bona fide. The Court would also consider whether the decision was absurd or perverse. The Court would not however go into the correctness of the choice made by the administrator amongst the various alternatives open to him. Nor could the Court substitute its decision to that of the administrator. This is the Wednesbury test.

10. According to Wednesbury test, while examining "reasonableness" of an administrative decision the Court has to find out if the administrator has left out relevant factors or taken into account irrelevant factors. The decision of the administrator must have been within the four corners of the law, and not one which no sensible person could have reasonably arrived at, having regard to the above principles and must have been a bona fide one. The decision could be one of many choices open to the authority but it was for that authority decide upon the choice and not for the Court to substitute its view.

11. In India, the role of the Courts/Tribunals is purely secondary in cases not involving fundamental freedoms. While applying Wednesbury and CCSU principles to test the validity of executive action or of a administrative action taken in exercise of statutory powers, the Court and the Tribunals in India can only go into the matter, as a secondary reviewing Court to find out if the executive or the administrator in their primary roles have arrived at a reasonable decision on the material before them in the light of Wednesbury and CCSU tests. The choice of the options available is for the authority, the Court/Tribunal cannot substitute its view as to what is reasonable.

12. The Apex Court in *Union of India and another Vs. G. Ganayutham (Dead)* by LRs., , held in paras 31 and 32 of the SCC that:

31. The current position of proportionality in administrative law in England and India can be summarized as follows:

(1) To judge the validity of any administrative order or statutory discretion, normally the *Wednesbury* test is to be applied to find out if the decision was illegal or suffered from procedural improprieties or was one which no sensible decisionmaker could, on the material before him and within the framework of the law, have arrived at. The Court would consider whether relevant matters had not been taken into account or whether irrelevant matters had been taken into account or whether the action was not bona fide. The Court would also consider whether the decision was absurd or perverse. The Court would not however go into the correctness of the choice made by the administrator amongst the various alternatives open to him. Nor could the Court substitute its decision to that of the administrator. This is the *Wednesbury* (1948) 1 KB 223 : (1947) 2 All EIR 680 test.

(2) The Court would not interfere with the administrator's decision unless it was illegal or suffered from procedural impropriety or was irrational-in the sense that it was in outrageous defiance of logic or moral standards. The possibility of other tests, including proportionality being brought into English administrative law in future is not ruled out. These are the *CCSU* (1985 AC 374 : (1984) 3 All ER 935) principles.

(3)(a) As per *Bugdaycay* (1987 AC 514 : (1987) 1 All ER 940), *Brind* (1991) AC 696 : (1991) 1 All ER 720) and *Smith, R. v. Ministry of Defence, exp. Smith* (1996) 1 All ER 257 as long as the Convention is not incorporated into English law, the English Courts merely exercise a secondary judgment to find out if the decision-maker could have, on the material before him, arrived to the primary judgment in the manner he has done.

(3)(b) If the Convention is incorporated in England making available the principle of proportionality, then the English Courts will render primary judgment on the validity of the administrative action and find Court if the restriction is disproportionate or excessive or is not based upon a fair balancing of the fundamental freedom and the need for the restriction thereupon.

(4)(a) The position in our country, in administrative law, where no fundamental freedoms as aforesaid are involved, is that the Courts/tribunals will only play a secondary role while the primary judgment as to reasonableness will remain with the executive or administrative authority. The secondary judgment of the Court is to be based on *Wednesbury* and *CCSU* principles as stated by Lord Greene and Lord Diplock respectively to find if the executive or administrative authority has reasonably arrived at his decision as the primary authority.

(4)(b) Whether in the case of administrative or executive action affecting

fundamental freedoms, the Courts in our country will apply the principle of "proportionality" and assume a primary role, is left open, to be decided in an appropriate case where such action is alleged to offend fundamental freedoms. It will be then necessary to decide whether the Courts will have a primary role only if the freedoms under Articles 19, 21 etc. are involved and not for Article 14.

Punishment in disciplinary matters:

Wednesbury and CCSU tests.

