

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P. (TR) No.1461 of 2017,
I.A.No.2 of 2018 in/and W.P. 4824 of 2018
and C.C. No.960 of 2018

COMMON ORDER :

The preliminary facts:

The petitioner belongs to BC-B community and passed Bachelor in Arts course.

2. The State Level Police Recruitment Board (for short "the Board") issued a notification dt.30-12-2018 (2) inviting applications for filling up posts of Stipendiary Cadet Training Police Constable (Civil) (Men) and also A.P.S.P., A.R. etc.

3. Petitioner applied and qualified in the preliminary test i.e. 5 K.Ms. Run on 12-03-2009. He also qualified in the physical measurements test on 18-07-2009 and later in the written test held on 13-09-2009 with Registration No.856821. Results were declared on 14.12.2010.

4. He was provisionally selected for the post of Stipendiary Cadet Training Police Constable (Civil) (Men) in Nalgonda District as local candidate under BC-B category.

5. He was then called for Medical Examination and after he qualified it, the Superintendent of Police, Nalgonda issued appointment/selection orders vide proceedings C No.356/A1/Rec-2008(2)/2008-2011 dt.17-04-2011 and directed petitioner to report to

the DTC, Adilabad on 17-04-2011 to undergo 9 months induction training commencing from 18-04-2011.

6. Another proceeding was also issued on 11-04-2011 stating that petitioner was selected to the post of Police Constable (Civil) in Nalgonda District Unit and asking him to report to the DTC, Adilabad. He also executed a security bond on Rs.100/- Non-Judicial stamp paper and was issued identity card with signature of the Superintendent of Police.

7. However, petitioner was informed that he would be sent for training later.

8. Two years elapsed and there was no news and others who were selected along with the petitioner completed their training and also were issued appointment orders and posting orders.

The decision in O.A.No.2943 of 2012 and batch

9. Others similarly situated like the petitioner filed O.A.No.2943 of 2012 and batch before the A.P. Administrative Tribunal.

10. Before the Tribunal, a defence was raised by the State that the applicants in the O.As. were involved in impersonation and a crime No.164/2010 under Section 419, 420, 120-B of I.P.C. r/w Section 3 of the A.P. Public Examinations (Prevention of Malpractices) Act, 1997 was registered in Tippiarhi P.S., that the said case was under investigation and so the applicants were not sent for training. During

the hearing, the applicants contended that they had not been accused in that crime and so the respondents were not justified in not deputing them for training even long after their selection. The Government Pleader stated that answer scripts and other relevant material was sent to F.S.L. for opinion and such opinion was not received and so they could not be sent for training.

11. Initially interim orders and later final orders were passed on 09-11-2012 wherein the Tribunal allowed their O.As. The Tribunal rejected this contention and held that no progress in the investigation had taken place for more than a year after the material was referred to F.S.L. in May, 2011, and by the date of its order, no charge sheet has been filed in any criminal Court against the applicants though charge sheets are required to be filed even in grave cases within 90 days. It also noted that the applicants were not shown as accused in the F.I.R. and that as per settled law, mere suspicion is not enough to deny appointment to a legally selected candidate and suspicion, however strong, cannot take the place of proof. It held that there is no material before the Tribunal to substantiate the allegation against the applicants and others who were also selected along with the applicants had been given training as well as posting. It observed that it may take considerable time and in the meantime the applicants might become over-aged and would not be in a position to get any employment. It therefore directed the respondents to issue appointment orders to the applicants and depute them for training subject to the proposed action

in Cr.No.164/2010 in accordance with law, if the applicants are ultimately found to be guilty of malpractice. It directed necessary orders to be passed within eight weeks from the date of receipt of the copy of the order. The order dt.09-11-2012 in O.A.No.2943 of 2012 and Batch of the Tribunal was not challenged by the State and attained finality.

12. This order was complied with, appointment letters were issued and the said persons were sent also for training and later posting orders were issued to them.

The plea of petitioner in O.A.No.220 of 2014/ W.P. (TR) No.1461 of 2017.

13. Relying on the above order, petitioner filed O.A.No.220 of 2014 before the A.P. Administrative Tribunal, Hyderabad and sought similar relief contending that otherwise the respondents may not take further steps for sending him for training which was to commence from 26-01-2014.

