



2025:DHC:1610-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 1212/2025**

COMMISSIONER OF POLICE, DELHI & ORS.Petitioners
Through: Mr. Shashank Dixit, CGSC
with Mr. Rohit Gupta, Adv.

versus

RAVINDERRespondent
Through: Mr. Sachin Chandra, Adv.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)
11.02.2025

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CM APPL. 5930/2025 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 1212/2025 and CM APPL. 5931/2025 (Stay)

3. The respondent was appointed as Sub Inspector (Exe) in the Delhi Police on 10 June 2019. He remained under probation for two years.
4. FIR 616/2020 was lodged against the respondent on 23 August 2020 at PS HTM Hisar Haryana alleging commission of offences



2025:DHC:1610-DB



under Sections 420 / 467 / 468 / 471 of the Indian Penal Code, 1860¹. Trial, consequent to the registration of the FIR, is presently ongoing before the learned Chief Judicial Magistrate, CJM, Hissar.

5. In connection with the aforesaid FIR, the respondent was arrested on 23 August 2020. He was enlarged on bail by order dated 16 February 2021.

6. In the interregnum the respondent was placed under suspension by order dated 16 September 2020. This was followed by the following Show Cause Notice dated 23 November 2020, issued to him, under Rule 5(1) of the Central Civil Services (Temporary Service), Rules 1965²:

“SHOW CAUSE NOTICE FOR TERMINATION

Consequent upon receipt of a report from SHO / Maya Puri regarding arrest of PSI (Exe) Ravinder Kumar, No. D/6376, (PIS No.16190243) (Under Training) under dated 23.08.2020 u/s. 420/467/468/471 IPC PS HTM Hissar, Haryana on 23.08.2020. For the sake of natural justice a preliminary enquiry was ordered and entrusted to ACP/PG Cell, West District against PSI (Exe) Ravinder Kumar, No. D/8378. During enquiry, it has been established that complainant Smt. Babli Drawing Teacher G.S.S.S., Jahajpul Hissar, Haryana R/o. C-6, Ramtal Colony near Jat College, Hissar, Haryana reported that on 23.08.2020 she was detailed for invigilator duty at Govt. Higher Sec. School, Jahajpul, Hissar, Haryana during PTI Exam, at about 01.45 PM one Mandeep Singh came her class room on the pretext of QR Code scanning of Sunila's Roll No.60230018. He was caught by the complainant (Babli) while he was handling over answer key to Sunita. As such for his illegal activity he was handed over to police with (1) Roll No., Slip of Roll No. 60230018 (2) Forged I card (3) Answer key. Accordingly, a case FIR No.616/2020 dated 23.08.2020 u/s. 420/467/468/471 IP PS HTM, Hissar, Haryana was

¹ “IPC”, hereinafter

² “the TS Rules”, hereinafter



2025:DHC:1610-DB



got registered and arrested the accused person and investigation was taken up. The disclosure statement of accused was recorded and later on 120B IPC was invoked in the instant case. On the basis of disclosure statement of Mandeep Kumar, other co-accused persons PSI Ravinder and 17 others were also arrested. During investigation accused PSI (Exe) Ravinder Kumar, No. D/6376 had disclosed his involvement that he was a part of crime and played active role to finalize the deal and solved the paper to prepare the answer key for the applicants. The investigation of the case has been completed and final report as charge sheet u/s. 420/467/468/471/120B IPC has been filed in the Hon'ble Court. The case is pending trial in the court of Ms. Varsha Jain, CJM, Hissar, Haryana. Accused (Exe). Ravinder No. D/6376 is running in Judicial Custody at District Jail, Hissar, Haryana.

The above facts revealed that on 23 August 2020 you PSI (Exe) Ravinder Kumar, No. D/6376 left the police station without permission of competent authority and you did not bring the facts about your movement in the notice of SHO/ Maya Puri or other senior officers.

For the above misconduct you PSI (Exe) Ravinder Kumar, No. D/6376 was placed under suspension vide this office order No.5908-40/HAP (P-1)/West, dated 16 September 2020.