32. Finally, we come to the present case. It is not contended before us that any fundamental freedom is affected. We need not therefore go into the question of "proportionality". There is no contention that the punishment imposed is illegal or vitiated by procedural impropriety. As to "irrationality", there is no contention that the punishment imposed is illegal or vitiated by procedural impropriety. As to "irrationality", there is no finding by the Tribunal that the decision is one which no sensible person who weighed the pros and cons could have arrived at nor is there a finding, based on material, that the punishment is in "outrageous" defiance of logic. Neither Wednesbury nor CCSU tests are satisfied. We have still to explain "Ranjit Thakur Vs. Union of India (UOI) and Others,

12. The ratio laid down in G. Ganayutham case (supra) is followed by the Apex Court in Chairman and Managing Director, United Commercial Bank and Others Vs. P.C. Kakkar, wherein the Apex Court held that it is settled that the Court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the Court in the sense that it was in defiance of logic or moral standards. In view of Wednesbury principle the Court would not go into the correctness of the choice made by the administrator open to him and the Court should not substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in decisionmaking process and not the decision. Therefore, unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the Court/tribunal, there is not scope for interference. Further, to shorten litigation it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reason in support thereof. In the normal course if the punishment imposed is shockingly disproportionate it would be appropriate to direct the disciplinary authority or the Appellate Authority to reconsider the penalty imposed. Paras 11 and 12 of the SCC in Chairman & Managing Director, United Commercial Bank and Ors. case (supra) reads as follows:

11. The common thread running through in all these decisions is that the Court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the Court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in Wednesbury case (Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation (1948) 1 KB 223 : (1947) 2 All ER 680 , the

Court would not go into the correctness of the choice made by the administrator open to him and the Court should not substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in decision-making process and not the decision.

12. To put it differently, unless the punishment imposed by the disciplinary authority or the Appellate Authority shocks the conscience of the Court/Tribunal, there is no scope for interference. Further, to shorten litigation it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof. In the normal course if the punishment imposed is shockingly disproportionate it would be appropriate to direct the disciplinary authority or the Appellate Authority to reconsider the penalty imposed.

13. The Apex Court in *Om Kumar and Ors. v. Union of India* (2001) 2 SCC 386 held in paras 69, 70 and 71 of the SCC that:

69. The principles explained in the last preceding paragraph in respect of Article 14 are now to be applied here where the question of "arbitrariness" of the order of punishment is questioned under Article 14.

70. In this context, we shall only refer to these cases. In *Ranjit Thakur Vs. Union of India (UOI) and Others*, 1, this Court referred to "proportionality" in the quantum of punishment but the Court observed that the punishment was "shockingly" disproportionate to the misconduct proved. In *B.C. Chaturvedi Vs. Union of India and others*, this Court stated that the Court will not interfere unless the punishment awarded was one which shocked the conscience of the Court. Even then, the Court would remit the matter back to the authority and would not normally substitute one punishment for the other. However, in rare situations, the Court could award an alternative penalty. It was also so stated in *Union of India and another Vs. G. Ganayutham (Dead) by LRs.*,

71. Thus, from the above principles and decided cases, it must be held that where an administrative decision relating to punishment in disciplinary cases is questioned as "arbitrary" under Article 14, the Court is confined to *Wednesbury* principles as a secondary reviewing authority. The Court will not apply proportionality as a primary reviewing Court because no issue of fundamental freedoms nor of discrimination under Article 14 applies in such a context. The Court while reviewing punishment and if it is satisfied that *Wednesbury* principles are violated, it has normally to remit the matter to the administrator for a fresh decision as to the quantum of punishment. Only in rare cases where there has been long delay in the time taken by the disciplinary proceedings and in the time taken in the Courts, and such extreme or rare cases can the Court substitute its own view as to the quantum of punishment.