14. On 29-01-2014 in O.A.No.220 of 2014, the Administrative Tribunal passed interim orders directing the respondents to depute the petitioner for training in the post of Stipendiary Cadet Training Police Constable (Civil) (Men) commencing shortly thereafter pursuant to the selection order issued by the Superintendent of Police, Nalgonda on 17-04-2011 and also in terms of the judgment dt.09-11-2012 in O.A.No.3478 of 2012 and batch.

15. Thereafter V.M.A. No.1323 of 2014 was filed to vacate the said order.

16. In the said application, it was alleged that the petitioner and 13 others were suspected to be involved in impersonation during the examination of Stipendiary Cadet Training Police Constable (Civil) (Men), 2008(2) batch and that Circle Inspector of Police, Nakrekal was investigating the case; and so he was not sent for training as the case was under investigation. It was stated that after disposal of the criminal case, further action be taken. It was stated that FSL report was awaited. It was admitted that O.A.No.2943 of 2012 filed by others similarly placed was allowed by the Tribunal on 09-11-2012 and they were sent for training subject to the outcome of the criminal case. It was also stated that the Chairman of the Board had decided to implement the interim order dt.29-01-2014 in O.A.No.220 of 2014 subject to the outcome of the criminal case and the petitioner would be sent for training in the next batch.

17. Thereafter petitioner was sent to the Police Training College, Karimnagar by proceedings dt.29-05-2017 subject to the outcome of the criminal case in Cr.No.164/2010. The training commenced on 01.06.2017 and was to end on 28-02-2018.

18. In the meantime, the A.P. Administrative Tribunal's jurisdiction in respect of the State of Telangana ceased and the said O.A.No.220

of 2014 was transferred to this Court and renumbered as W.P. (TR) No.1461 of 2017.

19. Since the interim order passed on 29-01-2014 in O.A.No.220 of 2014 was implemented by the respondents by sending the petitioner for induction training, nothing survives for adjudication in the said W.P. (TR) No.1461 of 2017. Accordingly, the W.P. (TR) No.1461 of 2017 is dismissed as infructuous. No costs.

Events post 29-5-2017 and W.P.4824/2017

20. Petitioner was arrested on 29-01-2018 in connection with Cr.No.164 of 2010 and was released on bail on 07-02-2018.

21. Admittedly no charge sheet has been filed till date by the respondents in the Criminal Court in relation to Cr. No.164 of 2010.

22. Thereafter, the Inspector General of Police (Training and Legal), Telangana State, Hyderabad issued proceedings Rc.No.183/Trg-1/2018, Office Order No.26/2017 dt.30-01-2018 quoting Rule 6 sub-para (ii) of the Telangana State Police (Stipendiary Cadet Trainee) Rules, 1999 discharging the petitioner from the post of Stipendiary Cadet Training Police Constable (Civil) (Men) on the ground that he got *involved* in the said criminal case. The Superintendent of Police, Nalgonda and the Principal of the Police Training College, Karimnagar were directed to strike off his name from the Rolls of their Units/Training Centre and were directed to issue discharge order for his discharge.

23. Consequently, the Principal of the Police Training College, Karimnagar issued proceedings C.No.08/A1/PTC/2018 dt.06.02.2018 discharging the petitioner from training from 29.01.2018 and requested the Superintendent of Police, Nalgonda to strike off the name of the petitioner from the rolls of his Unit.

24. This was questioned by the petitioner in W.P.No.4824 of 2018.

25. On 05-03-2018 in I.A.No.1 of 2018 in W.P.No.4824 of 2018, this Court directed the Superintendent of Police, Nalgonda and the Police Training College, Karimnagar to permit the petitioner to complete the induction training for the said post of Stipendiary Cadet Training Police Constable (Civil) (Men) pursuant to the proceedings dt.29-05-2017 since the impugned orders dt.30-01-2018 of the Inspector General of Police (Training), Government of Telangana and Proceedings dt.06-02-2018 of the Principal, Police Training College, Karimnagar amounted to contempt of the order dt.29-01-2014 in O.A.No.220 of 2014 and the Court suspended the proceedings dt.06-02-2018 of the Principal, Police Training College, Karimnagar.