You, PSI (Exe) Ravinder Kumar, No. D/6376 enlisted in Delhi Police on 10.06.2019 and you are undergoing your basis training and you have not completed your probation period of 2 years.

As per Rule (1) of the Central Civil Service (Temporary Service) Rules, 1965, "The services of a temporary government servant shall be liable to termination at any time by a notice in writing given either by the government servant to the appointing authority or by the appointing authority to the government servant."

The above act, of you PSI (Exe) Ravinder Kumar, No. D/6376 establishes that you have no respect of law and you can go to any extent for earning money by unfair means without any temptation and provocation and which amounts to gross misconduct and unbecoming of a police officer of a disciplined force.

The involvement of you PSI (Exe.) Ravinder Kumar, No. D/6376 in such a shameful, criminal/corrupt activity eroded the faith of common people in police force and continuous in the force is likely to come future Irreparable loss to the functioning and



2025:DHC:1610-DB



credibility of the Delhi Police. Not only being a Govt. servant he did not inform for his Involvement in Cri. Case and his arrest to the department which he violate the CCS (Conduct) Rules and Delhi Police (Punishment & Appeal) Rules-1980.

Therefore, you PSI (Exe.) Ravinder Kumar, No. D/6376 (PIS No. 16190243) is hereby called upon to show cause as to why your services should not be terminated under Rules 5(1) of the Central Civil Service (Temporary Service) Rules, 1965 and your suspension period should not be decided period not spent on duty for all Intents & purposes. The reply to the show cause notice should reach the undersigned within 15 days from the receipt of this notice, failing which it will be presumed that you have nothing to say in your defence and the matter will be decided ex-parte, on its merits.

(Deepak Purohit) IPS
Dy. Commissioner of Police
West District, New Delhi.

No. 23238-39/Extt.(1)/West dated New Delhi the 23/11/2020”

7. Thus, the case against the respondent was based on the complaint of one Babli, a Drawing Teacher in the GSSS Jahajpul, Hisar. The allegation against the respondent was that he had solved the paper set for the PTI Examination, conducted at the Government Higher Senior Secondary School, Jahajpul, and that the answer key thus prepared was handed over by one Manmeet Singh to a candidate Sunita at about 1.45 pm when the examination was in progress. It was further alleged that the respondent had not informed the petitioner of his involvement in the aforesaid criminal case and his arrest therein. These acts, it was alleged, infringed the Central Civil Services (Conduct) Rules, 1964 and Delhi Police (Punishment and Appeal) Rules, 1980.

8. The respondent submitted a reply to the aforesaid show cause notice dated 23 November 2020 on 4 January 2021 through the



2025:DHC:1610-DB



Superintendent of the jail where he was lodged. He denied all allegations against him.

9. By order dated 29 January 2021, the Deputy Commissioner of Police³ terminated the respondent under Rule 5(1) of the TS Rules with immediate effect and further directed that the respondent's period of suspension from 16 September 2020 till the date of termination be treated as not spent on duty for all purposes. While the earlier paragraph of the said orders are a mere recital of the facts leading to issuance of the show cause notice, and the allegations therein, the concluding two paragraphs of the order merit reproduction:

“The above act on the part of PSI (Exe) Ravinder Kumar. No. D/6376 establishes that he has no respect of law and he can go to any extent for earning money by unfair means without any temptation and provocation which amounts to gross misconduct and unbecoming of a police officer of a disciplined force like Delhi Police

The involvement of PSI (Exe.) Ravinder Kumar. No. D16376 in such a shameful, criminal/corrupt activity eroded the faith of common people in police force and continuous in the force is likely to come future irreparable loss to the functioning and credibility of the Delhi Police, Not only being a Govt servant he did not inform about his Involvement in Cri Case and his arrest to the department which he violated the CCS (Conduct) Rules and Delhi Police (Punishment & Appeal) Rules-1980”

10. The respondent appealed against the aforesaid order to the Appellate Authority on 26 February 2021. The appeal was dismissed by the Appellate Authority in order dated 17 June 2021, which read thus :

“The appeal dated 29.02.2021 filed by you, against order no. 1395-1495/Estt(I)/West dt. 29/01/2021 has been examined by Jt. C. P. /WR, Delhi and the same has been rejected as you Ex. PSI (Exe.)



