



2025:DHC:819-DB



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

Reserved on: 14.11.2024
Pronounced on: 11.02.2025

+ **W.P.(C) 4794/2023**
MAAN SINGHPetitioner

Through: Ms. Indrani Gupta, Adv.

versus

UNION OF INDIA & ORS.Respondents

Through: Mr. Gigi C. George & Mr. Sunil
Kumar, Advs.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE SHALINDER KAUR

J U D G M E N T

SHALINDER KAUR, J

1. The petitioner has approached this Court under Article 226 of the Constitution of India, assailing the Order dated 15.05.2021, passed by the respondent no. 4 / Commandant, CISF, RTC, Deoli, whereby the petitioner was terminated from service in the Central Industrial Security Force (CISF) during the period of probation on the ground of non-completion of the Basic Training Course for Constable (General Duty) due to medical unfitness.



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2. We may note the relevant factual background of the case in brief as under:

- A. The petitioner was issued a provisional offer of appointment, *vide* letter dated 25.03.2017, for joining the post of Constable (General Duty) in the CISF under probation for 2 years, pursuant to his qualifying the examination conducted by the Staff Selection Commission in this regard. Thereafter, the petitioner reported to the Regional Training Centre (RTC), Deoli on 16.05.2017, and the Basic Training for the new recruits was scheduled to commence on 22.05.2017.
- B. During the course of Basic Training, the petitioner, on 26.05.2017, reported at the CISF, RTC Hospital, Deoli on account of complaints pertaining to increased thirst and urination. Accordingly, he was advised by the Doctor to follow up after certain medical investigations / tests.
- C. On 27.05.2017, the petitioner was sent for a Specialist's consultation and his blood sugar levels were found to be elevated and he was put on oral hypoglycemic medication with regular medical checkups.
- D. The Assistant Commandant, *vide* Movement Order dated 02.09.2017, directed the petitioner along with five other Force Personnel to report to the Composite Hospital, CRPF, Ajmer in connection with their medical examination.



- E. On 04.09.2017, the petitioner was admitted to the aforesaid Hospital and was discharged on 19.09.2017, with the medical report declaring him 'Fit for Duty' and with an advice to monitor his blood sugar regularly and take the diet as advised by the medical officer.
- F. The Chief Medical Officer, RTC, Deoli, *vide* letter dated 13.06.2017, recommended assessing the petitioner's fitness to undergo the Basic Training and pursuant thereto, a Standing Medical Board was constituted on 06.10.2017. In the Medical Board proceedings, the petitioner's principal disability was opined to be Diabetes Mellitus and he was declared 'Unfit' to undergo training for 6 months w.e.f. 06.10.2017.
- G. Therefore, the petitioner was referred for a second opinion to the Medical Board at the S.M.S Medical College and Hospital, Jaipur on 24.04.2018, wherein he was opined to be '*physically fit to undergo training with medicine and lifestyle modification*'. However, on 18.05.2018, another Medical Board at the CISF Hospital, RTC, Deoli considered the report of the S.M.S Hospital, Jaipur, and declared the petitioner "*unfit to undergo training at present*".
- H. Subsequently, several Medical Boards were constituted to further assess the petitioner's fitness to undergo training, on 22.04.2019 and 07.11.2019 at CISF Hospital, RTC, Deoli, and a Review



Medical Board was constituted at the Composite Hospital, CRPF, Ajmer on 09.10.2020. All these Boards declared the petitioner unfit to undergo training with effect from their respective dates.

- I. As the petitioner had been on probation for more than 2 years and had been unable to complete the Basic Training on account of being unfit, as declared by several Medical Boards, the Commandant/respondent no. 4, RTC, Deoli, on 16.04.2021, served the petitioner a one month's Termination Notice dated 09.04.2021 in lieu of one month's pay. The same was followed by the Impugned Termination Order dated 15.05.2021 passed by the Commandant/respondent no. 4 terminating the service of the petitioner as a Constable in the CISF in accordance with the provisions of Rule 25 (2) and Rule 26 (4) of the CISF Rules, 2001.
- J. Aggrieved thereof, the petitioner preferred a representation dated 24.06.2021 to the Inspector General, CISF, North Sector, Mahipalpur, which came to be rejected *vide* Order dated 28.09.2021.

