

GAHC010149072025



2026:GAU-AS:7728

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

**Case No. : WP(C)/4332/2025**

LOHIT MIRDHA  
(UBC/171, CONSTABLE), S/O LATE SUMILAL MIRDHA, R/O GARAJAN TEA  
ESTATE, P.S.- BORHOLLA, DIST- JORHAT (ASSAM)

VERSUS

STATE OF ASSAM AND 4 ORS.  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE  
GOVERNMENT OF ASSAM, DISPUR, GUWAHATI-6, KAMRUP (M), ASSAM

2:THE DIRECTOR GENERAL OF POLICE  
ASSAM POLICE HEADQUARTER  
ULUBARI  
GUWAHATI-7  
DIST- KAMRUP (M)  
ASSAM

3:THE ADDITIONAL SUPERINTENDENT OF POLICE (HQ)/CRIME  
JORHAT  
DIST- JORHAT  
ASSAM

4:THEE INSPECTOR GENERAL OF POLICE (ADMN)  
ULUBARI  
GUWAHATI-7  
DIST- KAMRUP (M)  
ASSAM

5:THE SUPERINTENDENT OF POLICE  
JORHAT  
ASSA

**Advocate for the Petitioner** : MR. R CHETRI, MR N MILI,MR N BARMAN

**Advocate for the Respondent** : GA, ASSAM,

**BEFORE**  
**HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR**  
**ORDER**

**01/06/2026**

Heard Mr. R Chetri, learned counsel for the petitioner and Mr. A Chakraborty, learned Government Advocate, appearing for all the respondents.

**2.** The petitioner in the present writ petition has presented a challenge to an order dated 25.04.2024, by which, on conclusion of a departmental proceeding instituted against him, he was imposed with the penalty of dismissal from service.

**3.** The petitioner, while working as an Unarmed Branch Police Constable, attached to the Police Reserve, Jorhat, was placed under arrest on 06.11.2023, in connection with Jorhat P.S. Case No. 500/2023. The said case was so registered basing on an FIR lodged by one Shristi D Kashyap against the petitioner, alleging that she was molested by the petitioner. The petitioner after his arrest, was sent to judicial custody by the learned Trial Court, vide order dated 07.11.2023. The petitioner having been placed under arrest and having continued under detention for more than 48 hours, he came to be placed under suspension, w.e.f. 10.11.2023, vide issuance of an order dated 14.11.2023.

The Disciplinary Authority of the petitioner issued to the petitioner a Show Cause Notice dated 22.11.2023, instituting a disciplinary proceeding against the

petitioner. The allegation leveled against the petitioner in the said show cause notice pertains to the allegations leveled by said Shristi D Kashyap.

The petitioner, thereafter, submitted his show cause reply on 27.11.2023, denying the allegations leveled against him. The Disciplinary Authority not being satisfied with the reply submitted by the petitioner in the matter, proceeded vide order dated 05.12.2023, to direct for holding of an enquiry in the matter and for the purpose, appointed an Enquiry Officer and a Presenting Officer. Thereafter, an enquiry is found to have been held in the matter with regard to the charges framed against the petitioner vide the show cause notice dated 22.11.2023. The petitioner is found to have participated in the enquiry and is also found to have cross-examined the witnesses deposing, therein.

On conclusion of the enquiry, the Enquiry Officer submitted his report and therein, held the charges leveled against the petitioner to have been established. A copy of the enquiry report was forwarded to the petitioner by his Disciplinary Authority vide communication dated 11.02.2024, requiring the petitioner to submit a representation, thereon. The petitioner, accordingly, submitted his representation.

Thereafter, the Disciplinary Authority on consideration of the materials coming on record in the enquiry, the enquiry report as well as the representation submitted by the petitioner, proceeded vide order dated 25.04.2024, to concur with the conclusions reached by the Enquiry Officer and to hold that the petitioner was guilty of the allegations leveled against him in the connected Show Cause Notice. Accordingly, the petitioner was imposed with a major penalty of dismissal from service. The Disciplinary Authority further provided that the period the petitioner had remained in judicial custody, i.e.,

from 06.11.2023 to 19.11.2023 shall be treated as leave without pay and for the period of his suspension, w.e.f. 20.11.2023 to 23.04.2024, the petitioner shall be treated as on duty and he would be permitted to draw his salaries for the said period.

Being aggrieved, the petitioner had assailed the said order dated 25.04.2024 by way of preferring an appeal.

The appeal not being disposed of, the petitioner had approached this Court by way of instituting the present writ petition, assailing the order dated 25.04.2024.