2025:DHC:1610-DB



Ravinder Kumar, No. D/6376 were terminated from service under Rule (5) (1) of CCS (Temporary) Services Rules, 1965, which is not an authorized punishment in Rule 5 of Delhi Police(Punishment & Appeal) Rules, 1980. Hence, no appeal lie under Rule 23 (1) of Delhi Police (Punishment & Appeal)Rules, 1980.”

11. Aggrieved thereby, the respondent approached the Central Administrative Tribunal⁴ by way of OA 1529/2022, praying that the show cause notice dated 23 January 2021, termination order dated 17 June 2021 and appellate order dated 7 July 2021, be quashed and set aside and that he be reinstated in service with all consequential benefits including seniority, promotion and pay and allowances.

12. The petitioner’s OA stands allowed by the learned Tribunal by order dated 8 October 2024, on the ground that the termination of the respondent was stigmatic and had, therefore, to be preceded by a formal inquiry. Accordingly, the Tribunal set aside the impugned orders and directed reinstatement of the respondent with all consequential benefits.

13. Aggrieved thereby, the petitioner has approached this Court by means of the present writ petition.

14. The issue in controversy stands concluded by a judgment of this Court in *GNCTD v Virender*⁵. In that case, too, the services of the respondent were terminated under Rule 5 of the TS Rules, by the following order:

⁴ “the Tribunal”, hereinafter

⁵ MANU/DE/1467/2024



“In pursuance of the Proviso to Sub-rule (1) of Rule 5 of the Central Civil Service (Temporary Services) Rules, 1965, I, Sudhir Yadav, Director General, Prisons, hereby terminate forthwith the services of Sh. Virender, Warder- 1685 on having found unsatisfactory and not conducive to the job requirements 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 or, as the case may be, for the period by which such notice falls short of one month.”

15. The Coordinate Bench has examined the legal position in detail. Paras 36 to 47 of the judgment in *Virender* read thus:

“36. The Supreme Court in the case of *State of Punjab and Ors. v. Constable Avtar Singh*⁶, has in paragraph 11 held as under:

"11. We have heard learned counsel for the parties. We are in total agreement with the submission of the learned counsel for the State of Punjab that the controversy involved in this case is no longer res integra. Learned counsel appearing for the respondent had drawn our attention to a two-Judge Bench decision of this Court in *Prithipal Singh v. State of Punjab*⁷. The Court held that once there is stigma, the principle is well settled, an opportunity has to be given before passing any order. Even where an order of discharge looks innocuous, but on a close scrutiny, by looking behind the curtain if any material exists of misconduct and which is the foundation of passing of the order of discharge, or such could be reasonably inferred, then it leaves no room for doubt that any consequential order, even of discharge, would be construed as stigmatic. The decision in *Sukhwinder Singh*⁸ was given by a three-Judge Bench and in view of that decision in 2005, there is no scope for this Court to take a different view. We are squarely bound by the said decision."

(emphasis supplied)

37. In the case of *State of Punjab and Ors. v. Sukhwinder Singh*, the Supreme Court has in paragraph 20, has held as under:

"20. In the present case neither any formal departmental

⁶ (2008) 7 SCC 405

⁷ (2002) 10 SCC 133

⁸ (2005) 5 SCC 569



inquiry nor any preliminary fact-finding inquiry had been held and a simple order of discharge had been passed. The High Court has built an edifice on the basis of a statement made in the written statement that the respondent was a habitual absentee during his short period of service and has concluded therefrom that it was his absence from duty that weighed in the mind of the Senior Superintendent of Police as absence from duty is a misconduct. The High Court has further gone on to hold that there is direct nexus between the order of discharge of the respondent from service and his absence from duty and, therefore, the order discharging him from service will be viewed as punitive in nature calling for a regular inquiry under Rule 16.24 of the Rules. We are of the opinion that the High Court has gone completely wrong in drawing the inference that the order of discharge dated 16-3-1990 was, in fact, based upon misconduct and was, therefore, punitive in nature, which should have been preceded by a regular departmental inquiry. There cannot be any doubt that the respondent was on probation having been appointed about eight months back. As observed in *Ajit Singh v. State of Punjab*⁹ the period of probation gives time and opportunity to the employer to watch the work, ability, efficiency, sincerity and competence of the servant and if he is found not suitable for the post, the master reserves 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. The mere holding of preliminary inquiry where explanation is called from an employee would not make an otherwise innocuous order of discharge or termination of service punitive in nature. Therefore, the High Court was clearly in error in holding that the respondent's absence from duty was the foundation of the order, which necessitated an inquiry as envisaged under Rule 16.24(ix) of the Rules."

38. In *Ratnesh Kumar Chaudhary*¹⁰, the Supreme Court has in paragraph 33 and 34, held asunder:

"33. It will be noticed from the above decisions that the termination of the services of a temporary servant or one on probation, on the basis of adverse entries or on the basis of an assessment that his work is not satisfactory will not be punitive inasmuch as the above facts are merely the motive and not the foundation. The reason why they are the motive is that the assessment is not done with the object of finding out any misconduct on the part of the officer, as stated by

⁹ (1983) 2 SCC 217

¹⁰ (2015) 15 SCC 151



Shah, J. (as he then was) in *Ram Narayan Das*¹¹ case. It is done only with a view to decide whether he is to be retained or continued in service. The position is not different even if a preliminary enquiry is held because the purpose of a preliminary enquiry is to find out if there is prima facie evidence or material to initiate a regular departmental enquiry. It has been so decided in *Champaklal* case¹². The purpose of the preliminary enquiry is not to find out misconduct on the part of the officer and if a termination follows without giving an opportunity, it will not be bad. Even in a case where a regular departmental enquiry is started, a charge-memo issued, reply obtained, and an enquiry officer is appointed -- if at that point of time, the enquiry is dropped and a simple notice of termination is passed, the same will not be punitive because the enquiry officer has not recorded evidence nor given any findings on the charges. That is what is held in *Sukh Raj Bahadur*¹³ case and in *Benjamin*¹⁴ case. In the latter case, the departmental enquiry was stopped because the employer was not sure of establishing the guilt of the employee. In all these cases, the allegations against the employee merely raised a cloud on his conduct and as pointed by Krishna Iyer, J. in *Gujarat Steel Tubes*¹⁵ case the employer was entitled to say that he would not continue an employee against whom allegations were made the truth of which the employer was not interested to ascertain. In fact, the employer by opting to pass a simple order of termination as permitted by the terms of appointment or as permitted by the rules was conferring a benefit on the employee by passing a simple order of termination so that the employee would not suffer from any stigma which would attach to the rest of his career if a dismissal or other punitive order was passed. The above are all examples where the allegations whose truth has not been found, and were merely the motive.

34. But in cases where the termination is preceded by an enquiry and evidence is received and findings as to misconduct of a definitive nature are arrived at behind the back of the officer and where on the basis of such a report, the termination order is issued, such an order will be violative of the principles of natural justice inasmuch as the purpose of the enquiry is to find out the truth of the allegations with a view to punish him and not merely to

¹¹ State of Orissa v. Ram Narayan Das, AIR 1961 SC 177

¹² Champaklal Chimanlal Shah v. Union of India, AIR 1964 SC 1854

¹³ State of Punjab v. Sukh Raj Bahadur, AIR 1968 SC 1089

¹⁴ A.G. Benjamin v. Union of India, (1967) 15 FLR 347 (SC)

¹⁵ Gujarat Steel Tubes Ltd. v. Mazdoor Sabha, (1980) 2 SCC 593



gather evidence for a future regular departmental enquiry. In such cases, the termination is to be treated as based or founded upon misconduct and will be punitive. These are obviously not cases where the employer feels that there is a mere cloud against the employee's conduct but are cases where the employer has virtually accepted the definitive and clear findings of the enquiry officer, which are all arrived at behind the back of the employee --even though such acceptance of findings is not recorded in the order of termination. That is why the misconduct is the foundation and not merely the motive in such cases."

