

GAHC040005602026



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

Case No. : WP(C)/174/2026

Subhsh Chandra Adhikary @ SC Adhikary
Son of Late Manoranjan Adhikary, permanent resident of 1394, Wet road Height
Apartment, Flat No.7E, Phase-1 (7th Floor) Talikhola Barasat-Barrackpore Road, PO
Noapara, PS Barasat, North 24 Parganas District, Kolkata, West Bengal 700125

VERSUS

The State of AP and 6 Ors
represented by the Chief Secretary, Govt of Arunachal Pradesh, Civil Secretariat,
Itanagar 791111 2:The Principal Secretary (Home)
Age: 0
Occupation :
Govt of Arunachal Pradesh
Civil Secretariat
Itanagar.

3:The Commissioner (Home)
Age: 0
Occupation :
Govt of Arunachal Pradesh
Itanagar 791111

4:The Director General of Police
Age: 0
Occupation :
Police Headquarters Itanagar
Govt of Arunachal Pradesh.

5:The Director of Audit and Pension
Age: 0
Occupation :
Govt of Arunachal Pradesh
Naharlagun 79110

6:The Joint Director of Audit and Pension

Age: 0

Occupation :

Govt of Arunachal Pradesh

Naharlagun 791110

7:The Principal Accountant General

Age: 0

Occupation :

West Bengal Treasury Building-2

Govt Palace (West) Kolkata

West Bengal. 70000

Advocate for the Petitioner : Jaya Doji,

Advocate for the Respondent : GA (AP),

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

Date : --24.04.2026

Heard Ms. J. Doji, learned Legal Aid Counsel for the petitioner and Ms. R. Basar, learned Junior Government Advocate for the respondent nos. 1-6.

2. The petitioner retired from service as Superintendent of Police on reaching the age of superannuation on 31.05.2008. Prior to his retirement, a case, Itanagar Police Station Case no. 76/2007 under Sections 342/376 of the Indian Penal Code [Indian Penal Code] was registered on 29.03.2007. In view of registration of Itanagar Police Station Case no. 76/2007, the petitioner was placed under suspension by an Order dated 12.04.2007 w.e.f. 29.03.2007. By an Order dated 29.01.2008, the suspension of the petitioner was revoked. After conclusion of the trial of Sessions Case no. 513/08/[FTC-YPA] before the Court of learned Additional Sessions Judge [WZ], Fast Track Court, Yupia, arising out of Itanagar Police Station Case no. 76/2007, the petitioner was convicted for the offence under Section 376, IPC by a Judgment and Order dated 30.11.2009. An Order dated 01.05.2024 was passed whereby, the period of suspension of the petitioner was treated as a period spent on duty for all purposes.

By another Order dated 01.05.2024 passed in exercise of the powers conferred under Rule 8[1] of the Central Civil Services [Pension] Rules, 2021 [‘the CCS [Pension] Rules’, for short], as amended, 50% of the pension and gratuity has been withheld permanently w.e.f. 27.06.2022. The said situation continued thereafter till 28.01.2026. By the impugned Order dated 28.01.2026, the respondent authorities have now sought to recover an amount of Rs. 15,25,568/- from the petitioner on the ground that the said amount has been paid to the petitioner in excess while disbursing provisional pension. An instruction has been placed to recover/adjust the said amount from the petitioner’s pension on installment basis at one third [1/3rd] of net [pension + relief] payable each month.

3. Aggrieved by the aforesaid decision of the respondent authorities to recover the amount allegedly paid in excess, the petitioner is before this Court by the instant writ petition.

4. Issue notice, returnable in 3 [three] weeks.

5. As Ms. Basar, learned Junior Government Advocate has appeared and accepted notices for the respondent nos. 1-6, formal notices need not be issued to the said respondents. Ms. Doji, learned counsel for the petitioner shall furnish requisite nos. of extra copies of the writ petition along with the annexures, to Ms. Basar, within 2 [two] working days from today.

6. The petitioner shall take steps for notice upon the respondent no. 7 by speed post, within 3 [three] working days from today.

7. The petitioner has retired from service on reaching the age of superannuation as far back as on 31.05.2008. After release of provisional pension after his retirement, his pension was finalized on 01.05.2024 in terms of Rule 8[1] of the CCS [Pension] Rules by withholding 50% of pension and gratuity w.e.f. 27.06.2022. By the impugned Order dated 28.01.2026, an amount of Rs. 15,25,568/- has now been sought to be recovered from the petitioner on the ground of excess payment at the time of disbursement of provisional pension.

8. Having regard to the above facts, it is ordered, in the interim, that there shall not be any recovery from the pension of the petitioner in terms of the impugned Order dated

28.01.2026, till the returnable date.

JUDGE

Comparing Assistant