



2026:DHC:5875-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 9619/2026**

UNION OF INDIA & ORS. Petitioners

Through: Ms. Arushi Singh, SPC for UOI
along with Ms. Manviya Arun, Ms. Amrisha
Kumari & Mr. Abhinav Vijayaran, Advs.

versus

SHRI DEEPAK Respondent

Through: Mr. Ankur Chhibber, Sr. Adv.
with Mr. Shashwat Sharma, Advs.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE VINOD KUMAR

JUDGMENT (ORAL)

% **20.07.2026**

C. HARI SHANKAR, J.

1. The respondent was appointed as Assistant Central Intelligence Officer Grade-II in the Intelligence Bureau on 16 January 2023.
2. While he was on probation, his services were terminated by the petitioner *vide* order dated 15 February 2024 invoking Rule 5(1) of the CCS (Temporary Services) Rules 1965.
3. Aggrieved thereby, the respondent approached the Central Administrative Tribunal by way of OA 4686/2024.
4. Though the order of termination of the respondent appeared

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innocuous on its face, the Tribunal, in order to satisfy itself as to the motive or foundation of the order, required the petitioner to produce, before it, the file relating to the decision to terminate the respondent's service in a sealed cover. When it was so produced, the following noting was found in the file:

“3. Accordingly, during the course of the hearing, the respondents were directed to produce the relevant departmental file relating to the applicant in a sealed cover, the contents thereof reveal the following:

I. While posted at ICP, IGI Airport, he was found to have illegally favoured immigration clearance for one passenger (Ritik) travelling to Baku (Azerbaijan), whose boarding pass had already been refused by the IC of the previous shift. He misused his Airport Entry Pass (AEP) to seek entry into the airport beyond office hours without any justification, apparently with the purpose of facilitating a private person.

II. He contacted other IB officers on duty at IGI Airport in the process of seeking immigration clearance for Ritik. The exchange of monetary transactions and travel documents of various persons reflects his direct involvement in acts unbecoming of a Government servant.

III. Shri Deepak also admitted/claimed his involvement in corruption in association with other IB officers on airport duty, namely Shri M.K. Ray, ACIO-I/Exe, Mr. Bhookesh, ACIO-I/Exe and other IB officials.

IV. Shri Deepak purchased a new Hyundai car, raising suspicion of disproportionate assets. Several UPI transactions of 210-20 thousand to his SBI account also indicate the same.

V. In view of the relevant documents forwarded by FRRO Delhi regarding the illegal activities of Shri Deepak during his posting with BOI, it is evident that his behaviour is in contravention of the CCS (Conduct) Rules and his activities render him unsuitable for a sensitive organization like the Intelligence Bureau.”



5. On perusing the aforesaid noting, the Tribunal proceeded to allow the respondent's OA with the following reasoning:

“10. It is well settled that the services of a probationer may be terminated if the employer forms an opinion that the employee is not suitable for confirmation. However, the law equally recognizes a distinction between a termination simpliciter and a termination which is founded upon allegations of misconduct. If the order of termination is merely based on an assessment of suitability during probation, the employer may legitimately terminate the services of the probationer without conducting a detailed inquiry. However, where the termination is founded upon allegations of misconduct circumstances indicate that the order is punitive in nature, the employer is required to follow the principles of natural justice and conduct a proper departmental inquiry or where the surrounding circumstances indicate that the order is punitive in nature, the employer is required to follow the principles of natural justice and conduct a proper departmental inquiry.

11. The aforesaid principle has been reiterated in a catena of judgments and has also been discussed by this Tribunal in the case of *Sheetal vs. Government of NCT of Delhi & Ors*¹. In the said judgment, reliance was placed upon the decision of the Coordinate Bench of this Tribunal in *Rinku Kumar & Ors. vs. Government of NCT of Delhi & Ors.*². In para 17 of the judgment in Rinku Kumar (supra), the Tribunal observed that where termination of a probationer, though couched in innocuous language, is actually based upon allegations of misconduct and is preceded by an inquiry in which the employee was not afforded an opportunity of defence, such termination cannot be treated as termination simpliciter. The Tribunal held that in such circumstances the order becomes punitive and stigmatic in nature and cannot be sustained unless preceded by a full-fledged departmental inquiry. The Tribunal further observed that while determining whether the termination of a probationer is simpliciter or punitive, the Court or Tribunal is entitled to lift the veil and examine the surrounding circumstances to ascertain what actually weighed with the employer while passing the order of termination.

