

\$~20 & 22

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Order: August 13, 2018

+ W.P.(C) 2115/2018
GAURAV KUMAR Petitioner

versus

HIGH COURT OF DELHI Respondent

+ W.P.(C) 4384/2018
GOPAL SINGH Petitioner

versus

HIGH COURT OF DELHI Respondent

Counsel for the petitioner:

Through: Ms. Saahila Lamba, Advocate

Counsel for the respondent:

Through: Mr. Sanjoy Ghose, Mr. Rishabh Jetly,
Mr. P. Shwetank Singh, Ms. Urvi
Mohan, Advocate for DHC.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

%

S. RAVINDRA BHAT, J. (ORAL)

1. In both these petitions, the petitioners complain that for the orders terminating their probation from employment as Chauffeur/Drivers, no material has come on record. Both the

petitioners were employed by the Delhi High Court Establishment at the same time, i.e., in the year 2013. It is emphasized that the work appraisal note issued by the concerned Assistant Registrar in the year 2015 records that the work performed by them was good and satisfactory. It is submitted that in the light of these facts and that no memo was ever issued to either of them highlighting any default on their part or lack of devotion on their part, their probation could not have been terminated summarily by invocation of Rule 5 of the *Central Civil Services (Temporary Service) Rules, 1965*.

2. Ms. Saahila Lamba, who appears on behalf of both the petitioners, further highlighted that apart from the satisfactory note issued by the concerned Assistant Registrar, in the absence of any memo, a comparison of the leave availed of by the petitioners, with the leave availed by other chauffeurs, whose services were confirmed, shows that in fact there is no discernible pattern and that to the contrary, those, moved on leaves at the relevant time were confirmed. Emphasizing the need for showing some memos, learned counsel also juxtaposed the petitioner's case with the conduct of one Mr. Anil Kumar and Mr. Nitesh Kaushik in whose case there were serious allegations warranting memos that lead to the termination of their probation.

3. A careful reading of the minutes of the meeting of the concerned Committee, which examined the proposal for confirmation of service and declaration that the concerned employees have successfully completed their probation would show that in every case,

the Committee looked into the record, in the light of the report furnished to it. The petitioner's record and the reports speak of their tendency to avail of leave often; emphasizing that they were habituated to avoiding duties, on one pretext or the other. The petitioners' argument to this effect is that there is no memo or any other documents on record to substantiate such allegations.

4. This court notices that the work and conduct of the petitioners and other drivers was monitored on a day to day basis by the concerned official of the Protocol Branch including the concerned Assistant Registrar, who in fact deploy them on daily basis. The petitioners did not complain of malice on the part of any such officer; in fact, they rely on recording made in general terms by the concerned Assistant Registrar for the year 2015. In these circumstances, if that officer had the basis to assess their work on a daily basis and on the objective assessment of discharge of their duties, felt that they availed of leave (which is a fact discernible from the record) and were also habituated to avoiding performance of duty on flimsy pretexts or the other, in such a situation, the report is to be given due weight rather than to brush aside merely on the ground that no memo was issued. The concerned Committee of the Court comprising of Judges carefully looked into the record and decided that these petitioners, besides other five, should not be continued in employment and that in the greater good of the establishment, it was necessary to terminate their probation. This court is not satisfied that the petitioners have shown any illegality, procedural irregularity in any manner of the

issuance of the termination order nor they have been able to establish malice or malafide in any form whatsoever.

5. In these circumstances, these petitions have to fail. Accordingly, the writ petitions are dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

AUGUST 13, 2018
pkb