3. Being dissatisfied, the petitioner has approached this Court by way of the present petition, invoking its writ jurisdiction.

SUBMISSIONS OF THE PARTIES

4. Ms. Indrani Gupta, the learned counsel for the petitioner, submitted that the petitioner's illness was not willful, rather it occurred solely due to unavoidable and helpless circumstances arising from the



strenuous training and the extreme anxiety-inducing environment as well as from the scorching heat of summer in Deoli, Rajasthan, during the period of the Basic Training.

5. She submitted that the petitioner suffered from Chickenpox, from 16.12.2017 to 11.01.2018, and was sent for medical rest. Thereafter, on 11.01.2018, the petitioner was instructed by the competent authority to report for duty as and when required and despite the fact that he had been regularly discharging his general duties as a Constable without a single incident of absence, he was never allowed to continue his Basic Training.

6. It was contended that the second Medical Board constituted at S.M.S Medical College, Jaipur had clearly opined that the petitioner is physically fit to undergo training with medication and lifestyle modifications, however, the said opinion has simply been brushed aside by the subsequent Medical Boards. She further submitted that detailed confirmatory tests, in accordance with Clause 3(h) of Chapter 15 'Guidelines for Review Medical Examination' in the Guidelines for Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles, were not conducted and the rejection of the petitioner's fitness was made on clinical findings alone.

7. The learned counsel, relying on the decision of Bombay High Court in *Shankar Kumar vs Union of India & Ors.* Writ Petition No. 6806 of 2014 dated 04.03.2019, submitted that the facts in the present case are akin to the aforementioned case, and the petitioner therein, who



had suffered an accident while on duty and fractured his right hip, was allowed to perform sedentary duty by the High Court. Review Petition thereagainst was also dismissed.

8. Lastly, it was submitted that the respondents should have considered the prayer of the petitioner sympathetically and shown mercy, especially keeping in view that the petitioner had never disobeyed the orders of the department and had diligently appeared before the Medical Boards as and when directed by them from time to time. The petitioner, she submitted, is in an extremely distressful condition and is suffering from financial hardships and is unable to secure a livelihood, therefore, taking this into consideration, amongst other factors, the Impugned Order be set aside and the petitioner be reinstated in service with all consequential benefits and arrears to which the petitioner may be entitled to along with the costs of litigation in his favour.

9. *Per contra*, Mr. Gigi C. George, the learned counsel for the respondents, controverting the above submissions, contended that there is no infirmity in the Impugned Order shown by the petitioner. The respondent no. 4, after considering the totality of the facts and circumstances surrounding the petitioner's employability in the service, passed the order of termination of the petitioner's service in the Force. Moreover, the notice of termination was duly served on the petitioner outlining therein the reasons for his termination from service.



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10. The learned counsel submitted that the petitioner was afforded sufficient opportunities and several Medical Boards were also constituted to assess the petitioner's suitability. He submitted that the multiple Medical Boards gave concurrent findings as to the petitioner's unfitness to undergo the Basic Training.

11. It was further submitted that the provisional offer of appointment, with terms and conditions laid therein, was issued to the petitioner *vide* letter dated 25.03.2017, perusal of which would clearly showcase that if any shortcomings were noticed, *inter alia*, on physical or medical counts, it could result in termination / cancellation of the service of the petitioner, as mentioned in paragraph 2 (xii) of the said letter. It was also submitted that the petitioner had deliberately deleted the said paragraph in the translated copy of the letter, which has been filed as Annexure P/2 to the Writ Petition.

12. He submitted that the petitioner was admitted to the Composite Hospital, CRPF, Ajmer from 04.09.2017 to 19.09.2017, and at the time of hidischarge from the Hospital, the petitioner was declared 'Fit for duty' with advice to monitor blood sugar level regularly and not 'Fit for training' by the medical officer.