(emphasis supplied)

39. Ms. Mazumdar has also relied upon the judgment in the case of **Chandra Prakash Shahi**¹⁶ wherein the order of termination of the appellant/Constable, who was on probation was set aside by the Tribunal. The Supreme Court upheld the same, noticing that the appellant had completed his training and probationary period of two years without any blemish and had been terminated on account of quarrel between two constables in which to begin with he was not involved. The termination was observed to be founded on the report of the preliminary enquiry conducted to find out the involvement of the appellant, but did not find out whether the appellant was further suitable for retention in service or confirmation as he has already completed the period of probation few years ago.

40. She has also referred to the judgment in the case of **Palak Modi**¹⁷ wherein the Supreme Court in paragraph 14 (2) held that the foundation of the action taken by the General Manager terminating the services of the respondent No.1 on the accusation that while appearing in the objective test, the private respondents had resorted to copying and the respondents were condemned unheard which was legally impermissible. It was further held if the misconduct misdemeanor constitutes the basis of the final decision taken by the competent authority to dispense with the service of the probationer by a non- stigmatic order, the Court can lift the veil and declare that in the garb of termination simpliciter the employer punished the employee for an act of misconduct.

41. The Supreme Court, in its latest opinion in the case of **State of Punjab and Ors. v. Jaswant Singh**¹⁸, has in paragraph 18, held as under:

¹⁶ **Chandra Prakash Shahi v State of UP**, (2000) 5 SCC 152

¹⁷ **State Bank of India v Palak Modi**, (2013) 3 SCC 607

¹⁸ **2023 (9) SCC 150**



"18. In view of the principles as reiterated in various judgments by this Court, if we examine the facts of the case in hand leading to the order of discharge, then it is crystal clear that respondent-plaintiff was appointed as a constable and joined the duties on 12.11.1989 on probation. During probation, while he was on training, he along with other trainee constables was deputed for law and order duty in Amritsar District on 24.11.1990. Respondent plaintiff and other recruits were relieved from the said duty and reported back at the Training Centre, except respondent-plaintiff, who remained on prolonged absence without any intimation to the Training Centre. The S.P., Training Centre, vide memorandum dated 21.02.1991, made a recommendation to S.S.P. that the respondent plaintiff had not shown any interest in the training and lacks sense of responsibility, further recommending that he is unlikely to prove himself as a good and efficient police officer, hence, he may be discharged under Rule 12.21 of PPR. From perusal of the said Rule, it is apparent that in case a probationary constable is found unlikely to prove an efficient police officer, he may be discharged by the Senior Superintendent of Police at any time within three years from the date of enrolment. The S.S.P. relying upon the recommendation of the supervising officer (S.P., Training Centre) formed an opinion that the probationary constable is found unlikely to prove an efficient police officer owing to his demeanour as reported and discussed herein above.

(emphasis supplied)

42. We may also refer to the latest opinion of this Court in ***Government of NCT of Delhi and Anr. v. Dalbir Singh***¹⁹, wherein this Court by referring to various judgments and on the basis of the termination order issued in the following manner has held that the order being non-stigmatic, the Tribunal could not have set aside the order of termination. The said termination order is reproduced as under:

"In pursuance of the Proviso to Sub-rule (1) of Rule 5 of the Central Civil Service (Temporary Services) Rules, 1965, I, Ajay Kashyap, Director General, Prisons, hereby terminate forthwith the services of Sh. Dalbir Singh, Warder - 1663 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 or, as the case may be, for the period by which such notice falls short of one month."