**4.** It is to be noted that during the pendency of the present writ petition, the appeal being disposed of, the petitioner has brought the order of the Appellate Authority on record by way of filing an additional affidavit.

**5.** Mr. R Chetri, learned counsel for the petitioner, by reiterating the facts, noticed hereinabove, has at the outset, submitted that copies of the show cause notice, show cause reply submitted by the petitioner, enquiry report and the copy of the appeal so preferred by the petitioner, were not brought on record, inasmuch as, the petitioner's claim in the present writ petition is based on his subsequent acquittal from the charges framed against him in the criminal proceedings instituted against him.

**5.1** It is submitted by the learned counsel for the petitioner that basing on the allegations forming the basis of the departmental proceeding instituted against him, a criminal proceeding also having been instituted and the said criminal proceeding having resulted in his acquittal, the conclusions drawn by the Enquiry Officer in the disciplinary enquiry as well as the penalty imposed by

the disciplinary authority, vide the impugned order dated 25.04.2024, would mandate an interference from this Court.

**5.2** In this connection, the learned counsel for the petitioner has placed reliance on the decisions of the Hon'ble Supreme Court in the cases of *G.M. Tank Vs. State of Gujarat and Others*, reported in (2006) 5 SCC 446 and *Ram Lal Vs. State of Rajasthan and Others* reported in (2024) 1 SCC 175.

**5.3** In the above premises, Mr. Chetri, learned counsel for the petitioner submits that although, the charges leveled against him was held to be established in the disciplinary enquiry held in the matter, the same would be of no consequence and the acquittal of the petitioner in the criminal case would have to be given prominence and accordingly, the petitioner would be entitled to be reinstated in his services with all consequential benefits.

**5.4** Mr. Chetri, learned counsel for the petitioner, by referring to the judgment and order dated 26.11.2024, passed by the learned Trial Court in PRC Case No. 130/2024, has contended that the learned Trial Court, basing on the materials coming on record, had concluded that no offence was made out against the petitioner, herein, under the Sections of law, he was charged against. It was further projected that the learned Trial Court had also held that the informant had failed to implicate the petitioner, herein. Accordingly, he submits that the same being a conclusion arrived at in the matter by the learned Trial Court after the trial of the matter had concluded, the same would have overriding effect over the conclusions drawn in the disciplinary proceedings. Accordingly, Mr. Chetri, reiterates his prayer that the petitioner should be directed to be reinstated in his services.

**5.5** Mr. Chetri, learned counsel for the petitioner, has further submitted that the penalty of dismissal from service as imposed upon the petitioner is clearly disproportionate to the charges proved against the petitioner in the enquiry.

**6.** Per contra, Mr. A Chakraborty, learned Government Advocate, appearing for the respondents has furnished the original records pertaining to the disciplinary proceedings instituted against the petitioner.

**6.1** By referring to the show cause notice dated 22.11.2023, Mr. Chakraborty, learned Government Advocate, submits that the allegations leveled against the petitioner pertained to his conduct as a member of a disciplined force in trying to take undue favour from one Shristi D Kashyap in the guise of helping her.

**6.2** Mr. Chakraborty, learned Government Advocate submits that the petitioner having found a lady in distress ought to have forwarded her to the holding area and/or to the Police Station under the custody of a lady Constable. It is submitted that the petitioner had not even informed his Superiors about the same and during the entire episode that had taken place, the petitioner continued to remain in his uniform.

**6.3** Mr. Chakraborty, learned Government Advocate further submits that the petitioner had exploited the situation by taking advantage of a lady, who was in distress. Mr. Chakraborty submits that the petitioner had taken the lady to a hotel and therein, had booked a room by introducing the lady to be his wife. He submits that the said aspect of the matter was established during the enquiry.

**6.4** By referring to the statements of the witnesses available in the record, Mr. Chakraborty, learned Government Advocate, has submitted that a perusal of the statements made by the victim girl as well as the statements made by the

employees of the hotel, wherein, the petitioner had booked a room, would go to reveal the malafide intention of the petitioner. He submits that a perusal of the cross-examination of the victim girl made by the petitioner would go to reveal that the allegations as leveled against the petitioner stood affirmed. Accordingly, Mr. Chakraborty submits that the Enquiry Officer strictly basing on the materials coming on record, had proceeded to hold that the charges framed against the petitioner to have been established.

**6.5** Mr. Chakraborty, learned Government Advocate submits that the Disciplinary Authority after having received the representation against the enquiry report from the petitioner, had taken up the matter for final consideration and vide order dated 25.04.2024, drawing satisfaction from the materials coming on record in the enquiry, imposed the penalty of dismissal from service upon the petitioner.