C.C.No.960 of 2018

26. As the said order was not implemented, petitioner filed C.C.No.960 of 2018 to punish the respondents under the Contempt of Courts Act, 1971 alleging that petitioner was served on 10.03.2018 a separate order dt.11.02.2018 in C.No.356/A2-RECTT/2008-18, D.No.186/2018 by the Superintendent of Police, Nalgonda striking off

petitioner's name from the rolls of the said unit and alleging that serving of the said order on the petitioner is clearly in defiance of the order dt.05.03.2018 in I.A. No.1 of 2018 in W.P. 4824 of 2018.

27. I.A.No.2 of 2018 is filed to vacate the said order.

COUNTER OF RESPONDENTS IN W.P.NO.4824/2018

28. The Inspector General of Police (Training) (4th respondent) filed a counter affidavit along with I.A. No.2 of 2018 contending that though petitioner was provisionally selected for the post of Stipendiary Cadet Training Police Constable (Civil) (Men), he was not sent for training as he was found involved in the criminal case Cr.No.164 of 2010.

29. He contended that the Inspector General of Police (Training) was not made a party in O.A. No.220 of 2014 filed by the petitioner before the A.P. Administrative Tribunal. In my opinion, he is not entitled to ignore the order dt.29.01.2014 passed therein because the then Government of Andhra Pradesh represented by its Principal Secretary, Home Department, Secretariat, Hyderabad as well as the Director General and Inspector General of Police, Andhra Pradesh, Hyderabad apart from the State Level Police Recruitment Board and the Superintendent of Police, Nalgonda were arrayed as parties in O.A. and the interim order passed therein would apply to and bind the 4th respondent also, whether or not he is a party to the said O.A.

30. It is stated in the counter affidavit of 4th respondent that petitioner was arrested while he was undergoing training in the Police Training College, Karimnagar on 29.01.2018 in connection with Cr.No.164 of 2010 and therefore orders were rightly issued discharging him from training on 30.01.2018 and his name was struck off by the Superintendent of Police, Nalgonda vide order dt.11.02.2018.

31. While admitting that notwithstanding the pendency of Cr.No.164 of 2010, petitioner was sent for training as per the interim order dt.29.01.2014 in O.A. No.220 of 2014, it is contended that petitioner is also an accused in the said case where several candidates got selected by impersonation and was arrested on 29.01.2018. It is contended that because of his arrest, it was necessary to strike off his name from the rolls of the training as well as the unit. Reliance is placed on the decision of the Supreme Court of India reported in **State of West Bengal Vs. Nazrul Islam**¹ and it is contended that during pendency of criminal case, a candidate is not entitled for selection for appointment till acquittal order is passed.

THE CONSIDERATION BY THE COURT

32. A reading of the said judgment shows that in that case, the respondent before the Supreme Court was provisionally selected as a Police Constable pursuant to a notification issued by the West Bengal Police Directorate and the Medical Board also found him to be

¹ (2011) 10 SCC 184

medically fit. But the respondent had suppressed the fact that he was involved in a criminal case and a charge sheet was already filed in the said criminal case against him under Sections 148, 323, 380, 427 and 506 IPC before the Court of Additional Chief Judicial Magistrate, Uluberia, Howrah; that he had surrendered before the Court and was granted bail; and he had suppressed these facts in column No.13 of the verification roll submitted by him which required him to state whether he was ever arrested, detained or convicted. The above facts had come to light during antecedent verification. The respondent was not appointed as a Constable. He approached the West Bengal Administrative Tribunal for a direction to issue appointment letter in his favour but it dismissed his O.A., but the High Court in a Writ petition filed against the said order held that the authorities were not entitled to withhold the offer of appointment and directed that appointment order be issued to him subject to the result of the pending criminal case. When the State of West Bengal challenged the said order of the High Court, the Supreme Court set aside the order of the High Court. It observed that authorities entrusted with the responsibility of appointing constables were under duty to verify the antecedents of the candidates to find out whether he is suitable for the post of Constable and so long as the candidate has not been acquitted in the criminal case of the above charges, he cannot be possibly held to be suitable for appointment to the post of Constable.