13. The learned counsel also submitted that the petitioner was afforded every possible opportunity to recover from his illness. Unfortunately, due to the fact that the petitioner was suffering from Diabetes Mellitus, he could not complete the Basic Training, which was a compulsory



requirement for the completion of the probation period. He further submitted that since the petitioner could not complete the Basic Training even after a period of four years, the Appointing Authority found the petitioner unsuitable for retention in the Force.

14. He submitted that the respondents have not violated any laws and had afforded the petitioner sufficient opportunities over a period of 4 years, which is twice the normal period of probation, to complete the training. As per the existing service rules, the petitioner could not be retained in service beyond the period of probation. Hence, the respondents had no choice except to terminate the service of the petitioner in accordance with Rule 25 (2) and Rule 26 (4) of the CISF Rules, 2001.

15. It was also contended that as far as the petitioner's representation is concerned, the same was decided by the Inspector General after a careful consideration of the entire record of the petitioner's case, and was ultimately dismissed, being meritless. Therefore, he submitted, in light of these circumstances, the present Writ Petition deserves to be dismissed.

ANALYSIS & FINDINGS

16. We have considered the submissions made on behalf of the parties and have carefully perused the record.

17. At the outset, it would be relevant to reproduce Rule 25 (2) and Rule 26 (4) of the CISF Rules, 2001, which are as under:



“25. Probation –

(2) If during the period of probation the Appointing Authority is of the opinion that a member of the Force is not fit for permanent appointment, the Appointing Authority may discharge him or terminate the services from the Force after issue of notice of one month or after giving one month's pay in lieu of such notice, or revert him to the rank from which he was promoted or repatriate to his parent department as the case may be.

xxxx

26. Termination –

(4) During the period of probation or its extension thereof, as the case may be, the Appointing Authority may without assigning any reason terminate the services of a member of the Force on the grounds of furnishing false or incorrect information at the time of appointment of that member of the Force or for his failure to pass the basic training or repeat course, by tendering a notice of one month to that effect or one month's pay in lieu thereof.”

18. What emerges from a reading of the aforesaid is that, if during the period of probation, the Appointing Authority is of the opinion that a member of the Force is unfit for permanent appointment, then the Appointing Authority is empowered to discharge or terminate his / her services from the Force after issuance of a notice of one month or after giving one month's pay in lieu of such notice. Additionally, it is not mandated for the Appointing Authority to assign reasons for the same, and may simpliciter choose to terminate the services of a probationer *vide* the said notice. We may also note that Rule 25(1) of the CISF Rules,



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2001 provides that no member of the Force shall ordinarily be kept on probation for more than twice the period prescribed in the respective recruitment rules.

19. It would appear from the records that the Impugned Termination Order was passed on 15.05.2021 and thereafter, the Order dated 28.09.2021 was passed by the Inspector General, CISF, rejecting the representation preferred by the petitioner against the said Termination Order. The present petition came to be filed on 04.04.2023, after a delay of more than one and a half years. Ordinarily, the Writ Petition is liable to be dismissed on the ground of delay and laches alone.

20. Before opining on the contentions of the parties, it would be appropriate to note that the scope of judicial review to question the correctness of the opinion rendered by the Medical Boards is fairly limited, as these boards are the expert bodies which give a categorical opinion after evaluating all the relevant factors pertaining to an individual's health. The Courts necessarily have to rely upon the opinion rendered by the experts in their reports as it is not for the Court to substitute its opinion in place of the Medical Boards' opinion. The Courts also lack the necessary medical expertise to assess and evaluate the medical aspects of an individual's case, and interference with the same cannot be warranted unless it has been brought to the notice of the Court that the opinion so rendered by the Medical Board is evidently illegal,



biased, or influenced by extraneous considerations, or lacks cogent reasons, etc.

21. Keeping this in view, we may proceed to deal with the present case. The petitioner, being a probationer who could not complete his Basic Training over the course of 4 years on account of his medical condition, that is, Diabetes Mellitus, was terminated from service on 15.05.2021.