14. The Apex Court in *State of Rajasthan and Another Vs. Mohammed Ayub Naz*, reiterated that the scope of judicial review of the quantum of punishment is circumscribed and also that the role of administrative authority is primary and that of Court is secondary, to be exercised only on well settled *Wednesbury*

principles. Further the Apex Court in para 10 of the SCC in *State of Rajasthan and Another Vs. Mohammed Ayub Naz*, held that:

10. This Court in *Om Kumar v. Union of India* (2001) 2 SCC 386 : 2001 SCC 1039 while considering the quantum of punishment/proportionality has observed that in determining the quantum, role of administrative authority is primary and that of Court is secondary, confined to see if discretion exercised by the administrative authority caused excessive infringement of rights. In the instant case, the authorities have not omitted any relevant materials nor has any irrelevant fact been taken into account nor any illegality committed by the authority nor was the punishment awarded shockingly disproportionate. The punishment was awarded in the instant case after considering all the relevant materials, and, therefore, in our view, interference by the High Court on reduction of punishment of removal was not called for.

15. The Apex Court is of the view that the Court's interference with the quantum of punishment cannot be a routine matter. The Court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety. Paras 10, 11 and 15 of the *Dwarka Prasad Tiwari's* case (*supra*) reported in *Union of India (UOI) and Others Vs. Dwarka Prasad Tiwari*, reads as follows:

10. The scope of interference with quantum of punishment has been the subject-matter of various decisions of this Court. Such interference cannot be a routine matter.

11. Lord Greene said in 1948 in the famous *Wednesbury* case *Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation* (1948) 1 KB 223 : (1947) 2 All ER 680 (CA) that when a statute gave discretion to an administrator to take a decision, the scope of judicial review would remain limited. He said that interference was not permissible unless one or the other of the following conditions was satisfied, namely, the order was contrary to law, or relevant factors were not considered, or irrelevant factors were considered; or the decision was one which no reasonable person could have taken. These principles were consistently followed in the UK and in India to judge the validity of administrative action. It is equally well known that in 1983, Lord Diplock in *Council of Civil Service Unions v. Minister for the Civil Service* 1985 AC 374 : (1984) 3 All ER 935 : (1984) 3 WLR 1174 (called the *CCSU* case) summarized the principles of judicial review of administrative action as based upon one or the other of the following viz., illegality, procedural irregularity and irrationality. He, however, opined that "proportionality" was a "future possibility".

15. The common thread running through in all these decisions is that the Court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the Court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in *Wednesbury* case : *Associated Provincial Picture Houses*

Ltd. v. Wednesbury Corporation (1948) 1 KB 223 : (1947) 2 All ER 680 (CA) the Court would not go into the correctness of the choice made by the administrator open to him and the Court should not substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in decision-making process and not the decision."

16. The Apex Court in *Canara Bank Vs. V.K. Awasthy*, held that the interference with the quantum of punishment cannot be a routine matter. Paras 21, 22 and 23 of the SCC in *Canara Bank's* case (*supra*) read as follows:

21. Coming to the question whether the punishment awarded was disproportionate, it is to be noted that the various allegations as laid in the departmental proceedings reveal that several acts of misconduct unbecoming of a bank official were committed by the respondent.

22. It is to be noted that the detailed charge-sheets were served on the participated in the proceedings. His explanations were considered and the inquiry officer held the charges to have been amply proved. He recommended dismissal from service. The same was accepted by the disciplinary authority. The proved charges clearly established that the respondent employee failed to discharge his duties with utmost integrity, honesty, devotion and diligence and his acts were prejudicial to the interest of the Bank. In the appeal before the prescribed Appellate Authority, the findings of the inquiry officer were challenged. The Appellate Authority after analyzing the materials on record found no substance in the appeal.

23. The scope of interference with the quantum of punishment has been the subject-matter of various decisions of this Court. Such interference cannot be a routine matter.

17. Mr. N. Jotendro, learned Counsel appearing for the petitioners, by placing heavy reliance on the decisions of this Court in *Hemendra Nath Thakuria v. State of Assam and Ors.* 2006 GLT 699 contended that the punishment of dismissal from service imposed to the writ petitioners by the disciplinary authority, should be interfered with. The fact of the case in *Hemendra Nath Thakuria's* case (*supra*) was that the enquiry conducted against the petitioner, *Hemendra Nath Thakuria* had been ended with re-instatement in service with imposition of minor penalty, yet, the termination order was passed for his failure to resume duties within stipulated time consequent to pronouncement of the order of reinstatement. In that given case, the Court held that punishment of major penalty of termination from service appears to be too harsh and disproportionate for the charge of failure to resume duties within the stipulated period when tested on the principles of proportionality.

