HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

Case No: WP(C) No. 2127/2026

Reserved on : 15.10.2026
Pronounced on :05.11.2026
Uploaded on: 06.11.2026

Anjali Shaw and another

….Petitioner(s)….

Through: Mr. Abhinav Sharma, Sr. Advocate
with
Mr. Abhirash Sharma, Advocate
Mr. Vansh Verma, Advocate

v/s

Union of India and others …..Respondent(s)

Through: Mr. Jahangir Iqbal Ganaie, Sr. Advocate with
Mr. Ahtsham Hussain Bhat, Advocate

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CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1. The petitioners, through the medium of the present petition, have challenged orders dated 11.06.2026 and 17.06.2026 issued by respondent No. 3, whereby the petitioners have been discharged from the service of the Food Corporation of

India with immediate effect on payment of pay/allowances in lieu of the notice period of thirty days. Vide impugned order dated 11.06.2026, petitioner No. 1 has been discharged from the service, whereas vide impugned order dated 17.06.2026, petitioner No. 2 has been discharged from the service.

2. It appears that respondent No. 2 issued advertisement notice dated 03.09.2022, inviting zone-wise applications for various posts, including 36 posts of Assistant Grade-III (Hindi) in the North Zone. The prescribed qualification for the post of Assistant Grade-III (Hindi) was a degree from a recognized University with Hindi as the main subject and a certificate/diploma course in translation from English to Hindi and vice-versa of at least one year's duration. In the advertisement notice, it was further provided that, to assess possession of the skill of Hindi typing, the same would be tested at a speed of 30 WPM during the period of probation and that confirmation shall be subject to the candidate qualifying the prescribed typing test.

3. The petitioners responded to the aforesaid advertisement notice as they were fulfilling the eligibility criteria as mentioned under the Food Corporation of India (Staff) Regulations, 1971 (hereinafter referred to as the "Staff Regulations"). The online test of eligible candidates was to be

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conducted in two phases. The petitioners, after qualifying Phase-I, appeared for Phase-II of the online test. Based upon their performance in the selection process, they came to be selected and appointed as Assistant Grade-III (Hindi) in the North Zone of the Food Corporation of India vide appointment orders dated 26.04.2025 and 29.10.2024, respectively. Petitioner No. 1 submitted her joining report on 21.05.2025, and petitioner No. 2 submitted her joining report on 08.11.2024 at the Regional Office, Jammu, and started discharging their duties.

4. The period of probation of one year was completed by petitioner No. 1 on 25.04.2026 and by petitioner No. 2 on 28.10.2025, but their period of probation was neither extended nor were they discharged from service. However, after completion of the period of probation of one year, the Assistant General Manager, FCI, Regional Office, Jammu, vide his communications dated 30.04.2026, conveyed to the petitioners that they had to appear in a Hindi typing test, which would be conducted on 05.05.2026. These communications were received by the petitioners on 01.05.2026, and they appeared in the typing test on 05.05.2026.

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5. The petitioners were orally informed that they had failed to qualify the typing test, and thereafter, vide communication dated 22.05.2026, they were given another chance to undergo the typing test, which was fixed for 25.05.2026. The petitioners again appeared in the said test, and they were informed that they had failed to clear the test.

6. In the backdrop of the aforesaid circumstances, respondent No. 3 issued impugned order dated 17.06.2026 by placing reliance upon Clause 14 of Circular dated 19.05.2023 and circular dated 23.08.2025, as also Clause (ii) of the order of appointment, discharged the petitioners from service on the ground that they had failed to qualify the Hindi typing test.

7. The petitioners have challenged the impugned orders on the grounds that Regulation 15 of the Staff Regulations do not provide for passing any Hindi typing test for the purpose of confirmation; therefore, the incorporation of the said condition in the advertisement notice is contrary to the said Regulation. It is being further contended that Regulation 15, which deals with confirmation of probation, only provides that an employee who satisfactorily completes his probation shall thereafter be confirmed, and there is no requirement of passing any test for confirmation. It has been contended that there is no requirement of conducting a Hindi typing test, and

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the only requirement is to conduct an examination in Hindi translation and pass the same during the period of probation for satisfactory completion of probation.