**6.6** Mr. Chakraborty, learned Government Advocate submits that in view of the facts and circumstances of the matter, the penalty of dismissal from service, is found to be proportionate to the allegations proved against the petitioner.

**6.7** In the above premises, Mr. Chakraborty, learned Government Advocate submits that the subsequent acquittal of the petitioner in the criminal proceedings instituted against him, would be of no consequence and the order of dismissal imposed upon the petitioner would not mandate an interference from this Court.

**7.** I have heard the learned counsel for the parties and also perused the materials available on record.

**8.** At the outset, this Court notices that the learned counsel for the petitioner

has not pointed out any infirmity that may exist in the conduct of the disciplinary proceedings against the petitioner, herein. The learned counsel for the petitioner has further not projected any prejudice being caused to the petitioner during the conduct of the disciplinary proceedings against him.

**9.** It is a settled position of law that the scope of a judicial review in a departmental enquiry matter is very limited. This Court can interfere with the disciplinary proceeding only if it is so demonstrated that the proceedings were conducted contrary to the well established principles of law or the conclusions drawn by the Enquiry Officer and/or the Disciplinary Authority was so drawn basing on no evidence or where very competence of the authority instituting such proceedings has been challenged.

**10.** In the present case, no such contention has been raised by the learned counsel for the petitioner. However, this Court with a view to satisfy itself, had perused the materials available in the original records of the enquiry, as furnished by the Government Advocate.

**11.** The allegations leveled against the petitioner vide the Show Cause Notice dated 22.11.2023, being relevant, is extracted hereinbelow:

*“That while you were posted at Jorhat PS Town Branch as Rider, on 31/10/2023 at about 10:00 PM you met with one girl namely Smti Sristi D Kashyap age about 21 yrs, D/O- Shri Dipak Kr Das, R/o- Jail Road Sankardev Path, PS-Jorhat while she was returning after the movie Raghav at INOX Cinema Hall. You took her to Hotel Dilip at Baruah Chari Ali and booked a room for her with the intention of getting undue favour. On reaching there (i.e Hotel Dilip) you outraged her modesty by touching her legs and other parts of the body, by kissing her forcibly, you also tried to push your hand inside her wearing garments and continued the same up to 2:00 AM in the night. When you saw the photograph of the said girl in a whatsapp group, Jorhat then you came to*

*know that she had come out from her house without informing her parent. Thereafter you immediately came out of the room by giving Rs. 500 (Five Hundred) to her and asked her not to disclose anything to anybody. On 06/11/2023 the victim girl Shristi D. Kashyap lodged an FIR at Jorhat PS against UBC/171 Lalit Mirdha of Jorhat PS. Accordingly a case was registered at Jorhat PS vide Case No 500/23 U/S 341/342/354/354-A/506 IPC and investigated by WSI(P) Shyamolima Gogoi of Jorhat PS and on the strength of the evidences collected by investigation officer you were arrested on 06/11/2023 and accordingly forward to judicial custody.*

*Your above act tantamount to gross misconduct and unbecoming of public servant."*

**12.** On a perusal of the statement made in the enquiry, by the victim girl, this Court finds that in her statement, she had brought on record materials to establish the allegations leveled against the petitioner in the show cause notice. However, what is interesting to be noted is that during her cross-examination by the petitioner, the allegation leveled against the petitioner got further entrenched. From the statements made by the victim girl during her cross-examination by the petitioner, it is seen that the victim girl had stated that the petitioner had outside the hotel required her to introduce herself as a family member of the petitioner. Further, she deposed that after entering the hotel room, the petitioner had locked the room from inside. The said aspects of the matter was further fortified from the statement of PW-V and PW-VI, who were employees of the hotel and available at the time when the petitioner along with the victim girl had gone there. PW-V had confirmed that the petitioner had introduced the victim girl as his wife.

**13.** The above aspects of the matter clearly bring to the forefront the malafide intention of the petitioner and that he had sought to take advantage of

a lady in distress.

**14.** Accordingly, this Court is of the considered view that the findings recorded by the Enquiry Officer in his enquiry report being found to be so based strictly on the materials coming on record in the enquiry, the conclusions drawn by the Enquiry Officer in the considered view of this Court would not mandate any interference.

**15.** Similarly, the Disciplinary Authority for the purpose of imposing the penalty of dismissal from service upon the petitioner having agreed with the conclusions reached by the Enquiry Officer, this Court is of the considered view that the said order dated 25.04.2024 would also not mandate an interference from this Court.