¹⁹ W.P.(C) 6596/2023



43. Having noted the judgments of the Supreme Court and this Court on the issue, it is clear that, if the order of termination is simpliciter as permitted by the terms of appointment or as permitted by rules so that the employee would not suffer any stigma attached to rest of his career then such an order is permissible as the employer was not interested in finding the truth of the allegations against the government servant. But in cases as held by the Supreme Court in **Ratnesh Kumar Chaudhary**(supra), where the termination is preceded by an enquiry and evidence is received and findings as to misconduct of a definite nature are arrived at behind the back of the officer and where on the basis of such a report, the termination order was issued, such an order would be violative of principles of natural justice inasmuch as the purpose of the enquiry is to find out the truth of the allegation with a view to punish him and not merely gather evidence for a future regular departmental enquiry.

44. In the case in hand, we have already reproduced the order of termination in paragraph 5 above. The said order of termination unlike an order of termination in the case of **Dalbir Singh** (supra) concludes that, having found the "unsatisfactory and not conducive" nature of the respondent's working; his services are required to be terminated. The termination on the ground of "unsatisfactory and not conducive" working is not contemplated in the terms of appointment or for that matter under Rule 5 of the CCS (Temporary Service) Rules, 1965 which reads as under:

"5. Termination of temporary service.

(1) (a) The services of a temporary Government servant shall be liable to termination at any time by a notice inwriting given either by the Government servant to the appointing authority or by the appointing authority to the Government servant;

(b) the period of such notice shall be one month. Provided that the services of any such Government servant may be terminated forthwith and on such termination, the Government servant shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of the notice at the same rates at which he was drawing them immediately before the termination of his services, or as the case may be, for the period by which such notice falls short of one month."

45. The stand of the petitioners before the Tribunal and before us is by relying upon the fact that the petitioner was absent



between the period April 11, 2017 to April 21, 2017 for which a memorandum was issued to the respondent. A reference is also made to the FIR registered against respondent under the provisions of Narcotic Drugs and Psychotropic Substances Act, 1985 (“NDPS Act”, for short). So it follows that the absence / the FIR were the “foundation” for terminating the services of the respondent and as such the same could not have been done without following the principles of natural justice. The said order of termination is stigmatic and punitive in nature. We may also state that, had the rules permitted, a government servant who is found unlikely to prove himself an efficient police officer “may be discharged by the employer within three years of enrollment, as was the rule in the case of **Jaswant Singh** (supra) would justify the termination, but no such rule has been shown to us. In any case, the termination being under Rule 5, the same has to be an order simpliciter.

46. In the present case, we have already held that the impugned order is stigmatic and that the Tribunal was justified to the extent of holding that the termination order of the respondent was bad. But, what we do not agree is the conclusion arrived by the Tribunal, that is, the Tribunal while setting aside the order of termination had granted liberty to the petitioners to initiate disciplinary enquiry and /or take action in accordance with the relevant rules depending upon the final outcome of the FIR, which according to us shall mean that the employer needs to wait for the final decision on the FIR, which will take its own time.

47. We would state here that, mere pendency of an FIR shall not restrain/preclude the employer to initiate disciplinary proceedings under the relevant rules, as it is a settled law that, a Criminal Case & Departmental Enquiry are two different proceedings and for holding the charge against a government servant in a departmental enquiry, the same needs to be proved on the principles of preponderance of probability.”

16. The above enunciation of law applies on all fours to the present case. In fact the order of termination in the present case is far more stigmatic than the order which was under challenge in **Virender**. As such, it could not have been issued without holding a formal disciplinary proceeding. A mere show cause notice and reply thereto, would not suffice.



2025:DHC:1610-DB



17. We are, therefore, in agreement with the view adopted by the Tribunal.

18. The writ petition is, accordingly, dismissed with no order as to costs.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

FEBRUARY 11, 2025

Dsn/yg

Click here to check corrigendum, if any