

GAHC010242682025



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

**Case No. : WP(C)/549/2026**

ABDUL HUSSAIN  
SON OF LATE THAKUR ALI ,  
RESIDENT OF VILLAGE DAMPUR,  
P.O-DAMPUR, P.S-HAJO, DISTRICT KAMRUP , ASSAM

VERSUS

THE STATE OF ASSAM AND ORS  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT  
OF ASSAM HOME DEPARTMENT , DISPUR, GUWAHATI-06

2:THE DIRECTOR GENERAL OF POLICE  
B K KAKATI ROAD  
ULUBARI GUWAHATI-07  
ASSAM

3:THE INSPECTOR GENERAL OF POLICE (A)  
ASSAM  
ULUBARI GUWAHATI -07  
(DISCIPLINARY AUTHORITY)

4:THE SUPERINTENDENT OF POLICE (COMMN)  
ULUBARI  
GUWAHATI-0

For the Petitioner(s) : Mr. P. Mahanta, Advocate

For the Respondent(s) : Mr. J. K. Goswami, Government Advocate

**BEFORE  
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

**ORDER**

**Date : 04.02.2026**

Issue notice making it returnable on 05.05.2026.

2. Mr. J. K. Goswami, the learned Government Advocate accepts notice on behalf of the Respondent Nos. 1 to 4.
3. As the Respondents are duly represented, extra copies of the writ petition be served upon him by 05.02.2026.
4. The Petitioner herein has assailed the order of dismissal from service dated 25.10.2024 as well as the dismissal of the appeal filed by the Petitioner dated 08.08.2025.
5. The learned counsel for the Petitioner submitted that the impugned order of dismissal is in violation to Article 311(1) of the Constitution of India inasmuch as the Petitioner was in the rank of a Sub-Inspector and his Appointing Authority being the Inspector General of Police, the Superintendent of Police who is an authority lower than that of the Appointing Authority cannot dismiss the Petitioner.
6. In addition to that, Mr. P. Mahanta, the learned counsel appearing on behalf of the Petitioner submitted that the Petitioner was arrested on 25.10.2024 in respect to alleged incident dated 24.10.2024. As the Petitioner was already in custody, the reasons so assigned for waiving the enquiry which is otherwise mandated under Article 311(2) of the Constitution of India does not arise inasmuch as Article 311(2) of the Constitution of India read with Rule 10(ii) of the Assam Services

(Discipline and Appeal) Rules, 1964 cannot be made applicable in the facts of the instant case. It is also submitted that it is only the authority empowered to dismiss or remove who could have take such decision and not an authority who do not have the power to remove or dismiss as had happened in the instant case. The learned counsel therefore submitted that the impugned dismissal order dated 25.10.2024 cannot be sustained in law and this very aspect was not taken into consideration by the Appellate Authority while passing the order dated 08.08.2025.

7. It is also the submission of the learned counsel for the Petitioner that the Petitioner's date of superannuation was 4 (four) days post the order of dismissal dated 25.10.2024 and the Petitioner presently is not receiving any provisional pension or any pension.

8. Mr. J. K. Goswami, the learned Government Advocate appearing on behalf of the Respondents submits that he would obtain instructions and file an affidavit.

9. Let the affidavit be filed on behalf of the Respondents on or before 21.04.2026.

10. Liberty is given to the Petitioner to file reply on or before 30.04.2026.

11. Mr. P. Mahanta, the learned counsel appearing on behalf of the Petitioner submitted that an interim direction may be passed so that the Petitioner be paid the provisional pension. It is the opinion of this Court that taking into account that the Petitioner has already been dismissed from service, the Petitioner is not entitled to any pension by virtue of Rule 24 of the Assam Services (Pension) Rules, 1969 till such time the

impugned order of dismissal is set aside. Under such circumstances, no interim directions can be issued at this stage.

12. An attempt shall be made to dispose of the matter on the next date.

13. Liberty is given to the parties to mention the matter for upgrading.

14. List accordingly.

**JUDGE**

**Comparing Assistant**