33. Unlike in the above case, the name of the petitioner did not figure in the FIR basing on which Cr.No.164 of 2010 was registered under Section 419, 420, 120 B IPC and Section 3 of the A.P. Public Examinations (Prevention of Malpractices) Act, 1997 on 19.10.2010. From the counter affidavit it is not clear whether petitioner is accused of impersonating somebody else or accused of allowing somebody else of impersonating him.

34. There is a presumption of innocence in criminal law which cannot be lost sight of. Admittedly no charge sheet has been filed against him or any other accused till date i.e. for the last 8 1/2 years and there is no information from the respondents if and when such charge sheet is likely to be filed. But in **Nazrul Islam** (1 supra), not only was a charge sheet filed but petitioner was found to be involved in a criminal case *before* the recruitment itself and had suppressed it.

35. Admittedly several persons similarly situated persons like the petitioner, who had filed O.A. No.2943 of 2012 and batch, and who had succeeded on 09.11.2012 before the Administrative Tribunal, were not only sent for training but also given regular appointment and posting by the respondents. It appears that the said arrest of the petitioner was probably resorted to vindictively to deny the petitioner the benefit which the other similarly placed persons got and enjoyed pursuant to the orders dt.09.11.2012 in O.A. No.2934 of 2012 and batch.

36. So the factum of arrest of the petitioner on 29.01.2018 in my considered opinion does not assume any significance because even till date i.e. 1 year 3 months later, no charge sheet has been filed.

37. Also admittedly in spite of the pendency of the criminal case, the respondents had obeyed the order of the Administrative Tribunal dt.29.01.2014 and sent the petitioner for training from 01.06.2017 till they halted it from 29.01.2018. It is not a case where in ignorance of his alleged involvement in the criminal case, he was sent for training. Therefore, the above decision in **Nazrul Islam** (1 supra) does not apply to the case of the petitioner.

38. Learned Government Pleader alternatively contended that the petitioner is only a trainee, that he had no right conferred on him to get regular appointment and his case is akin to that of a probationer and relied upon the decision of the Supreme Court in **State of Punjab Vs. Sukhwinder Singh**².

39. In **Sukhwinder Singh** (2 supra), the respondent had joined on 04.08.1989 as a Police Constable in District Amritsar in the State of Punjab. He was sent for training at Police Recruit Training College, Jahan Khelan. He absented himself from duty w.e.f. 22.02.1990 without making any application for grant of leave or seeking permission for his absence. On 16.03.1990, the Senior Superintendent of Police, Amritsar passed an order discharging him from service w.e.f. 16.03.1990 under the Punjab Police Rules 12.21 "*as he is not*

² 2005 (5) SCC 569

likely to become an efficient Police Officer.” The respondent filed a civil suit to declare the said order as illegal on the ground that no enquiry was conducted and no opportunity for hearing was given. The suit was decreed and confirmed in First Appeal and Second Appeal by the High Court. On further appeal to the Supreme Court, the Supreme Court reversed the decision in favour of the respondent and upheld her discharge. Rule 12.21 of the Rules relied upon by the appellant in that case stated:

“A constable who is found unlikely to prove an efficient police officer may be discharged by the Superintendent at any time within three years of enrolment. There shall be no appeal against an order of discharge under this Rule.”

The Supreme Court held that during the course of training, a Constable is under surveillance and close supervision, that he has no right to the post and his services are terminable at any time during the period of three years; and he can secure his position in the service only if he convinces the Superintendent of Police that he is likely to prove an efficient Police Officer. It held that if on a consideration of the relevant material, the Superintendent of Police finds that a particular Constable is not active, disciplined, self reliant, punctual, sober, courteous or straight forward or that he does not possess the knowledge or the technical details of the work required of him, he can reasonably form an opinion that he is not likely to prove an efficient Police Officer and then he can invoke rule 12.21 and discharge the Constable from the force. It rejected the contention that the discharge

order was founded upon an act of misconduct i.e., continuous absence from duty of the respondent; that the order of discharge was in fact an order of dismissal by way of punishment; and since no formal enquiry was held and the respondent was not given opportunity to defend himself, the said order is illegal. It observed that *termination of service of a probationer during or at the end of period of probation will not ordinarily and by itself be a punishment*. It also held that mere holding of a preliminary enquiry where explanation is called from an employee would not make an otherwise innocuous order of discharge or termination of service punitive in nature.

