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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
CNR No. DLHC010349892026
+ **W.P.(C) 10880/2026, CM APPL. 50436/2026 & CM APPL. 50437/2026**

NEW DELHI MUNICIPAL COUNCIL Petitioner
Through: Mr. Saurabh Seth, Standing
Counsel with Mr. Abhiroop Rathore, Mr.
Sukhvir Singh, Advocates

versus

RAHUL KUMAR Respondent
Through: Mr. Ankit Singh Sinsinwar with
Mr. Ravi Kumar, Advs.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE VINOD KUMAR
JUDGMENT (ORAL)

% **05.08.2026**

C. HARI SHANKAR, J.

1. The respondent was employed with the petitioner New Delhi Municipal Council¹ as a casual labour on Temporary Muster Roll with effect from 26 November 2009. He was given Regular Muster Roll² status on 25 July 2014.

2. On 3 May 2023, the respondent was offered the post of 'Palika Sahayak (Udhyan)'. The appointment was subject to a probation period of two years during which the respondent would be governed

¹ "the NDMC", hereinafter

² "RMR", hereinafter



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by the Central Civil Services (Temporary Service) Rules, 1965³.

3. During the respondent's tenure as Palika Sahayak, the Vigilance Department of the NDMC raised a complaint dated 26 December 2022 alleging that the respondent was complicit in manipulation of attendance records of various RMR workers in the accounts branch of the Horticulture Department in exchange for illegal gratification. It was further alleged, in the complaint, that, while working in the horticulture accounts unit, the respondent had facilitated excess wage payments to certain officials.

4. Following the aforesaid complaint, the respondent was visited with a memo dated 21 December 2023 seeking his explanation on the allegations contained in the complaint. The respondent replied on 16 January 2024.

5. Without conducting any inquiry in which the respondent was involved, the NDMC issued notice dated 14 June 2024 under Rule 5(1)(a) of the CCS (Temporary Service) Rules, proposing termination of the respondent's service with notice of one month. The said order reads thus:

“NEW DELHI MUNICIPAL COUNCIL
PAUKA KENDRA: NEW DELHI
A & H ESTABLISHMENT”

NOTICE

1. Whereas Sh. Rahul Kumar s/o Sh. Rajkumar is working as Palika Sahayak (erstwhile RMR in CGIT Cell).

³ “the CCS (Temporary Service) Rules”, hereinafter



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2. Whereas Sh. Rahul Kumar, Emp. Code 318658 was appointed as Palika Sahayak (Udyaan) vide appointment letter NO.1107/ CGIT/2023 dated 03.05.2023 and posted in Horticulture Department.

3. Whereas Sh. Rahul Kumar joined in NDMC w.e.f 04.05.2023 as a Palika Sahyak (Udhyan).

4. Whereas Sh. Rahul Kumar is under probation period for a period of 2 years according to the terms and conditions as mentioned in his appointment letter.

5. Whereas Vigilance Department conducted an enquiry vide UO Note No.817/Vig./Imp./F.No.316/I0V-II(S)/2024 dated 20.05.2024 , details are as under:-

a. Pursuant to the receipt of complaint dated 26.12.2022 from Sh. Rajender Bhati, alleging that Accounts Branch of the Horticulture Department is tampering/ manipulating the Absent status of RMR workers to Present from the last two- three months by taking a favour of Rs-.300/- per attendance.

b. During examination of the case, it is noticed that fun payment of attendance despite being absent have been made by entering incorrect data in the computer system by the Accounts Branch.

c. Accordingly, explanation memo dated 21.12.2023 was served to Sh. Rahul Kumar. In response, reply dated 16.01.24 was received from Sh. Rahul Kumar and on examination, his reply was not found satisfactory. Further, the Disciplinary Authority/Chairman, NDMC has approved "Dismissal" of Sh. Rahul Kumar recently Joined as Palika Shayak (erstwhile RMR) is currently under probation and as action is possible under Temporary Service Rules, 1965.

5. Whereas, as per sub-rule(1) of the CCS (Temporary service) Rules,1965 of sub rule 5(1) (a) "The services of a temporary Government servant shall be liable to termination at any time by a notice in writing given either by the Government servant to the appointing authority or by the appointment authority to the Government servant."