12. The Hon'ble Supreme Court in *The District Manager, Tamil Nadu State Marketing Corporation Ltd. & Anr. VS. S. Kottaisamy*³ has also held that where termination of service is

¹ 2013 SCC OnLine CAT 1859

² Order dated 8 December 2023 in OA 3902/2023

³ MANU/SCOR/41043/2022



based upon allegations and the employee disputes or retracts the alleged statements, termination without affording an opportunity of hearing would be violative of the principles of natural justice and that it is obligatory for the employer to conduct a proper inquiry before passing such an order.

13. Applying the aforesaid principles to the facts of the present case, it becomes evident that although the impugned order is worded as a termination simpliciter passed under Rule 5(1) of the CCS (Temporary Service) Rules, 1965, the material placed before this Tribunal clearly reveals that the termination was preceded by allegations relating to misconduct during the applicant's posting at IGI Airport. The records produced before us indicate that these allegations formed the basis for invoking Rule 5(1) of the CCS (Temporary Service) Rules, 1965 and terminating the services of the applicant. Therefore, it cannot be said that the termination was merely based on an overall assessment of the applicant's suitability during probation. Rather, the surrounding circumstances unmistakably indicate that the termination was founded upon allegations of misconduct. Once the foundation of the order is misconduct, the respondents were required to follow the procedure prescribed under the relevant disciplinary rules and conduct a proper departmental inquiry by affording the applicant an opportunity to defend himself.

14. In the present case, admittedly, no such inquiry was conducted before terminating the services of the applicant. The respondents instead invoked Rule 5(1) of the CCS (Temporary Service) Rules, 1965 and passed the impugned order of termination. Such action, in the light of the settled legal position discussed above, cannot be sustained in law.”

6. Following the aforesaid reasoning, the OA was allowed in the following terms on the basis of the aforesaid reasoning:

“15. Accordingly, the present O.A. deserves to be allowed and the same is allowed with the following orders:-

(i) The impugned termination order dated 15.02.2024 and the appellate order dated 23.10.2024 are quashed and set aside.

(ii) The respondents are directed to reinstate the applicant in service forthwith from the date on which he was terminated from service.

(iii) The applicant shall be entitled to consequential



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benefits in accordance with the relevant rules and instructions on the subject.

(iv) The respondents shall comply with the aforesaid directions as expeditiously as possible and preferably within four weeks from the date of receipt of a copy of this order.

(v) The respondents shall be at liberty to initiate disciplinary proceedings against the applicant, if so advised, in accordance with the relevant rules and law and law governing the subject.”

7. Aggrieved thereby, the Union of India is before us in the present writ petition.

8. We have heard Ms. Aarushi Singh, learned Counsel for the petitioner and Mr. Ankur Chhibber, learned Senior Counsel for the respondent at some length.

9. The issue in controversy is no longer *res integra*. It is settled that, even in the case of a probationer, an order of termination, if based on allegations which may tantamount to misconduct, requires the officer concerned to be afforded a show cause notice and an opportunity to explain before any order of termination is passed.

10. We may refer to the following passages from the judgment of the Supreme Court in *Chander Praksh Shahi v. State of UP*⁴:

13. Following the decision of *Parshotam Lal Dhingra case*⁵ this Court in *State of Bihar v. Gopi Kishore Prasad*⁶ held that if the services of a probationer are terminated on the basis of an inquiry into the allegations of misconduct and inefficiency, the