**16.** The above conclusions having been drawn, this Court would now examine the contention of the learned counsel for the petitioner that the petitioner having been acquitted from the criminal proceedings so instituted against him, the criminal proceeding and the disciplinary proceeding being based on the same materials and witnesses being also common, the order of penalty of dismissal from service as imposed upon the petitioner in the departmental proceeding would mandate an interference from this Court in view of the decision of the Trial Court to acquit the petitioner from the criminal charges framed against him.

**17.** The learned counsel for the petitioner had in this connection, relied on the decision of the Hon'ble Supreme Court in the case of *G.M. Tank* (supra).

**18.** The Hon'ble Supreme Court in the case of *G.M. Tank* (supra), in the facts of the said case, had held that the departmental case and the criminal case

involved therein, were based on identical and similar set of facts and the charges in the departmental case against the appellant and the charge before the criminal court, were one and the same and the case being one of no evidence and the witnesses being the same in both the proceedings and the appellant involved therein, having been acquitted in the criminal case; the Hon'ble Supreme Court had held that under such circumstances, it would be unjust and unfair and rather oppressive to allow the findings recorded in the departmental proceeding against the appellant, therein, to stand.

**19.** The Hon'ble Supreme Court while recording the said conclusion in the case of *G.M. Tank* (supra), had also noted that the appellant, therein, was acquitted in the criminal proceeding after a regular trial and/or on hot contest. The relevant conclusions of the Hon'ble Supreme Court in the matter, as available in paragraph No. 31, is extracted hereinbelow:

***“31. In our opinion, such facts and evidence in the departmental as well as criminal proceedings were the same without there being any iota of difference, the appellant should succeed. The distinction which is usually proved between the departmental and criminal proceedings on the basis of the approach and burden of proof would not be applicable in the instant case. Though the finding recorded in the domestic enquiry was found to be valid by the courts below, when there was an honourable acquittal of the employee during the pendency of the proceedings challenging the dismissal, the same requires to be taken note of and the decision in Paul Anthony case will apply. We, therefore, hold that the appeal filed by the appellant deserves to be allowed.”***

**20.** The decision of the Hon'ble Supreme Court in the case of *G.M. Tank* (supra) was again considered by the Hon'ble Supreme Court in its decision in

the case of *Ram Lal v. State of Rajasthan & ors.*, reported in (2024) 1 SCC 175. The Hon'ble Supreme Court, in this connection, had proceeded to draw the following conclusions:

***“Effect of acquittal in the criminal proceeding - Question 2***

***25. With this above background, if we examine the criminal proceedings the following factual position emerges. The very same witnesses, who were examined in the departmental enquiry were examined in the criminal trial. Jagdish Chandra, Bhawani Singh, Shравan Lal, Raj Singh and Karan Sharma were examined as PW 2, PW 3, PW 6, PW 9 and PW 13 respectively at the criminal trial. Apart from them, eight other witnesses were also examed. The gravamen of the charge in the criminal case was that the appellant had submitted an application for recruitment along with his marksheet and he, by making alteration in his date of birth to reflect the same as 24-4-1972 in place of 21-4-1974, and obtained recruitment to the post of Constable.***

***26. Though the trial court convicted the appellant under Section 420 IPC, the appellate court recorded the following crucial findings while acquitting the appellant:***

***“...Mainly the present case was based on the documents so this effect whether the date of birth of accused is 21-4-1972 or 21-4- 1974. Ext. P-3 is original marksheet, in which, the date of birth of accused has been shown as 21-4-1972 and same has also been proved by the witnesses examined on behalf of the prosecution. Whatever the documents have been produced before the court regarding the date of birth of 21-4-1974 are either the letters of Principal or are duplicate TC or marksheets. Neither the prosecution has produced any such original documents in the subordinate court to this effect that when the admission form of accused was filled, what date of birth was mentioned by the accused in it, what was the date of birth in Roll Register of School, what date of birth was mentioned by***

***accused in the examination form of Secondary, and nor after bringing the original records from the witnesses concerned, same were got proved in the evidence. In these circumstances, this fact becomes doubtful that date of birth of the accused was 21-4-1974, and the accused is entitled to receive its benefit. In the considered opinion of this Court, the conviction made by the learned subordinate court merely on the basis of oral evidence and letters or duplicate documents, is not just and proper. It is justifiable to acquit the accused.***

***Resultantly, on the basis of aforesaid consideration, the present appeal filed by the appellant-accused is liable to be allowed."***