22. From a perusal of the record and the medical reports attached therewith, we find that on 26.05.2017, a few days after the commencement of the Basic Training, the petitioner complained of increased thirst and urination. On 27.05.2017, he was sent for a Specialist's consultation, and his blood sugar levels were found to be FBS 340 mg / dl, PPBS 550 mg / dl, Hb1AC -16.50, and urine sugar positive, and the petitioner was advised oral hypoglycemic medication.

23. Insofar as the submission of the learned counsel for the petitioner that certain medical tests in accordance with Clause 3 (h) of Chapter 15 of the 'Guidelines for Review Medical Examination' in the Guidelines for Recruitment Medical Examination in Central Armed Police Forces and Assam Rifles, were not conducted by the respondents to ascertain his Diabetes Mellitus is concerned, we find that this argument has been raised by the petitioner for the first time in his Written Submissions. Pertinently, on 31.05.2017, the petitioner tried to take the Fitness Certificate while he was suffering from early onset of Diabetes. He did



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not undergo full investigations which were advised by the Specialist and thereafter, he was required to report back for Specialist advice and investigation and, thus, no Fitness Certificate was issued to the petitioner. Therefore, we find that the argument of the petitioner is without merit, as he himself chose not to undergo tests that were advised by the Specialist in this regard at the relevant point in time. Moreover, the correctness of the observation of the Medical Officer has not been disputed by the petitioner.

24. Furthermore, the OPD Ticket dated 22.06.2017 of the CISF Hospital, RTC, Deoli notes that the petitioner was diagnosed with early onset of Diabetes, uncontrolled with medication, and the diet required to be maintained by the petitioner would not be possible in the mess, therefore, the petitioner may be sent home for rest. As per the Note Sheet, which sought regularization of the medical rest of the petitioner, the same records that the petitioner reported his Diabetes at the CISF, RTC, Deoli after 1 week of Basic Training and thereafter, from time to time he was advised to take home and bed rest. We find that this condition could not have developed in such a short period of time, being just 1 week, though the same was detected during the service.

25. The learned counsel for the petitioner had vehemently submitted that the petitioner, on 04.09.2017, *vide* Order dated 02.09.2017, was sent for an opinion of a Medical Board from the Composite Hospital, CRPF, Ajmer, where the Medical Board of the said Hospital declared the



petitioner 'Fit for Duty', and he was advised oral hypoglycemic medication and to follow a diabetic diet.

26. On the other hand, the learned counsel for the respondents had contended that the petitioner was admitted to the Composite Hospital, CRPF from 04.09.2017 to 19.09.2017 and the medical certificate signed by the Medical Officer on 19.09.2017 only pertained to the medical fitness of the petitioner to return to duty and cannot be construed as an attestation of fitness to undergo the Basic Training, as the two are distinct elements. We find merit in this submission of the respondents as the subsequent Medical Boards which have assessed the petitioner's medical condition have categorically opined the petitioner's unfitness to undergo the training. Had the medical fitness been for undergoing the training, the medical certificate dated 19.09.2017 would have stated so.

27. Subsequent to the recommendation dated 13.06.2017 of the Chief Medical Officer, RTC, Deoli, that the petitioner's fitness to undergo the Basic Training be assessed by a Board of Doctors, a Standing Medical Board was constituted on 06.10.2017 at the CISF Hospital, RTC, Deoli. The Board considered the related medical documents of the petitioner in detail, as also the Specialist's opinion, the investigations and examination by the Board, and declared the petitioner Unfit to undergo training for six months with effect from 06.10.2017.

28. The learned counsel for the respondents submitted that during the course of Basic Training, the petitioner was on 87 days of medical



rest/self-sickness with effect from 27.05.2017 to 18.09.2017 and on 27 days of similar medical rest with effect from 16.12.2017 to 11.01.2018. It was submitted that due to non-completion of Basic Training, the petitioner was detailed for normal duties in Lines / Barracks without arms.