8. It has been contended that the post of Assistant Grade-III (Hindi) was created after deletion of the post of Hindi Typist, and it is not a case of substitution of the post of Hindi Typists. It has also been submitted that there was no requirement under the Staff Regulations for conducting the typing test during the process of selection, and the said requirement was mandatory only for selection to the post of Hindi Typist, which has already been deleted. According to the petitioners, Circular dated 23.08.2024, which provides for holding a typing test in Hindi for confirmation of probation, was never published in the Gazette notification and it does not have sanction of the Central Government; therefore, the same does not have a binding force besides being contrary to Regulation 15 of the Staff Regulations. It has been submitted that Circular dated 19.05.2023, that was issued on the subject of probation/confirmation, also does not provide for conducting a typing test.

9. It has been contended that in terms of Regulation 15 of the Staff Regulations, a probationer can be discharged only during the period of probation, but the impugned orders have

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been passed much after completion of period of one year of probation; therefore, the same are not sustainable in law. It is being contended that in the present case, there was no report to the effect that the performance of the petitioners during the period of probation was below the benchmark; as such, it was not open to the respondents to discharge them from the service. It has been contended that various other Regional Offices of the North Zone have given more than two chances for qualifying the Hindi typing test, but in the case of the petitioners, they have been given only two chances without providing sufficient time to prepare for the test.

10. It has been contended that as per the eligibility conditions prescribed under the Staff Regulations, there is no requirement of passing the Hindi typing test for appointment to the post of Assistant Grade-III (Hindi), and it is not open to the respondents to include the said eligibility condition after the selection of the candidates. It has further been contended that the petitioners have been discharged from service without giving any notice to them and without affording them an opportunity of being heard.

11. The respondents have contested the writ petition by filing their reply. In the reply, it has been contended that the advertisement notice, pursuant to which the petitioners were

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selected, specifically stipulated that, having regard to the nature of duties attached to the post of Assistant Grade-III (Hindi), possession of Hindi typing skills at the prescribed speed was mandatory and that confirmation of probation would be subject to qualifying the prescribed Hindi typing test. The petitioners, without raising any objection to any of the terms and conditions incorporated in the advertisement notice, participated in the recruitment process and accepted the appointment. They cannot now turn around and challenge the aforesaid condition, which was part of the advertisement notice.

12. It has been contended that confirmation is dependent upon satisfactory completion of probation and fulfilment of all prescribed conditions. The petitioners were afforded adequate and fair opportunities to qualify the mandatory Hindi typing test, but they failed to qualify the test. Consequently, the competent authority terminated their services strictly in accordance with the conditions of their appointment and as per the applicable circulars and Regulations.

13. It has been contended that the impugned discharge orders do not cast any stigma upon the petitioners; therefore, there was no need to issue prior notice to the petitioners before discharging them from service. It has been contended that the

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petitioners unconditionally participated in the Hindi typing test on two occasions, and they cannot now challenge the validity of the said tests when they have not raised any objection at the time of participating in the tests. It has been further contended that the petitioners have not challenged the conditions of the advertisement notice providing for passing the Hindi typing test for confirmation, and therefore, their writ petition is bound to fail.

14. I heard learned counsel for the parties and perused record of the case.

15. The admitted facts, which emanate from the pleadings, are required to be noticed. The post of Hindi Typist was falling at S. No. 31 of Part X of Appendix I of the Food Corporation of India (Staff) Regulations. One of the eligibility conditions for filling up the said post was typing speed of 30 words per minute. By virtue of Notification No. 138 dated 27.07.2002, the Staff Regulations came to be amended, and the post of Hindi Typist mentioned at S. No. 31 of Part X of Appendix I was deleted, and in its place, the post of Assistant Grade-III (Hindi) was inserted at S. No. 7 below S. No. 6 which pertains to Assistant Grade-II(Hindi) in Part XI of Appendix I to the Staff Regulations.

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16. The qualification prescribed for the post of Assistant Grade-III (Hindi) are (i) a Bachelor's degree from a recognized University with Hindi as the main subject, (ii) proficiency in English specifically for the purpose of translation, and (iii) a certificate/diploma course in translation from English to Hindi and vice versa of at least one year's duration from a recognized University/Institution approved by the Government. Thus, as per the Staff Regulations, there is no requirement for qualifying the Hindi typing test for appointment to the post of Assistant Grade-III (Hindi) in terms of the amended Regulations.