6. Whereas the period of such notice shall be one month from the date of receipt of notice.



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Signed by
Asha Verma
Dy. Director (A & H)
Date: 14.06.2024 12:38:38"

6. Aggrieved thereby, the respondent approached the Central Administrative Tribunal⁴ by way of OA 2679/2024. Notice was issued, by the Tribunal, in the OA on 12 July 2024, and the operation of the order dated 14 June 2024 was stayed.

7. While the stay was in operation, the termination order dated 14 June 2024 was withdrawn by order dated 7 August 2024. The said order requires to be reproduced, thus:

"No. 95/S.O. (A & H) 2024

Dated: 07.08.2024

With the approval of Competent Authority, NDMC, the Notice issued to Sh. Rahul Kumar *vide* no. 80/SO (A & H) 2024 dated 14.06.2024, which is *stigmatic in nature* is hereby withdrawn.

Signed by
Asha Verma
Dy. Director (A & H)
Date: 07.08.2024"

8. *Thus, there was a tacit acknowledgment by the NDMC that the order dated 14 June 2024 was stigmatic in nature.*

9. Having withdrawn the order dated 14 June 2024 by the subsequent order dated 7 August 2024, the NDMC proceeded to issue a fresh order on 9 August 2024, again terminating the services of the

⁴ "the Tribunal", hereinafter



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respondent under Rule 5(1) of the CCS (Temporary Service) Rules.

The order reads thus:

“O.O. No. S.O. (A & H)/96/ 2024

Dated: 09.08.2024

ORDER

In pursuance of the proviso to sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, I hereby terminate forthwith the services of Sh. Rahul Kumar, Palika Sahayak (Udyan) and direct that he shall be entitled to claim a sum equivalent to the amount of his pay and allowances for a period of one month (in lieu of the notice period) calculated at the same rate at which he was drawing immediately before the date on which this order is served on or, as the case may be, tendered to him.

Signed by
Naresh Kumar
Chairman, NDMC
Date: 09.08.2024”

10. Contending that the issuance of the above said order amounted to contempt of the Tribunal, the respondent moved CP 656/2024 before the Tribunal in OA 2679/2024. By order dated 12 September 2024, the Tribunal disposed of the CP expressing the view that the order dated 9 August 2024 constituted a fresh cause of action regarding which the respondent would, if so advised, have to seek substantive remedies.

11. The aforesaid order dated 12 September 2024 of the Tribunal, requiring the respondent to seek fresh remedies against the order dated 9 August 2024, was challenged by the respondent before this Court by means of WP(C) 14008/2024⁵.

⁵ **Rahul Kumar v. New Delhi Municipal Council & Ors**



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12. By order dated 10 September 2025, this Court dismissed the writ petition, agreeing with the Tribunal that the order dated 9 August 2024 constituted a fresh cause of action.

13. The respondent, therefore, re-approached the Tribunal by way of OA 4311/2024.

14. The Tribunal has, by judgment dated 20 February 2026 passed in OA 4311/2024, recorded the following submissions advanced before it by learned Counsel for the NDMC:

“25. It was further submitted that the allegations against the applicant were not based on any anonymous complaint. From the Notice dated 14.06.2024, it is evident that the vigilance department had received a complaint from a named individual, namely, Sh. Rajender Bhati. Therefore, the respondents have not acted on any anonymous complaint and have strictly adhered to the guidelines issued by the DoPT vide O.M. dated 28.09.2022. The action taken is founded upon a duly identified complaint and not on any anonymous source.

26. Learned counsel submitted that, as reflected in the Notice dated 14.06.2024, a preliminary enquiry was conducted by the vigilance department vide U.O. Note No. 817/Vig./Imp./F. No. 316/IOV-II(S)/2024 dated 20.05.2024. It was only upon such enquiry that certain acts of omission and commission on the part of the applicant came to light.

27. It was further submitted that the applicant, while working as Palika Sahayak (Udhyan), failed to discharge his duties in accordance with the oath undertaken at the time of his appointment, thereby justifying the action taken by the respondents.

28. Learned counsel submitted that the respondents have strictly followed due procedure while terminating the services of the applicant. The applicant was initially issued a notice dated



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14.06.2024 and was afforded an opportunity to submit his reply. The reply submitted by the applicant was duly considered by the competent authority. Thereafter, in order to address the concerns raised by the applicant, the respondents withdrew the earlier notice dated 14.06.2024 and issued a fresh order dated 09.08.2024, which is a termination simpliciter under Rule 5 of the CCS (Temporary Service) Rules, 1965.”

