

GAHC010101022018



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

Case No. : WP(C) 3156/2018

1:CHUNU MIA CHOUDHURY
S/O. LATE HABIB ALI CHOUDHURY, R/O. VILLAGE- BALIKANDI PART-1,
P.O. BHATIRKUPA, DISTRICT- HAILAKANDI, ASSAM.

VERSUS

1:THE UNION OF INDIA AND 3 ORS.
REPRESENTED BY THE DEFENCE SECRETARY TO THE GOVT. OF INDIA,
NEW DELHI.

2:THE CHIEF OF THE ARMY STAFF
SOUTH BLOCK
NEW DELHI- 110001

3:THE COMMANDANT
HEADQUARTER WING
ASC CENTRE (NORTH)
PAHARPUR
GAYA-5.

4:THE SENIOR ACCOUNTS OFFICER NO. EDP/M/MISC/PG-1
C/O.- THE PCDA (P)
ALLAHABAD- 21101

Advocate for the Petitioner : MR. S ISLAM

Advocate for the Respondent : ASSTT.S.G.I.

BEFORE
HON'BLE MR. JUSTICE HRISHIKESH ROY

ORDER**21-05-2018.**

The petitioner is a former *Sepoy* of the Army Supply Cop and he was *dismissed* from service on 11.9.1999, in pursuant to a Court Martial proceeding. The aggrieved *Sepoy* then filed the WP(C) No.312/2000 but the learned Judge did not find any infirmity with the disciplinary action. However, while refusing to interfere with the *dismissal* order, the Court in its order of 29.11.2005 (Annexure-1), had observed that the employer should release the outstanding service dues for the dismissed *Sepoy*.

Subsequently, the *Sepoy* made several representations for clearance of his service dues but as the *dismissal* was as a measure of penalty, he was declared to be *ineligible* for *pension* and *gratuity*, by the order dated 31.3.2017 (Annexure-3). But the petitioner was permitted to file an Appeal so that the competent authority of the Army can consider whether this is an exceptional case. Thereafter the Appeal was filed on 16.5.2017 (Annexure-4) but the same is yet to be considered and accordingly the aggrieved former *Sepoy* is before the Court.

In view of above, let notice returnable in 6 weeks, be issued. Mr. D. C. Borah, the learned Central Govt. Counsel, accepts notice for all four respondents. Necessary extra copies be furnished to him.

JUDGE**Comparing Assistant**