***(emphasis supplied)***

***27. What is important to notice is that the Appellate Judge has clearly recorded that in the document Ext. P-3 original marksheet of the 8th standard, the date of birth was clearly shown as 21-4-1972 and the other documents produced by the prosecution were either letters or a duplicate marksheet. No doubt, the Appellate Judge says that it becomes doubtful whether the date of birth was 21-4-1974 and that the accused was entitled to receive its benefit. However, what we are supposed to see is the substance of the judgment. A reading of the entire judgment clearly indicates that the appellant was acquitted after full consideration of the prosecution evidence and after noticing that the prosecution has miserably failed to prove the charge (see S. Samuthiram).***

***28. Expressions like "benefit of doubt" and "honourably acquitted", used in judgments are not to be understood as magic incantations. A court of law will not be carried away by the mere use of such terminology. In the present case, the Appellate Judge has recorded that Ext. P-3, the original marksheet carries the date of birth as 21-4-1972 and the same has also been proved by the witnesses examined on behalf of the prosecution. The conclusion that***

***the acquittal in the criminal proceeding was after full consideration of the prosecution evidence and that the prosecution miserably failed to prove the charge can only be arrived at after a reading of the judgment in its entirety. The Court in judicial review is obliged to examine the substance of the judgment and not go by the form of expression used.***

***29. We are satisfied that the findings of the Appellate Judge in the criminal case clearly indicate that the charge against the appellant was not just, "not proved" in fact the charge even stood "disproved" by the very prosecution evidence. As held by this Court, a fact is said to be "disproved" when, after considering the matters before it, the court either believes that it does not exist or considers its non-existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist. A fact is said to be "not proved" when it is neither "proved" nor "disproved" (see Vijayee Singh v. State of U.P.).***

***30. We are additionally satisfied that in the teeth of the finding of the Appellate Judge, the disciplinary proceedings and the orders passed thereon cannot be allowed to stand. The charges were not just similar but identical and the evidence, witnesses and circumstances were all the same. This is a case where in exercise of our discretion, we quash the orders of the disciplinary authority and the appellate authority as allowing them to stand will be unjust, unfair and oppressive. This case is very similar to the situation that arose in G.M. Tanks."***

**21.** During the trial in the criminal proceeding, this Court finds from the order of the Trial Court, that the prosecution had only examined the victim girl and it is found that after examination of the victim girl, the prosecution case was closed. The said position was also affirmed by the petitioner in the writ petition.

**22.** From the judgment of the learned Trial Court, it is found that the learned

Trial Court had found that the victim girl after having corroborated the averments made by her in the Ejahar, during her cross-examination, had deposed that the petitioner, herein, had come to help her, as she was loitering around Baruah Chariali. The learned Trial Court, accordingly, held that from the deposition of the victim girl, who had also refused to lead evidence against the accused in support of the ejahar lodged in this case by her, no offence was made out against the accused with regard to the sections he was charged under.

**23.** This Court from the materials coming on record finds that in the trial, the prosecution had not even examined the Investigating Officer of the case. Accordingly, the learned Trial Court had come to a conclusion that the materials available on record has failed to implicate the petitioner of having committed an offence under Sections 341/342/354/354(B) of the IPC and proceeded to acquit the petitioner.

**24.** A perusal of the judgment and order passed by the learned Trial Court would reveal that the same was not so passed after the matter was contested in the manner required by the prosecution and also cannot be said to be a acquittal after all the relevant evidences in the matter was brought on record by the prosecution and was thereafter, considered by the learned Trial Court.

**25.** Accordingly, it is found that the acquittal of the petitioner is not in pursuance to a hot and contested trial. Accordingly, such acquittal, more so given the materials coming on record during the departmental enquiry, cannot override the penalty of dismissal from service imposed upon the petitioner.

**26.** The subsequent acquittal of the petitioner by the learned Trial Court in

the criminal proceedings instituted against him, would not, in the facts and circumstances of the present case, also mandate interference with the penalty of dismissal from service already imposed upon the petitioner.

**27.** In view of the above conclusions reached by this Court, this Court is of the considered view that the decisions of the Hon'ble Supreme Court in the case of G.M. Tank (supra) and Ram Lal (supra) would not advance the case of the petitioner, herein.

**28.** For the forgoing reasons, this Court is of the considered view that the penalty of dismissal from service as imposed upon the petitioner would not mandate an interference from this Court. Accordingly, the said penalty along with the order dated 29.05.2024 passed by the Appellate Authority stand affirmed.

**29.** Accordingly, the present writ petition is held to be devoid of any merit and consequently, the same stands dismissed. However, there would be no order as to cost.

**30.** The records produced by Mr. A Chakraborty, learned Government Advocate be returned forthwith.

**JUDGE**

**Comparing Assistant**