40. The facts of the above decision indicate that when, *during the course of training* of a Police Constable, his performance or conduct is not satisfactory, he can be discharged from service by an innocuous order.

41. In the instant case, it is not the case of the respondents that there was any misconduct committed by the petitioner *during training* or that his performance during training was not satisfactory is not the case of the respondents at all. It is their case that the alleged misconduct occurred at the time of the written examination held on 13.09.2009 long before the training commenced.

42. In the orders dt.30.01.2018 of the Inspector General of Police as well as the order dt.11.02.2018 of the Superintendent of Police, Nalgonda there is a specific reference to the alleged involvement of

the petitioner in the criminal case Cr.No.164 of 2010 and also reference to Rule 6 sub para 2 of T.S. Police Academy (Stipendiary Cadet Trainee) Rules, 1999 and the factum of his arrest on 29.01.2018. Thus it was not an innocuous order of discharge as in **Sukhwinder Singh** (2 supra) . Rule 6 of the above Rules states:

“Discipline:

The trainees shall adhere to discipline and good conduct in the training institutions and show satisfactory progress during the period of training. The trainees shall be discharged from training without assigning any reason and without issuance of any prior notice to them for unsatisfactory conduct of unsatisfactory performance.....”

The above Rule is attracted only if the conduct or performance of the petitioner *in the training institution* is unsatisfactory or where he did not adhere to discipline and good conduct *there*. As already stated it is not the case of the respondents that there was any misconduct committed by the petitioner *during* training or that his performance during training was not satisfactory at all. It is their case that the alleged misconduct occurred at the time of the written examination held on 13.09.2009 long before the training commenced. So the decision in **Sukhwinder Singh** (2 supra) has not application to the instant case.

43. In **Radhy Shyam Gupta Vs. U.P. State Agro Industries Corporation Limited and Another**³, the Supreme Court held after considering all the earlier cases including the 7 Judge Bench decision

³ (1999) 2 SCC 21

in **Samsher Singh Vs. State of Punjab**⁴ and **Gujarat Steel Tube Limited Vs. Gujarat Steel Tubes Mazdoor Sabha**⁵ that a termination effected because the master is *satisfied of the misconduct* and of the consequent desirability of terminating the service of the delinquent servant, is a dismissal, even if he had the right in law to terminate with an innocent order under the standing order or otherwise. Whether, in such a case the grounds are recorded in a different proceeding from the formal order does not detract from its nature. Nor the fact that, after being *satisfied* of the guilt, the master abandons the enquiry and proceeds to terminate. *Given an alleged misconduct and a live nexus between it and the termination of service, the conclusion is dismissal*, even if full benefits as on simple termination, are given, and non injurious terminology is used.

44. On the contrary, even if there is *suspicion* of misconduct, the master may say that he does not wish to bother about it and may not go into his guilt, but may feel like not keeping a man he is not happy with. He may not like to investigate nor take the risk of continuing a dubious servant. Then it is not a dismissal but termination simpliciter, if no injurious record of reasons is found.

45. The Court explained that *it will be a case of motive if the master, after gathering some prima facie facts, does not really wish to go into their truth but decides merely not to continue a dubious employee. The master does not want to decide or direct a decision*

⁴ (1974) 2 SCC 831

⁵ (1980) 2 SCC 593

*about the truth of the allegations. But if he conducts an enquiry only for the purpose of proving the misconduct and the employee is not heard, it is a case where the enquiry is the **foundation** and the termination will be bad.*

46. In **Dipti Prakash Banerjee Vs. Satyendra Nath Bose National Centre for Basic Sciences, Calcutta and others**⁶ the Supreme Court again explained in what circumstances an order of termination of a probationer can be said to be punitive and observed that it depends upon *whether the allegations which are the cause of the termination are the **motive or foundation***. It observed that if findings were arrived at in an enquiry as to misconduct, behind the back of the Officer or without a regular departmental enquiry, the simple order of termination is to be treated as “*founded*” on the allegations and it will be bad in law.

47. But if the enquiry was not held, no findings were arrived at and the employer was not inclined to conduct an enquiry but, at the same time, he did not want to continue the employee against whom there were complaints, it would only be a case of *motive* and the order will not be bad. It observed that similar is the position if the employer did not want to enquire into the truth of the allegations because of delay in regular departmental proceedings or he was doubtful about securing evidence. In such circumstances it held that allegations would be the

⁶ (1999) 3 SCC 60

motive and not the *foundation* and the simple order of termination would be valid.

