

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.19275 of 2015(O&M)
Date of Decision: 13.10.2015**

Jashandeep Singh

-----Petitioner

Vs.

Union of India and others

-----Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: Mr. Harnek Singh Kailey, Advocate
for the petitioner.

HARINDER SINGH SIDHU, J.

The petitioner was selected as Sub-Inspector in the Central Industrial Security Force on the basis of competitive examination conducted by the Staff Selection Commission. He joined the service w.e.f. 09.08.2013. While the petitioner was on probation, order dated 10.4.2014 (Annexure P-5) was passed by the DIG, CISF (his appointing authority) terminating his services. The order was passed in terms of the provisions of Rule 25(2) of the CISF Rules. It was stated that the appointing authority was of the opinion that the petitioner is not fit for permanent appointment in CISF.

The petitioner preferred appeal against the order dated 10.04.2014, which was rejected vide order dated 21.5.2014 (Annexure P-7) by the Inspector General,/TS. Thereafter, the petitioner filed revision petition dated 04.08.2014 (Annexure P-8) under Rule 9 of the Central Industrial Security Act, 1968 but no

response was received. After various reminders sent by the petitioner to the respondents, the respondents vide order dated 06.05.2015 (Annexure P-10) rejected the same stating that as per the provisions contained in Rule 26 of the CISF Rules, 2001, there is no provision for second representation or revision petition against the termination.

Aggrieved against the aforesaid, the petitioner has filed this writ petition impugning the termination order dated 10.04.2014 (Annexure P-5) and orders passed in appeal and revision.

Learned counsel for the petitioner contends that the termination order is stigmatic and has been passed without any enquiry.

To appreciate the argument of the petitioner it would be necessary to reproduce the order of termination. It reads as under:

“Whereas CISF No.130204424 SI/Exe/UT Jasandeep Singh s/o Shri Tara Singh was appointed as SI/Exe in Central Industrial Security Force wef. 09.08.2013. he is on probation for a period of two years from the date of his appointment and still continues to be so.

02. Whereas, by virtue of the provision contained in Rule 25(2) of CISF Rules 2001, the appointing Authority of above CISF No.130204424 SI/Exe/UT Jasandeep Singh s/o Shri Tara Singh, is empowered to terminate his services during the period of probation, if it is of the opinion that he is not fit for permanent appointment in CISF.

03. Now, in pursuance of the provision of Sub-Rule (2)

Rule 25 of the Central Industrial Security Force Rules 2001, I T.Vikram, DIG NISA hereby terminate forthwith the services of Shri Jasandeep Singh and direct that he shall be entitled to claim a sum equivalent to the amount of his pay plus allowances in lieu of one month notice at the same rate at which he was drawing them immediately before the termination of his service.”

In the impugned order, the Appointing Authority has only recorded that the petitioner is not fit for permanent appointment in CISF. Hence, the argument of the learned counsel for the petitioner that the order is stigmatic cannot be accepted.

It is well settled that during the period of probation, the authorities have the right to terminate the services of an employee without any cause shown. The impugned order is a simplicitor order of termination of service during the period of probation and cannot be considered as stigmatic.

A short and very illuminating discussion about the purpose of probation and the rights of the employer vis-a-vis an employee on probation is found in the decision of the Hon'ble Supreme Court in **Ajit Singh v. State of Punjab, (1983) 2 SCC 217**, where the Hon'ble Supreme Court observed as under:

“6. This requires examination of the genesis why period of probation is prescribed. And how the period of probation has been understood in service jurisprudence.

7. When the master-servant relation was governed by the archaic law of hire and fire, the concept of probation in service jurisprudence was practically absent. With the advent of security in public service when termination or removal became more and more difficult and order of termination or removal from service became a subject-matter of judicial review, the concept of probation came

to acquire a certain connotation. If a servant could not be removed by way of punishment from service unless he is given an opportunity to meet the allegations if any against him which necessitates his removal from service, rules of natural justice postulate an enquiry into the allegations and proof thereof. This developing master-servant relationship put the master on guard. In order that an incompetent or inefficient servant is not foisted upon him because the charge of incompetence or inefficiency is easy to make but difficult to prove, concept of probation was devised. To guard against errors of human judgment in selecting suitable personnel for service, the new recruit was put on test for a period before he is absorbed in service or gets a right to the post. Period of probation gave a sort of locus penitentiae to the employer to observe the work, ability, efficiency, sincerity and competence of the servant and if he is found not suitable for the post, the master reserved a right to dispense with his service without anything more during or at the end of the prescribed period which is styled as period of probation. Viewed from this aspect, the courts held that termination of service of a probationer during or at the end of a period of probation will not ordinarily and by itself be a punishment because the servant so appointed has no right to continue to hold such a post any more than a servant employed on probation by a private employer is entitled to (see Parshotam Lal Dhingra v. Union of India). The period of probation therefore furnishes a valuable opportunity to the master to closely observe the work of the probationer and by the time the period of probation expires to make up his mind whether to retain the servant by absorbing him in regular service or dispense with his service. Period of probation may vary from post to post or master to master. And it is not obligatory on the master to prescribe a period of probation. It is always open to the employer to employ a person without putting him on probation. Power to put the employee on probation for watching his performance and the period during which the performance is to be observed is the prerogative of the employer.”

Accordingly, there is no merit in the writ petition and the same is dismissed.

13.10.2015**(HARINDER SINGH SIDHU)
JUDGE**