29. The petitioner was also referred for a second Medical Opinion to the S.M.S Medical College and Hospital, Jaipur, and its Medical Board, *vide* report dated 24.04.2018, opined the petitioner to be '*fit to undergo training with medicine and lifestyle modification*'. The findings of the S.M.S Hospital, Jaipur had been taken into consideration by the subsequent Medical Board of CISF Hospital, RTC, Deoli, in its proceedings dated 18.05.2018, which opined the petitioner's principal disability to be Diabetes Mellitus, and further observed as under:

" (vii) Opinion of the board:

The board has examined the individual Maan Singh and the related medical documents in detail, taking into consideration the following facts

1. *As per revised guidelines for recruitment medical examination in CAPF and Assam rifles (as on may 2015) page no. 7 para 6 (1) – GENERAL GROUNDS FOR REJECTION – INDICATION OF ANY CHRONIC DISEASE LIKE TUBERCULOSIS, SYPHILIS, OR ANY OTHER VENEREAL DISEASE, RHEUMATOID/ANY TYPE OF ARTHRITIS, HYPERTENSION, ETC. In this case, individual has Diabetes Mellitus (On medication).*
2. *The trainee has to undergo strenuous physical training activities like PT as per table, running*



over long distances, jumping, rope climbing, crossing ditches, weapon training, etc for a prolonged period of many months

- 3. The trainee has to undergo jungle survival training, pre-commando training involving sleep deprivation, surviving on meager supply of food at times. He also has to endure lack of sleep and other unforeseen factors which would contribute to high level of stress during the course of training. All these factors may lead to aggravation of disease.*
- 4. He needs diabetic diet and life style modification which might not be possible during the course of training, consequently leading to aggravation of disease.*
- 5. The trainee has to take medication regularly with regular follow-up and close monitoring.*

In the above mentioned facts, Specialist opinion dated 24.04.2018, investigation and examination by the illegible is of the opinion that the individual by name Maan Singh (CISF No. 170160162) is UNFIT TO UNDERGO TRAINING AT PRESENT."

30. From the above, it is evident that the Medical Board gave specific findings that the petitioner would have to undergo strenuous physical training activities involving unforeseen factors which would contribute to a high level of stress. It was also opined that while the disability has been detected during the service, however, the same is not strictly attributable to service conditions but might get aggravated by the strenuous training activities. Thus, the Medical Board declared the petitioner '*unfit to undergo training at present*'. A similar opinion was given by the Medical Board dated 22.04.2019 of the CISF Hospital, RTC, Deoli. Furthermore,



the Medical Board held on 07.11.2019 considered the previous medical reports of the petitioner and opined him to be unfit to undergo training w.e.f. 07.11.2019 for 24 weeks.

31. Further, to assess the petitioner's suitability / fitness to undergo Basic Training, a Review Medical Board was constituted at the Composite Hospital, CRPF, Ajmer on 09.10.2020, which after taking into account the previous medical reports and investigations of the petitioner, declared the petitioner "*unfit for training*". Relevant extracts thereof read as under:

"The Board has assembled and examined all related medical documents available in r/o No. 17060162 RT/GD Maan Singh of CISF RTC Deoli, and found that he has been suffering from Type I DM (which is an endocrine disorder) detected since 2017 and is declared unfit temporary by Medical Board during 2017, Review Medical Board assembled during 2018, 2019 (Twice).

Brief History: *F.No. 170160162 RT/GD Maan Singh, CISF RTC Deoli, recruited in 2017 in CISF and reported at the RTC Deoli Hospital with complaints of increased thirst and urination on 26-05-17. On Investigation FBS-240 mg/dl, PPBS 550 mg/dl, HbA1C 16.5 & urine sugar (++++). Further he was referred for Specialist consultation who advised for hypoglycemic medication. Individual was again referred to CH, CRPF Ajmer on 04-09-17, where he was advised for Hypoglycemic and diabetic diet. He was declared unfit by board assembled on 06-10-17, 18-05-18, 22-04-2019 & 07-11-2019 for period of 06 months each.*



