

GAHC010011832024



2026:GAU-AS:5946

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

Case No. : WP(C)/331/2024

SMT. DIPALI BARUAH
W/O LATE ARABINDA KAKATI, R/O KAHILIPARA, NEAR POWER HOUSE,
P.S.-DISPUR, GUWAHATI-781019, DIST- KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM AND 5 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, HOME AND POLITICAL DEPARTMENT, DISPUR, GUWAHATI-
781006

2:THE DIRECTOR GENERAL OF POLICE
ASSAM
ASSAM POLICE HEADQUARTERS
ULUBARI
GUWAHATI-781007

3:THE ASSISTANT INSPECTOR GENERAL OF POLICE (A AND E)
ASSAM POLICE HEADQUARTERS
ULUBARI
GUWAHATI-781007

4:THE DEPARTMENTAL SELECTION BOARD
OFFICE OF THE DIRECTOR GENERAL OF POLICE
ASSAM
POLICE HEADQUARTERS
ULUBARI
GUWAHATI-781007

5:THE SUPERINTENDENT OF POLICE
SB KAHILIPARA
GUWAHATI-781019

6:THE PRINCIPAL
LACHIT BARPHUKAN POLICE ACADEMY
DERGAON
ASSAM

**BEFORE
HONOURABLE MR. JUSTICE BUDI HABUNG**

Advocate for the Petitioner : Mr. D. K. Roy, Id. counsel.

Advocate for the Respondent : Mr. A. Chakraborty, Id. Govt.
Adv.

Date on which Judgment is reserved : 23.04.2026

Date of Hearing : 23.04.2026

Date of Judgment and Order : 30.04.2026

Whether the pronouncement is of the Operative part of the Judgment?
:No

Whether the full Judgment has been pronounced ? : Yes

**JUDGMENT & ORDER
(CAV)**

Heard Mr. D. K. Roy, learned counsel for the petitioner. Also heard Mr. A. Chakraborty, learned Government Advocate appearing on behalf the State respondents.

2. By filing this writ petition, the petitioner has prayed for the following reliefs:-

- i.** To direct the respondent to recall, rescind, cancel, or forbear from giving effect to the impugned decision of the Departmental Selection Board not to consider the case of the petitioner for confirmation in her service as SI (UB);
- ii.** To consider the case of the petitioner for confirmation of her service in the rank of SI (UB); and
- iii.** To consider the case of the petitioner for pre-promotion cadre course training for promotion to the rank of Inspector (UB).

3. The case of the petitioner in brief is that she was appointed as a constable and joined service on 12.09.1990. Thereafter, she was promoted to the post of Havildar w.e.f. 31.10.2003 and subsequently promoted to the rank of Sub-Inspector (UB) with effect from 23.10.2013.

4. While serving as Sub-Inspector (UB), an FIR was lodged on 15.05.2017, by one Shri Biren Haloi alleging *inter alia*, that the petitioner had demanded a sum of Rs. 10,00,000/- (Rupees ten lakhs only) for securing his release, and that an amount of Rs. 4,00,000/- (Rupees four lakhs only) was paid, following which he was released on 11.05.2017. On the basis of the said FIR, a criminal case being Garchuk P.S. Case No. 191/2017 under Sections 384/34 IPC was registered and investigation was initiated. The petitioner was arrested in connection with the said case.

5. The learned counsel for the petitioner submitted that on account of aforesaid allegation, the petitioner was placed under suspension for the period from 02.06.2017 to 04.12.2017. However, by an order dated 18.09.2021 issued

by the Superintendent of Police, South Salmara-Mankachar District, Hatsingimari, and the Disciplinary Authority, the said period of suspension has been regularised and treated as on duty.

6. The learned counsel for the petitioner further submits that the informant who lodged FIR against the petitioner subsequently withdrew the complaint by filing a petition 29.11.2023, stating that the FIR was lodged due to a misunderstanding and under the influence of certain police authority of Garchuk Police Station, and that the allegation of demand of money was not correct.

7. It is further submitted that the petitioner submits that the petitioner is awaiting confirmation of her service in the rank of Sub-Inspector (UB). A nominal list of departmental promotee Sub-Inspectors (UB) for the years 2013–2016 was issued by the Assistant Inspector General of Police (A&E), Assam, Guwahati, for consideration for confirmation in the said rank, wherein the name of the petitioner appeared at Serial No. 91. Although the petitioner was allowed to undergo the 59th Batch Pre-Promotion Cadre Course held at Lachit Barphukan Police Academy, Dergaon, with effect from 29.01.2024 and successfully completed the same, her name was not included in the final list of confirmed Sub-Inspectors (UB), but whereas her juniors have been included.

8. The learned counsel for the petitioner also submits that certain persons junior to the petitioner, namely Shri Ramjan Ali Sheikh and Smti Depali Deka Borah, have already been promoted to the rank of Inspector (UB), but the case of the petitioner has not been considered.

9. Placing reliance on the Office Memorandum No. ABP 29/2006/38 dated 09.05.2006, issued by the Government of Assam, Department of Personnel (B),

Dispur, Guwahati, it is contended that promotion cannot be withheld merely on the ground of pendency of a preliminary inquiry or investigation. Reliance is also placed on the decision of the Hon'ble Supreme Court in ***Union of India vs. K.V. Janakiraman etc***, reported in ***AIR 1991 SC 2010***, wherein it has been held that promotion cannot be denied merely on the basis of suspicion or where no charge sheet has been issued. The relevant paragraph is reproduced bellow:

"no promotion can be withheld merely on the basis of suspicion or doubt, or where the matter is under preliminary investigation and has not reached the stage of issuance of a charge sheet."

10. It is submitted that in the instant case, the investigation of the case is still pending and no charge sheet has been filed till date.

11. It is further submitted that other officials allegedly involved in the same case, namely Garchuk P.S. Case No. 191/2017 under Sections 384/34 IPC, have been considered for promotion by the Department by applying the aforesaid Office Memorandum dated 09.05.2006, with the observation that a government employee cannot be deprived of due promotion on the ground of a pending criminal investigation as per the aforesaid Office Memorandum.

12. The learned Government Advocate, on instruction, fairly submitted that the matter may be remanded to the competent authority/Departmental Promotion Committee for reconsideration of the case of the petitioner in accordance with law.

13. Having considered the submission made by the learned counsel for the parties and upon perusal of the materials on record, this Court is of the view

that the ends of justice would be met if a direction is issued to the respondent authorities to reconsider the case of the petitioner.

14. Accordingly, this writ petition is disposed of with a direction to the respondent authorities to examine and consider the case of the petitioner for confirmation in the rank of Sub-Inspector (UB) as well as for promotion to the rank of Inspector (UB), strictly in accordance with law. While doing so, the authorities shall take into account- the Office Memorandum dated 09.05.2006; the law laid down in ***Union of India vs. K.V. Janakiraman*** (supra); the fact that no charge sheet has been filed against the petitioner till date; and the treatment accorded to similarly situated officials involved in the same case.

15. The aforesaid exercise shall be completed within a period of 3 (three) months from the date of receipt of a certified copy of this order.

16. With the above observations and directions, the writ petition stands disposed of.

JUDGE

Comparing Assistant