

GAHC010288082025



2026:GAU-AS:3012

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

Case No. : WP(C)/529/2026

SHANAI MIA CHOUDHURY
S/O- LATE TAJAMUL ALI CHOUDHURY, R/O- VILL.- MAJIRGRAM, P.O. AND
P.S. SONAI, DIST. CACHAR, ASSAM, PIN- 788119, FORMERLY POSTED AS
SHERISTADAR, OFFICE OF THE ADDITIONAL DISTRICT AND SESSIONS
JUDGE (POCSO), CACHAR, SILCHAR (UNDER COMPULSORY
RETIREMENT).

VERSUS

THE STATE OF ASSAM AND 2 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF ASSAM,
JUDICIAL DEPARTMENT, DISPUR, GUWAHATI-781006, ASSAM

2:THE DISTRICT AND SESSIONS JUDGE
CACHAR
SILCHAR
DIST- CACHAR
ASSAM

3:THE CHIEF JUDICIAL MAGISTRATE
CACHAR
SILCHAR (ENQUIRY OFFICER IN D.P. CASE NO. 02/2024)
DIST. CACHAR
ASSA

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH

Advocate for the petitioner(s): Mr. AY Choudhury

Advocate for the respondent(s): Mr. HK Das Standing Counsel,
Gauhati High Court
Mr. SS Roy, Govt. Advocate, Assam

Date on which Judgment is reserved : NA

Date of Pronouncement of Judgment : **26.02.2026**

Whether the Pronouncement is of the : NA
Operative Part of the Judgment

Whether the Full Judgment has been : Yes
Pronounced

JUDGMENT & ORDER (ORAL)

Heard Mr. AY Choudhury, the learned counsel appearing on behalf of the petitioner. I have also heard Mr. SS Roy, the learned Government Advocate, Assam who appears on behalf of the respondent No.1 and Mr. HK Das, the learned Standing Counsel, who appears on behalf of respondent Nos.2 and 3 and 2.

2. The petitioner herein is aggrieved by the imposition of major penalty of compulsory retirement imposed by the respondent No.2 i.e. the learned District & Sessions Judge, Cachar, Silchar by which the

petitioner was compulsorily retired as per *Rule 7(v) of the Assam Services (Discipline & Appeal) Rules, 1964* (for short, '*the Rules of 1964*'). The petitioner, thereupon filed an appeal under Rule 13 of *Assam District and Sessions Judges Establishment (Ministerial) Service Rules, 1987* (for short, '*the Rules of 1987*') before the same authority i.e. the respondent No.2. However the said appeal remained unconsidered and under such circumstances, the petitioner has approached this Court.

3. The petitioner in the instant writ proceedings have challenged the imposition of penalty of compulsory retirement vide the impugned order dated 25.03.2025 on various grounds. Amongst the various grounds, one of such grounds is that the petitioner was not provided with the enquiry report before imposing the punishment of compulsory retirement. This Court in the present facts would not like to delve upon the other grounds *inasmuch as*, if the petitioner was not afforded the enquiry report prior to imposition of penalty, the same would be fatal to the impugned order dated 25.03.2025.

4. This Court, vide an order dated 09.02.2026, sought for instructions from the respondent authorities, and more particularly, the respondent No.2, as to whether the enquiry report was furnished to the petitioner when the second show-cause notice was issued by the Disciplinary Authority. Mr. HK Das, the learned counsel appearing

on behalf of the respondents Nos.2 and 3 submitted that the enquiry report admittedly was not served upon the petitioner when the show cause notice was issued by the Disciplinary Authority asking the petitioner as to why the petitioner should not be imposed penalty on the basis of the enquiry report. It is the opinion of this Court that taking into account above, the impugned order of punishment dated 25.03.2025 cannot be sustained in law in view of the judgment of the Supreme Court in the case of ***Managing Director ECIL Hyderabad and Ors. Vs. B. Karunakar and Ors.*** reported in ***(1993) 4 SCC 727.***

5. Under such circumstances, the instant writ petition stands disposed of with the following observations and directions:

(i). The impugned order of punishment dated 25.03.2025, by which the petitioner was imposed the punishment of compulsory retirement is set aside and quashed.

(ii). The petitioner prior to the impugned order of punishment was under suspension and the period from the date the petitioner had been inflicted with the punishment of compulsory retirement till date, shall therefore be construed that the petitioner was under deemed suspension, and, accordingly, the petitioner would be entitled to such subsistence allowances as

may be permissible under law, after deducting any amount of pension, if the petitioner in the meantime had received.

(iii). This Court further grants liberty to the Disciplinary Authority, i.e. the respondent No. 2 to issue a show-cause notice if on the basis of the enquiry report, the disciplinary authority is of the opinion that further actions are warranted against the petitioner.

(iv). It is further observed that in the circumstance, the Disciplinary Authority issues a show cause notice, the petitioner be provided the enquiry report. The petitioner shall also be provided a reasonable opportunity of at least 15 days to respond to the show-cause notice.

(v). This Court further observes that the Disciplinary Authority shall thereupon, if any reply is filed consider the same and proceed in accordance with law.

6. The instructions dated 11.02.2026, produced before this Court is kept on record and marked with the letter 'X'.

JUDGE