Opinion of Dr. R.Malik (Med Specilist)/Contractual MO at CH Ajmer obtained states that "Patient requires whole life medical supervision & treatment & life style modification. He is unfit for combatization training" & recommends "Unfit for further training

X

X

Opinion of the Medical Board

The Board has examined the individual Maan Singh and the related medical documents in details. The board has taken into consideration the following facts:

- 1. As per guidelines for recruitment medical examination in CAPFs and Assam rifles (as on may 2015) page no. 7 Para 6 (1) – GENERAL GROUNDS FOR REJECTION – INDICATION OF ANY CHRONIC DISEASE LIKE TUBERCULOSIS, SYPHILIS, OR OTHER VENEREAL DISEASE, RHEUMATOID/ANY TYPE OF ARTHRITIS, HYPERTENSION, ETC. and para 6(15)- general grounds for rejection- Endocrine disorders. In this case, individual has Diabetes Mellitus, Type-I (endocrine disorder of chronic in nature)*
- 2. The trainee has to undergo strenuous physical training activities like PT as per table, running over long distances, jumping, rope climbing, crossing ditches, weapon training etc. for a prolonged period of many months*
- 3. The trainee has to undergo jungle survival training, pre-commando training involving sleep deprivation, surviving on meager supply of food at times. He also has to endure lack of sleep and other unforeseen factors which would contribute to high level of stress during the course of training. All these factors may lead to aggravation of his disease.*
- 4. He needs diabetic diet and life style modification which might not be possible during the course of*



training, consequently leading to aggravation of disease.

5. *The trainee has to take medication regularly with regular follow-up and close monitoring.*

In view of the above mentioned facts, Specialist opinion (Splt. Has opined – UNFIT FOR FURTHER TRAINING), Investigations and examination by the board, the board declares the individual “Unfit for training”.

32. In the face of these categorical findings by the Review Medical Board *vis a vis* the environmental and stressful conditions which the petitioner would have to face during the course of training, we, thus, find merit in the submission of the learned counsel for the respondents that the aforesaid factors may lead to aggravation of the petitioner’s disease. Further, the petitioner required a diet suitable for a diabetic patient, lifestyle modifications, regular follow-ups, and close monitoring, which may not be possible during the course of training and during service. Thus, the petitioner was declared ‘Unfit for Training’.

33. It is not the petitioner’s case that the respondents have acted *malafidely* and no such allegation has been made to that effect. Although, it had been pleaded that there were contradictory reports as to petitioner’s fitness, however, subsequent Review Medical Board examination conducted by Specialist doctors declared the petitioner ‘Unfit’ for the Basic Training. It is, therefore, not for this Court to interfere with the Medical Board’s opinion, as it is the respondents who have the ultimate



authority to satisfy themselves with regards to the Medical Fitness of their personnel.

34. We find that in the CISF, a Security Force, being in SHAPE-I medical condition is of paramount significance, as it has been entrusted with the duty to guard important Governmental Establishments. Therefore, fitness of the personnel cannot be compromised. The Officers of the Force are made to undergo training in strenuous conditions in order to withstand the unforeseen circumstances that may arise in the course of their Service. Such a member of the Force, who is not in SHAPE-1 category since his provisional induction, cannot be permitted to be retained in the Force, especially when the said individual is only a probationer who is yet to undergo and complete the Basic Training.

35. It would now be apposite to refer to the Termination Notice dated 09.04.2021 that was served on the petitioner on 16.04.2021. The relevant portions thereof read as under:

*“Whereas **CISF No. 170160162 Const/GD(UT) Maan Singh S/O Lalsay** was appointed in CISF wef 16.05.2017. You have been on probation for a period of two years from the date of appointment and still continue to be so.*

*02. Whereas, by virtue of the provision contained in Rule 25 and 26 of CISF Rules, 2001, the Appointing Authority of **CISF No. 170160162 Const/GD(UT) Maan Singh S/O Lalsay** is empowered to terminate your service during the period of probation, if it is of the option that you are not fit for permanent appointment in CISF.*

03. Now, therefore, in exercise of powers conferred upon the undersigned by virtue of Rule,



25 and 26 of CISF Rules, 2001. Thereby issue a month i.e. one month notice in lieu of one month's pay to CISF No. 170160162 Const/GD(UT) Maan Singh S/O Lalsay for termination of your service as you have not completed the basic training course of Const / GD due to Medical unfit for training in-spite of double of the normal period of probation. You shall be deemed to be no more in service of CISF on expiry of one month from the date of this notice."