18. The Apex Court in catena of cases held that decision of the Court cannot be relied on without disclosing the factual situation. The Apex Court in *Ambica Quarry Works v. State of Gujarat and Ors.*, (1987) 1 SCC 213 observed:

18. ...The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an authority for what is actually decided, and not what logically follows from it.

In *Bhavnagar University Vs. Palitana Sugar Mill Pvt. Ltd. and Others*, Apex Court observed:

59. ...It is also well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision.

As held in *Bharat Petroleum Corporation Ltd. and Another Vs. N.R. Vairamani and Another*, a decision cannot be relied on without disclosing the factual situation. In the same judgment Apex Court also observed : (SCC pp. 584-85, paras 9-12).

9. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid's theorems nor as provisions of a statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for Judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes, their words are not to be interpreted as statutes. In *London Graving Dock Co. Ltd. v. Horton* 1951 AC 737 Lord MacDermott observed (All ER p. 14-C-D).

The matter cannot, of course, be settled merely by treating the *Ipsissima verba* of Willes, J as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished Judge,....

10. In *Home Office v. Dorset Yacht Co. Ltd.* (1970) 2 All ER 294 (HL) (All ER p. 297 g-h) Lord Reid said, "Lord Atkin's speech...is not to be treated as if it were a statutory definition. It will require qualification in new circumstances." Megarry, J. in *Shepherd Homes Ltd. v. Sandham* (No. 2) (1971) 2 All ER 1267 observed : (All ER p. 127d).

"One must not, of course, construe even a reserved judgment of even Russell, LJ as if it were an Act of Parliament;"

And, in *Herrington v. British Railways Board* Lord Morris (1972) 1 All ER 749 (HL) (E) said : (All ER p. 761c).

There is always peril in treating the words of a speech or a judgment as though they were words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case.

11. Circumstantial flexibility, one additional or different fact may make a world of

difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper.

12. The following words of Lord Denning in the matter of applying precedents have become locus classicus:

Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect, in deciding such cases, open should avoid the temptation to decide cases (as said by Cardozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive. Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches. My plea is to keep the path of justice clear of obstructions which could impede it.

19. Keeping in view of the decisions of the Apex Court as well as this Court discussed above, this Court, within the limited power of judicial review of the quantum of punishment, had given anxious consideration of mind to the quantum of punishment of the removal from service for the charge of misconduct and show of extreme cowardice of timidly surrendering their weapons and ammunitions to the members of the extremists' organization on 13.3.1999 at Chingning Khul, by not offering even the mildest resistance before parting away with their weapons which should have been held dearer to their lives as members of police force, by applying the Wednesbury principles as secondary reviewing authority. In the given case, this Court is of the firm view that the order of the disciplinary authority is rational/reasonable. All the materials relevant for considerations, have been taken into considerations in imposing the major penalty of dismissal from service and also that no irrelevant materials had been taken into considerations by the disciplinary authority as well as by the appellate authority in deciding the quantum of punishment. This Court is of the complete agreement with the findings of the disciplinary authority and the appellate authority that the loss of arms and ammunitions in a disciplined force, like police department is a matter of serious concern and voluntarily surrendering the arms and ammunitions without even mildest resistance to the underground elements is a complete failure on the part of the petitioners to perform their duties of taking maximum precautionary measure for saving the arms and ammunitions issued to them. Therefore, this Court is of the firm view that there is no material for interfering of the impugned order of removal from service dated 30.8.2007 issued by the Superintendent of Police Bishnupur District, Manipur as well as the order of the Dy. Inspector General of Police (Range-III), Manipur dated 3.12.2007.

20. For the reasons discussed above, writ petitions are devoid of merit and, accordingly, dismissed.