48. In **Ratnesh Kumar Choudhary v. Indira Gandhi Institute of Medical Sciences**⁷, the Supreme Court applied **Radhy Shyam Gupta** (4 Supra) and observed:

“27. In the case at hand, it is clear as crystal that on the basis of a complaint made by a Member of the Legislative Assembly, an enquiry was directed to be held. It has been innocuously stated that the complaint was relating to illegal selection on the ground that the appellant did not possess the requisite qualification and was appointed to the post of Chest Therapist. The report that was submitted by the Cabinet (Vigilance) Department eloquently states about the conduct and character of the appellant. The stand taken in the counter-affidavit indicates about the behaviour of the appellant. It is also noticeable that the authorities after issuing the notice to show cause and obtaining a reply from the delinquent employee did not supply the documents. Be that as it may, no regular enquiry was held and he was visited with the punishment of dismissal. It is well settled in law, if an ex parte enquiry is held behind the back of the delinquent employee and there are stigmatic remarks that would constitute foundation and not the motive. Therefore, when the enquiry commenced and thereafter without framing of charges or without holding an enquiry the delinquent employee was dismissed, definitely, there is clear violation of principles of natural justice. It cannot be equated with a situation of dropping of the disciplinary proceedings and passing an order of termination simpliciter. In that event it would have been motive and could not have travelled to the realm of the foundation. We may hasten to add that had the appellant would have been visited with minor punishment, the matter possibly would have been totally different. That is not the case. It is also not the case that he was terminated solely on the ground of earlier punishment. In fact, he continued in service thereafter. As the report would reflect that

⁷ (2015) 15 SCC 151

there are many an allegation subsequent to the imposition of punishment relating to his conduct, misbehaviour and disobedience. The Vigilance Department, in fact, had conducted an enquiry behind the back of the appellant. The stigma has been cast in view of the report received by the Central Vigilance Commission which was ex parte and when that was put to the delinquent employee, holding of a regular enquiry was imperative. It was not an enquiry only to find out that he did not possess the requisite qualification. Had that been so, the matter would have been altogether different. The allegations in the report of the Vigilance Department pertain to his misbehaviour, conduct and his dealing with the officers and the same also gets accentuated by the stand taken in the counter-affidavit. Thus, by no stretch of imagination can it be accepted that it is termination simpliciter. The Division Bench has expressed the view that no departmental enquiry was required to be held as it was only an enquiry to find out the necessary qualification for the post of Chest Therapist. Had the factual score been so, the said analysis would have been treated as correct, but unfortunately the exposition of factual matrix is absolutely different. Under such circumstances, it is extremely difficult to concur with the view expressed by the Division Bench.”

49. In a somewhat similar situation akin to the facts in the instant case, where services of an employee on probation were terminated for alleged malpractice in examination, the Supreme court held in **SBI v. Palak Modi**⁸, as under:

“6. There is a marked distinction between the concepts of satisfactory completion of probation and successful passing of the training/test held during or at the end of the period of probation, which are sine qua non for confirmation of a probationer and the Bank’s right to punish a probationer for any defined misconduct, misbehaviour or misdemeanour. In a given case, the competent authority may, while deciding the issue of suitability of the probationer to be confirmed, ignore the act(s) of misconduct and terminate his service without casting any aspersion or stigma which

⁸ (2013) 3 SCC 607

may adversely affect his future prospects but, if the misconduct/misdemeanour constitutes the basis of the final decision taken by the competent authority to dispense with the service of the probationer albeit by a non-stigmatic order, the Court can lift the veil and declare that in the garb of termination simpliciter, the employer has punished the employee for an act of misconduct.