36. The Appointing Authority is well within its power to terminate the services of an individual if any of the parameters elucidated therein are not met by a probationer, such as the medical and physical requirements. The petitioner cannot claim appointment as a matter of right when his services were only provisional in nature, and would have been confirmed only upon the successful completion of Basic Training and being in medical category SHAPE-I, amongst other requisite criteria. It is an admitted position that despite the petitioner's probation being extended to double the period of probation, he could not successfully undergo the Basic Training.

37. In this regard, we may also note the observation by the Calcutta High Court in the case of **Dinesh Paswan v Union of India & Ors.** 2013 SCC OnLine Cal 19803, on the validity of termination of service during the period of probation. The relevant portion reads as under:

"The law is now very well settled that a probationer has no substantive right to the post and he cannot complain if his service is terminated before confirmation. This is done as a protection on the part of the employer against



selecting a wrong employee and then being required to continue with him for the rest of the service period. The Supreme Court had said that they are 'taken on trial' and that is why there is a period of probation which after successful completion is followed by confirmation. If during the period of probation the appointee is not found fit for permanent retention the employer is within his power to terminate the service of the probationer....."

38. It would also be apposite to note the observation of a Coordinate Bench of this Court in ***Jyoti Thakur v. Union of India & Ors.***, 2020 SCC OnLine Del 1869, which dealt with a case of a probationer who was found medically 'Unfit' for the post of Sub-Inspector in the CISF. The relevant extract is as under:

"12. No doubt everyone values employment opportunities. But where certain eligibility criteria have been prescribed, it would be wrong for the courts to meddle with those standards and water them down, because costs would have to be paid by the country subsequently. No candidate who does not fulfil the medical standards can be inducted, as it would be detrimental to the discipline in the Forces as such persons would be placed in 'low medical category' and posted in 'soft areas and duty', whereas the burden on others to serve at hard stations and posts would increase disproportionately."

39. Having noted the above, we find that the petitioner was on probation, the period whereof was also extended on four occasions by 6 months each, thereby equaling double the period of probation, that is, 2 years, and the petitioner was not found to be medically 'Fit' and was on medication for his condition of Diabetes Mellitus. In any case, during the



period of probation, it is the subjective satisfaction of the concerned authorities of the respondents, which is necessary for the confirmation or termination of the service of a Force member. It is possible that the petitioner would not be able to discharge his duties as a member of the Force in critical Establishments of the Government, therefore, it was necessary for the respondents to be completely certain that the petitioner was fit in all respects for future service as well. A plausible view has been taken by various Medical Boards as well as by the Review Medical Board that it would be undesirable to retain a person with a doubtful medical condition to be engaged in a Security Force such as the CISF. Such an opinion cannot be faulted in the facts of the present case.

40. The decision in *Shankar Kumar* (supra) is not of much help to the petitioner herein. Once the petitioner has been found to be medically unfit to be confirmed in service, the Force cannot be burdened with the obligation of maintaining such personnel throughout his service in a sedentary posting. The right of the employer to take an informed decision on the fitness of the petitioner for being confirmed in service, cannot be curtailed only on sympathetic considerations.

41. In view of the foregoing analysis, we find that the Appointing Authority has rightly exercised its powers under the CISF Rules, 2001 while passing the Impugned Order of termination dated 15.05.2021. The representation of the petitioner has been decided by the Inspector General *vide* a reasoned order, taking into consideration the entire record of the



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petitioner's case. Therefore, the Impugned Order does not suffer from any infirmity.

42. Accordingly, the petition being meritless, is hereby dismissed.

SHALINDER KAUR, J.

NAVIN CHAWLA, J.

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