

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.1768 of 2016**

**In**

**Civil Writ Jurisdiction Case No.1053 of 2009**

=====

Ajit Kumar, Son of Sri Ram Pravesh Sharma, Resident of Village- Gopalpur,  
P.O.- Jamuk, P.S.- Parasbigha, District- Jehanabad (Bihar).

... .. Appellant/s

Versus

1. The Union of India through the Secretary, Ministry of Home Affairs, North Block, New Delhi.
2. The DG, CRPF, Block No. 1, CGO Complex, Lodhi Road, New Delhi.
3. The Inspector General of Police, Bihar, Sector, CRPF, Digha Complex, Ashiyana Nagar Post, Patna.
4. Addl. DIG of Police, GC, CRPF, Mokamahghat, Patna.

... .. Respondent/s

=====

**Appearance :**

|                      |   |                                                                       |
|----------------------|---|-----------------------------------------------------------------------|
| For the Appellant/s  | : | Mr P. K. Shahi, Sr. Advocate<br>Mr. Rajesh Kumar                      |
| For the Respondent/s | : | Mr. S. D. Sanjay, Addl. Sol. General<br>Mr Ravinder Kumar Sharma, CGC |

=====

**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI**  
**and**  
**HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)**

**Date : 21-12-2017**

Delay of three days in preferring the appeal is condoned.

I. A. No.2202 of 2017 is allowed. Matter is thereafter taken up on the merits.

2. Heard learned senior counsel for the appellant and learned Additional Solicitor General assisted by Mr Ravinder Kumar Sharma, CGC.



3. The writ application of the appellant was dismissed by the learned Single Judge vide order dated 15.07.2016. The order of termination simpliciter passed by the authority while the appellant was still a probationer became the subject matter of challenge before the learned Single Judge. What was urged before the learned Single Judge is also urged before us and main thrust of the argument made on behalf of the appellant is that much more is available in terms of material, which formed the basis for such a decision, and the power, which has been exercised under the Central Civil Services (Temporary Service Rules), 1965, is an eye wash. This position can be established by having a look at Annexure- 2 to the writ application, which is the order passed by the appellate authority. When the same is read in entirety, the reasons are much more than simply case of exercise of authority under the 1965 Rules.

4. The learned Single Judge did not bite the argument and he has gone by the essence of the order of termination, which is an order simpliciter, and has been passed under Rule 5 of the Central Civil Services (Temporary Service Rules).

5. It is not a matter of dispute that the appellant was a probationer and the power under the Rules was exercisable.



6. Another stand taken by the learned senior counsel for the appellant is that once the appellate authority has disclosed the reasons then it becomes a case of stigma and then the process of inquiry etc. should have been followed instead of trying to camouflage the decision under Rule 5 of the 1965 Rules.

7. The Rule in question is a valid piece of legislation. It has been tested earlier and found to be intra vires. So long as order of termination does not disclose any kind of stigma then it will not be open to the Court to go behind the reasons because those reasons are hidden from the public gaze and this Court has never come across a case where no reason exists for exercising power for such termination of a probationer.

8. The line of argument which has been made by the learned senior counsel for the appellant virtually brings the appellant within the domain of a permanent employee, which protection he does not have and the Rule and the Constitution does not guarantee. The learned Single Judge has taken note of many a decisions on such issues and rightly held that the power under 1965 Rule has been exercised properly since the order of termination of the probationer is an order passed without any stigma or any reasons as such. The order of such removal has to



be tested on the face value and not by making a detailed investigation.

The appeal, therefore, stands dismissed being devoid of merit.

**(Ajay Kumar Tripathi, J)**

**( Rajeev Ranjan Prasad, J)**

sk

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 21.12.2017 |
| Transmission Date | NA         |

