

(2026) 02 GAU CK 1605
In the Gauhati High Court
Case No : WPC Of 2983 Of 2024

Maya Brahma Barman

APPELLANT

Vs

State Of Assam And 4 Ors

RESPONDENT

Date of Decision : 03-02-2026

Acts Referred:

Assam Services (Pension) Rules, 1969 — Rule 24

Citation : (2026) 02 GAU CK 1605

Hon'ble Judges : Devashis Baruah, J

Bench : Single Bench

Advocate : R. Majumdar, J. K. Goswami

Final Decision : Disposed Of

Judgement

Devashis Baruah, J

1. Heard Mr. R. Majumdar, the learned counsel appearing on behalf of the Petitioner and Mr. J. K. Goswami, the learned Government Advocate appearing on behalf of the Respondent Nos. 1, 2, 3 and 4. None appears on behalf of the Accountant General (A & E) when the matter is called.

2. The Petitioner herein has filed the instant writ petition seeking a direction upon the Respondents to grant the Petitioner compassionate allowance and compassionate gratuity which her husband would have been entitled to had he been alive and in that regard, had submitted a representation dated 30.03.2024. It is the further case of the Petitioner that the said representation dated 30.03.2024 was not considered and it is under such circumstances, the Petitioner has approached this Court.

3. The brief facts of the instant case as would appear from the materials on record is that the husband of the Petitioner one Kailash Chandra Barman (since deceased) was appointed as AB Constable w.e.f. 01.11.1990. During his lifetime, a Departmental Proceedings was initiated against the husband of the Petitioner which was registered as Departmental Proceeding No.12/2002 on the ground of

his unauthorized absence from police reserve Bongaigaon w.e.f. 17.02.2002 to 21.04.2002 and further from 29.05.2002 to 19.10.2002.

4. An enquiry was conducted and the charges which were leveled against the husband of the Petitioner were held to be proved beyond doubt. Resultantly, the husband of the Petitioner was removed from service vide an order dated 19.10.2002. It appears from the very order dated 19.10.2002 that post the enquiry being carried out, opportunity was given to the husband of the Petitioner by issuance of Show Cause Notice but the husband of the Petitioner thereupon did not submit any reply. Be that as it may, the husband of the Petitioner expired on 14.04.2009 leaving behind the Petitioner and his children. The Petitioner thereupon submitted a representation on 03.03.2011 stating inter alia that her husband was terminated from service on 19.10.2002 and that her husband expired on 14. 04.2009 and therefore, she be paid the family pension at the earliest.

5. It is seen that the Petitioner thereupon submitted various representations. However, those representations did not find any favour. The Petitioner thereupon learnt that taking into account that the husband was terminated, her husband would not be entitled to any pension and under such circumstances, submitted an appeal to the Inspector General of Police (Administration) dated 30.03.2024 claiming compassionate allowance in terms with Rule 24 of the Assam Services (Pension) Rules, 1969 (for short 'the Rules of 1969'). The said representation/appeal was pending and under such circumstances, the Petitioner has approached this Court by filing the instant writ petition.

6. The materials on record would show that this Court issued notice on 12.06.2024. Thereupon, an affidavit-in-opposition was filed by the Respondent No.4 stating inter alia why the husband of the Petitioner was removed from service and there was no medical documents submitted by the husband of the Petitioner during his lifetime. It was also mentioned that the Petitioner was not entitled to any benefits in view of the Rule 24 of the Rules of 1969. A reply thereagainst was filed by the Petitioner.

7. Today, when the matter was taken up, Mr. J. K. Goswami, the learned Government Advocate appearing on behalf of the Respondent Nos. 1 to 4 has placed before this Court a communication dated 01.11.2025 issued to the Additional Senior Government Advocate by the Assistant Inspector General of Police (Law) stating inter alia that the representation submitted by the Petitioner dated 30.03.2024 was disposed off stating that no grounds exist to consider the said application. The said communication dated 01.11.2025 is kept on record and marked with the letter "X".

8. In the backdrop of the above pleadings, this Court has duly heard the learned counsels appearing on behalf of the parties.

9. From the materials on record, it is clear that the husband of the Petitioner was removed from service vide the order dated 19.10.2002. During the lifetime of the

husband of the Petitioner, he never applied for any compassionate allowance and/or compassionate gratuity in terms with Rule 24 of the Rules of 1969. There is also no challenge to the order of removal dated 19.10.2002 till date and no medical evidence produced which would show that the husband of the Petitioner was incapacitated for which he was absent from duty and he could not participate in the said Disciplinary Proceedings or take any further steps during his lifetime.

10. At this stage, if this Court duly takes note of Rule 24 of the Rules of 1969, it would show that a delinquent employee who is dismissed or removed for misconduct, insolvency or inefficiency is not entitled to any pension. However, on special consideration, compassionate allowance and/or compassionate gratuity may be granted. The aspect whether there exists special consideration has to be assessed by the authorities and not this Court. This Court in the given facts when the special consideration being not considered can exercise the powers of judicial review.

11. This Court duly takes note of the communication dated 01.11.2025 which is kept on record and marked with the letter "X". It appears that the aspect as to whether the Petitioner is entitled to any special consideration or not, have not at all been considered merely on the ground that the Petitioner approached the authorities by filing an application after 22 years.

12. Be that as it may, it is apparent from the materials on record that the Petitioner all along was seeking family pension since 2011 which have not yet been considered. It is only at the later stage, the Petitioner upon realizing that the Petitioner was not entitled to family pension had submitted the representation dated 30.03.2024 seeking compassionate allowance and/or compassionate gratuity. It is therefore the opinion of this Court that the Respondent Authorities ought to therefore consider as to whether any special consideration exist for consideration of the case of the Petitioner without being influenced that the application was filed by the Petitioner after 22 years.

13. Accordingly, the instant writ petition stands disposed of with the following observations and directions:

(i) The Respondent Authorities more particularly the Respondent Nos. 2 and 3 are directed to reconsider the application so filed by the Petitioner dated 30.03.2024 without insisting on the question as regards the delay.

(ii) This Court further grants liberty to the Petitioner to provide additional documents which may show that there exist special consideration to consider the case of the Petitioner for compassionate allowance and/or compassionate gratuity.

(iii) The said additional documents or representation be submitted along with a certified copy of this judgment and order within 15 (fifteen) days from today before the Respondent No.3.

(iv) If the certified copy of this judgment and order is submitted within the time

permitted above, the concerned Respondent Authority shall consider the said application dated 30.03.2024 along with such additional materials so placed by the Petitioner and dispose of the same within a period of 60 (sixty) days thereupon.

(v) If the Respondents are of the opinion that the Petitioner is entitled to certain special consideration and accordingly entitled to compassionate allowance and/or compassionate gratuity, the benefit thereof be provided to the Petitioner within 3 (three) months from the decision taken in terms with Clause (iv) hereinabove.