15. The Tribunal has, by its judgment dated 20 February 2026, allowed the respondent’s OA 4311/2024. In doing so, the Tribunal has placed reliance on the judgment of the Supreme Court in *Anoop Jaiswal v. Govt. of India*⁶, *A P State Federation of Co. Spinning Mills Ltd. v. P.V. Swaminathan*⁷, *Dipti Prakash Banerjee v. S. N. Bose National Centre for Basic Sciences*⁸ and of this Court in *State Bank of Travancore v. Prem Singh*⁹.

16. The Tribunal has expressed the opinion that the allegations against the respondent, of being complicit in forging of attendance records of RMR workers for illegal gains, constituted not merely the motive but the foundation of the decision to terminate him from service and, therefore, applying the law declared by the Supreme Court in *Anoop Jaiswal* and *Dipti Prakash Banerjee*, the termination could not have been effected without prior inquiry in which the respondent was permitted to participate. The Tribunal has also relied on the fact that, while withdrawing the earlier order dated 14 June 2024 by order dated 7 August 2024, the NDMC had candidly acknowledged the fact that the order dated 14 June 2024 was

⁶ (1984) 2 SCC 369

⁷ (2001) 10 SCC 83

⁸ (1999) 3 SCC 60

⁹ 2019 SCC OnLine Del 8258



stigmatic.

17. In that view of the matter, the Tribunal has allowed the respondent's OA, reserving liberty with the NDMC to proceed against the respondent by initiating appropriate disciplinary proceedings in accordance with the law, if so advised.

18. Aggrieved thereby, the NDMC has approached this Court by means of the present writ petitions.

19. We have heard Mr. Saurabh Seth, learned Counsel for the NDMC and Mr. Ankit Singh Sinsinwar, learned Counsel for the respondent.

20. Mr. Seth has placed reliance on the judgment of the Supreme Court in *Pavanendra Narayan Verma v. Sanjay Gandhi PGI of Medical Sciences*¹⁰, particularly on para 21 thereof, to submit that if a prior full-fledged inquiry resulting in a finding of guilt against the respondent did not precede the order terminating his service, the order was *ex facie* non-stigmatic in nature.

21. To our mind, it is not necessary for us to enter into this aspect as, *in the order dated 7 August 2024, withdrawing the earlier order of termination dated 14 June 2024, it is acknowledged that the order dated 14 June 2024 is stigmatic*. The assertions of the NDMC, as the respondent before the Tribunal, reproduced in para 14 *supra* indicate

¹⁰ (2021) SCC 520



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that the subsequent order of termination dated 9 August 2024 was founded on the very same allegations which constituted the basis of the earlier order of the termination dated 14 June 2024. It was not the case of the NDMC before the Tribunal that the order of 9 August 2024 was for any other reason.

22. It is settled, in service jurisprudence, that, while examining whether an order of termination is stigmatic or innocuous, the Court is not guided merely by the wordings of the order. It is for this reason that the principles of motive and foundation have been devised by the Supreme Court. Where the foundation of an order is misconduct, the order is *ipso facto* stigmatic, even if reference to the misconduct is not contained in the termination order. On the other hand, where the misconduct is merely the motivation for the order, the order may not be stigmatic.

23. The assertions of the learned Counsel for the NDMC before the Tribunal, as contained in paras 25 to 28 of the impugned judgment and reproduced *supra*, make it clear that the allegations against the respondent constituted the foundation of the impugned order and were not merely its motive. In any case, if the order dated 14 June 2024 was acknowledged to be stigmatic by the NDMC itself, it cannot lie in the mouth of the NDMC to contend the subsequent order dated 9 August 2024 was not stigmatic merely because the allegations against the respondent did not expressly find place in the said order.

24. We, therefore, do not find the Tribunal to be in error in



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requiring the NDMC to follow a due process of a formal inquiry before terminating the services of the respondent on the basis of the allegations noted hereinabove.

25. No case is, therefore, made out for interference with the impugned judgment of the Tribunal, which is upheld.

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

C. HARI SHANKAR, J.

VINOD KUMAR, J.

AUGUST 5, 2026/cd