37. The use of unfair means in the evaluation test/confirmation test held by the Bank certainly constitutes a misconduct. The Bank itself had treated such an act to be a misconduct (Para 10 of Advertisement dated 1-7-2008). It is not in dispute that the services of the private respondents were not terminated on the ground that there was any deficiency or shortcoming in their work or performance during probation or that they had failed to satisfactorily complete the training or had failed to secure the qualifying marks in the test held on 27-2-2011. As a matter of fact, the note prepared by the Deputy General Manager, which was approved by the General Manager makes it crystal clear that the decision to dispense with the services of the private respondents was taken solely on the ground that they were guilty of using unfair means in the test held on 27-2-2011. To put it differently, the foundation of the action taken by the General Manager was the accusation that while appearing in the objective test, the private respondents had resorted to copying. IBPS had relied upon the analysis made by the computer and sent a report to the Bank that 18 candidates were suspected to have used unfair means. The authority concerned then sent for the chart of seating arrangement and treated the same as a piece of evidence for coming to the conclusion that the private respondents had indeed used unfair means in the examination. This exercise was not preceded by an inquiry involving the private respondents and no opportunity was given to them to defend themselves against the charge of use of unfair means. In other words, they were condemned unheard which, in our considered view, was legally impermissible."(emphasis supplied)

50. In the instant case too, when the alleged malpractice in the examination is the *foundation* for the discharge of the petitioner from

training and striking him off the rolls of the Unit and the order of discharge mentions his involvement in the criminal case registered with the said alleged malpractice, the respondents cannot contend that no enquiry is warranted and his discharge has to be upheld.

51. Also when the respondents themselves had implemented the interim order of the Administrative Tribunal in O.A.No.220 of 2014 and sent him for training *subject to* the result of the above criminal proceedings, and they had implemented without any challenge the order of the Administrative Tribunal for other employees who were also similarly situated like the petitioner in O.A.No.2943 of 2012, the respondents cannot act arbitrarily and discriminate against the petitioner by issuing the impugned orders dt.30.01.2018 of the Inspector General of Police as well as the order dt.11.02.2018 of the Superintendent of Police, Nalgonda discharging him from service and training without even a charge sheet being filed in the Criminal case 8 ½ years after the alleged malpractice, and without conducting any enquiry against him where he could have defended himself. There is clear violation of principles of natural justice in the instant case.

52. Therefore the impugned orders Rc.No.183/Trg-1/2018, Office Order No.26/2017 dt. 30-01-2018 of the Inspector General of Police as well as the order C.No.356/A2-RECTT/2008-18, D.No.186/2018 dt.11.02.2018 of the Superintendent of Police, Nalgonda and proceedings C.No.08/A1/PTC/2018 dt. 06.02.2018 of the Principal, Police Training College, Karimnagar cannot be sustained. They are

accordingly set aside and the W.P.No.4824 of 2018 is allowed with costs of Rs.10,000/- to be paid by the 1st respondent to the petitioner; I.A.No.2/2018 in W.P.No.4824 of 2018 is dismissed; and the respondents are directed to forthwith permit the petitioner to complete the balance of training in the next batch and give him appointment and posting subject to the result of Cr.No.164/2010.

CONSIDERATION OF CC.No.960 of 2018

53. Coming to the Contempt Case, since I.A.No.2 of 2018 filed to vacate the order dt.05-03-2018 in I.A.No.1 of 2018 in W.P.No.4824 of 2018 was pending till date, I do not wish to punish the respondents for alleged willful disobedience of the said order.

54. Accordingly, C.C.No.960 of 2018 is dismissed. No costs.

55. In the result:

- (a) W.P.(TR) No.1461 of 2017 is dismissed as infructuous;
- (b) the impugned orders proceedings Rc.No.183/Trg-1/2018, Office Order No.26/2017 dt.30-01-2018 of the Inspector General of Police as well as the order C.No.356/A2-RECTT/2008-18, D.No.186/2018 dt.11.02.2018 of the Superintendent of Police, Nalgonda and the proceedings C.No.08/A1/PTC/2018 dt.06.02.2018 of the Principal, Police Training College, Karimnagar cannot be sustained. They are accordingly set aside and the W.P.No.4824 of

2017 is allowed with costs of Rs.10,000/- to be paid by the 1st respondent to the petitioner; I.A.No.2/2018 in W.P.No.4852 of 2017 is dismissed; and the respondents are directed to forthwith permit the petitioner to complete the balance of training in the next batch and give him appointment and posting subject to the result of Cr.No.164/2010;

(c) C.C.No.960 of 2018 is dismissed. No costs.

56. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 26.04.2019

Vsv/Lsk/*