⁴ (2000) 5 SCC 152

⁵ *Parshotam Lal Dhingra v. Union of India*, AIR 1958 SC 36

⁶ AIR 1960 SC 689



order would be punitive. It was pointed out that in the case of a probationer, it is always open to the Government to hold an inquiry merely to assess the merits of the employee to find out whether he was fit to be retained in service and confirmed. In another case relating to a probationer, namely, in ***State of Orissa v. Ram Narayan Das***⁷ where the services were governed by Rule 55-B of the Civil Services (Classification, Control and Appeal) Rules which provided that where the services of a probationer were intended to be terminated either during the period of probation or at the end of that period for any fault or on account of his unsuitability, he would be apprised of the grounds of unsuitability and would also be afforded an opportunity to show cause against it before orders are passed against him, *it was held that the termination order would not become punitive merely because of an antecedent inquiry but the real object or purpose of the inquiry had to be found out whether it was held merely to assess the general unsuitability of the employee or it was held into charges of misconduct or inefficiency etc.* In ***Ranendra Chandra Banerjee v. Union of India***⁸ which again was a case relating to a probationer, it was held that on account of Rule 55-B of the Civil Services (Classification, Control and Appeal) Rules if the inquiry was held for the limited purpose of finding out whether the employee was fit to be retained or not, the said inquiry would not make the order punitive as the inquiry could not be related to any misconduct of the employee. This view was reiterated in ***Jagdish Mitter v. Union of India***⁹. In ***Madan Gopal v. State of Punjab***¹⁰ the order by which the services of the employee were terminated was an order simpliciter in nature, which was innocuously worded, but it was held by this Court that the form of the order was not decisive and the Court could go behind that order to find out whether it was founded upon the misconduct of the employee.

34. If this procedure is followed and the services are terminated thereafter, it would not amount to a punitive action. The rule being mandatory in nature, compliance therewith would not alter the nature of the order passed against the probationer. This aspect was considered by this Court in two decisions, namely, ***State of Orissa v. Ram Narayan Das*** and ***Ranendra Chandra Banerjee v. Union of India*** in terms of Rule 55-B of the Civil Services (Classification, Control & Appeal) Rules, which, in all respects, is akin to para 541 of the U.P. Police Regulations quoted above. The relevant portion of Rule 55-B which was extracted in the case of ***State of Orissa v. Ram Narayan Das*** is quoted below:

⁷ AIR 1961 SC 177

⁸ AIR 1963 SC 1552

⁹ AIR 1964 SC 449

¹⁰ AIR 1963 SC 531



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“Where it is proposed to terminate the employment of a probationer, whether during or at the end of the period of probation, for any specific fault or on account of his unsuitability for the service, the probationer shall be apprised of the grounds of such proposal and given an opportunity to show cause against it, before orders are passed by the authority competent to terminate the employment.”

11. Ms. Singh has placed reliance, before us, on the judgment of a coordinate bench of this Court in WP (C) 15486/2024 (*Aman Pratap Singh v. GNCTD*¹¹), specifically drawing attention to para 19 thereof, which, in turn, relied on the judgment of the Supreme Court in *Pavnendra Narayan Verma v. Sanjay Gandhi Post Graduate Institute of Medical Sciences*¹².

12. The issue in *Pavnendra Narayan Verma* was qualitatively different from that before us and before the Supreme Court in *Chander Praksh Shahi*.

13. That was a case in which the services of a probationer were dispensed with on the ground that they were unsatisfactory. The issue before the Supreme Court was whether a mere reference to the service being unsatisfactory was sufficient to treat it as stigmatic as would necessitate an inquiry before termination of the petitioner in that case. The Supreme Court has held that, as a mere reference to the quality of the service rendered by the petitioner as unsatisfactory did not cast a stigma, the termination could be effected without complying with the principles of natural justice.

¹¹ 2026 SCC OnLine Del 518

¹² (2002) 1 SCC 250



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14. As against that, in the present case, the allegations against the respondent are extremely serious. They may be true or they may be false. From a perusal of the noting on the file, it is clear that the allegations constitute the foundation of the decision to terminate the respondent from service and not merely the motive thereof.

15. We, therefore, are satisfied that, before terminating the respondent's service on the basis of such an allegation, the respondent ought to be afforded an opportunity to show cause and principles of natural justice were required to be followed as held by the Supreme Court in *Chander Praksh Shahi*.

16. In that view of the matter, we do not find any cause to interfere with the impugned judgment of the Tribunal which, in our view, has viewed the matter from the correct perspective.

17. The writ petition is accordingly dismissed in *limine*.

18. We make it clear that we have not expressed any opinion on the merits of the allegations against the respondent.

C. HARI SHANKAR, J.

VINOD KUMAR, J.

JULY 20, 2026

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