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

(201)

CWP-2567-2016

Date of Decision : August 22, 2025

Comptroller and Auditor General of India and others

.. Petitioners

Versus

Central Administrative Tribunal and another

.. Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Barjesh Mittal, Advocate, for the petitioners.
(joined through VC).

Mr. Jagdeep Jaiswal, Advocate, for respondent No.2.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the order dated 20.10.2015 (Annexure P-4) passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (hereinafter referred to as 'Tribunal') by which, Original Application No.060/00290/2015 filed by respondent No.2 challenging the order relieving him during the period of probation has been set aside on the ground that the same is stigmatic and has been passed on the ground of misconduct and that too without holding any enquiry into such misconduct on the ground that the same is perverse.

2. Learned counsel for the petitioners submits that the order which has been passed by the Tribunal i.e. 20.10.2015 is factually incorrect as the order dated 10.01.2014 by which, respondent No.2 was terminated from service, is an order simplicitor relieving respondent No.2 from service during



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the period of probation which was from 24.02.2012 to 27.02.2014 and was as per the terms and conditions of his appointment hence, the finding so given that the same is stigmatic, is not born out of the impugned order and therefore, the order dated 20.10.2015 (Annexure P-4) passed by the Tribunal is incorrect to the facts and hence, cannot be sustained.

3. Learned counsel appearing on behalf of respondent No.2 submits that though, the order dated 10.01.2014 relieving the respondent No.2 from service is order simplicitor but on an appeal preferred, the order passed by the Appellate Authority gives the reasons which shows that action was taken due to alleged misconduct and therefore, the petitioners were bound to conduct the enquiry into the allegations before taking any action during the period of probation and order simplicitor could not have been passed without giving an opportunity of being heard to the respondent No.2 hence, the order passed by the Tribunal dated 20.10.2015 is liable to be upheld.

4. We have heard learned counsel for the parties and have gone through the record with their able assistance.

5. It is a settled principle of law that no order which is stigmatic can be passed while relieving an employee during the period of probation. In case, the order recites misconduct while relieving such probationer and that too without holding the enquiry and proving the said misconduct, the same has to be treated as stigmatic order and the same cannot be sustained.

6. The question whether, the order which has been passed against respondent No.2 in the present case is a stigmatic order or an order

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simplicitor is to be seen. The order which has been passed by the petitioners has been appended as Annexure A-1 page 34 of the paper book and the same is as under:-

“ **ORDER**

Order of termination of service issue under the Proviso to sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Services) Rules, 1965.

In pursuance of the Proviso to sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Services) Rules, 1965.

I hereby terminate forthwith the services of Sh. Vikram Raj Vir Singh, Accountant and direct that he shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of notice at the same rates at which he was drawing them immediately before the termination of his service.

Station: Chandigarh

Sd/-

Dy. Accountant General (Admn.)”

7. A bare perusal of the above would show that no such misconduct has been mentioned in the order dated 10.01.2014 and the same has been passed keeping in view the terms and conditions of the appointment order and the same has been passed during the period of probation. Once, the order does not recite any misconduct on the reason for passing such order, the same has to be treated as an order simplicitor rather a stigmatic order, which fact has been ignored by the Tribunal while passing the order dated 20.10.2015.

8. Further, the argument of the learned counsel for respondent No.2 is that on an appeal preferred, as to why, the respondent No.2 was relieved during the period of probation, certain reasons have been mentioned which are stigmatic and amounts to taking action due to misconduct hence,



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the enquiry into the such allegations was must before taking any action against respondent No.2 during the period of probation.

9. It may be noticed that in an appeal preferred, the respondent No.2 recited that there was nothing against respondent No.2 during the period of probation which would lead to the conclusion that respondent No. 2 is not fit to perform the duties of the post in question. It was under these circumstances, when such averments were made, the record of the respondent No.2 was mentioned, which is factual in nature, which happened during the period of probation.

10. As per the settled principle of law, all the facts taken into consideration, which came into being during the period of probation and then deciding whether the Officer is fit to be retained in service or not, including certain misconduct and that too by passing an order simplicitor, cannot be treated as arbitrary or illegal.

11. As per the settled principle of law, the total record is to be seen for adjudging the entitlement of an employee to continue in service. Describing the record, which have been taken into account to form the opinion, cannot be treated as arbitrary or illegal. The details which have been mentioned in the order passed in appeal, is only the description of the actual facts.

12. Further, the said question of law came before this Court in ***CWP No.7070 of 2017 titled as Nakul Kundra vs. Guru Nanak Dev University and others, decided on 20.08.2024.*** The relevant paragraph 25 of the said judgment is as under:-



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“ 25. Further, the argument of the learned counsel for the petitioner is that the impugned orders dated 11.06.2012 (Annexure P-21) as well as order dated 19.06.2012 (Annexure P-22) are stigmatic in nature. The said argument is incorrect in view of the language of the orders dated 11.06.2012 (Annexure P-21) as well as order dated 19.06.2012 (Annexure P-22). No allegation has been alleged against the petitioner in the said orders so as to terminate his services. It has only been mentioned that the work and the conduct of the petitioner is not satisfactory and his continuation in service will not be useful for the Institution. These observations cannot be termed as stigmatic in nature. No aspersion has been caused on the petitioner hence, it cannot be said that the orders dated 11.06.2012 (Annexure P-21) as well as order dated 19.06.2012 (Annexure P-22) are stigmatic in nature.”

13. That being so, order passed in appeal cannot be brought into operation to contend that the order relieving the respondent No.2 during the period of probation is stigmatic or the same was based upon the misconduct and that too without conducting the enquiry into the misconduct.

14. Keeping in view the totality of the circumstances, the order dated 20.10.2015 (Annexure P-4) passed by the Tribunal is perverse to the facts as well as the settled principle of law noticed hereinbefore and cannot be sustained and the same is set aside.

15. The writ petition is allowed in above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

August 22, 2025
harsha

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No