17. However, while issuing the advertisement notice dated 03.09.2022, one of the conditions mentioned with respect to selection to the post of Assistant Grade-III (Hindi) provided that to assess possession of the skill of Hindi typing, which would be required for translation from English to Hindi and vice- versa, Hindi typing at a speed of 30 WPM would be tested during the period of probation. It was further provided that confirmation of probation shall be subject to the candidate qualifying the prescribed typing test. Thus, while possession of skill of Hindi typing was not an eligibility condition for participating in the selection process for the post

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of Assistant Grade-III (Hindi), it was nevertheless incorporated as a condition for confirmation of probation.

18. Regulation 15 of the Staff Regulations deals with probation. As per the said Regulation, every person regularly appointed to any post in the Corporation by direct recruitment shall be required to be on probation for a period of one year from the date of appointment. It is further provided that the appointing authority may, in its discretion, extend the period of probation by a further period not exceeding one year. The Regulation also lays down that during the period of probation, an employee directly recruited shall be liable to be discharged from service without assigning any reason by giving him a notice of 30 days or pay and allowances in lieu thereof. The Regulation further goes on to provide that an employee who has satisfactorily completed his probation in any post shall thereafter be confirmed.

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19. A perusal of Regulation 15 makes it clear that a newly recruited employee in the Food Corporation of India has to be kept on probation for a maximum period of two years. During the period of probation, such an employee can be discharged from service without assigning any reason by giving him 30 days' notice or pay and allowances in lieu thereof. Further, an

employee who satisfactorily completes the period of probation in any post shall thereafter be confirmed.

20. The question that arises for consideration is whether passing a test can be incorporated as a condition for confirmation on completion of probation and whether, in the absence of any provision to this effect in the Regulations, the respondents are vested with power to incorporate such a condition for confirmation of an employee on completion of probation.

21. In the above context, if we have a look at the documents placed on record by the respondents, which are not in dispute, it is revealed that Circular No. EP-01-2023-14 was issued by respondent FCI on 19.05.2023 with the approval of the C&MD of the Food Corporation of India. As per Clause 17 of the said circular, a specific order of confirmation has to be issued when the case is clear from all angles. Thus, unless and until a specific order of confirmation is issued, an employee on probation cannot be stated to have been confirmed, as there is no provision for deemed confirmation. However, Clause 18 provides that an employee will be deemed to have successfully completed the probation period if no order confirming, discharging or reverting the employee is issued within eight weeks after the expiry of double the normal period of prescribed probation. This means that if the

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probation of an employee is not confirmed within two years of his appointment and he is not discharged from service, his probation is deemed to have been confirmed.

22. Another provision in the said circular which is relevant to the context is Clause 9, which provides that if, during the period of probation, a probationer has not undergone the requisite training course or passed the requisite departmental examinations prescribed (proficiency in Hindi, etc.), if any, by the Corporation, the period of probation may be extended by such period or periods as may be necessary, subject to the condition that the total period of probation does not exceed double the prescribed period of probation. Thus, the circular clearly provides that the Corporation has the power to prescribe departmental examinations for testing proficiency in Hindi, etc., and unless the said condition is fulfilled by a probationer, his probation cannot be confirmed.

23. Another circular was issued by the respondent corporation on 23.08.2024, which provides that selected AG-III candidates shall have to qualify the typing test at a speed of 30 words per minute during the period of probation and that confirmation of probation shall be subject to qualifying the prescribed typing test.

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24. From the above, it is clear that the respondent-Corporation has issued circulars prescribing the conditions for confirmation of probation. Although Regulation 15 does not provide for passing any test prior to confirmation on completion of the probation period yet, the subsequent circulars have been issued by the respondent-Corporation to lay down the conditions for confirmation of the probation.

25. Learned Senior Counsel appearing for the petitioners has vehemently argued that such conditions cannot be laid down through the medium of circulars issued by the Corporation. He has contended that, as per Section 45 of the Food Corporation of India Act, the Food Corporation, with the previous sanction of the Central Government, has the power to make Regulations, and these Regulations may provide for the method of appointment, conditions of service and scales of pay, etc., of all officers and employees of the Food Corporation of India, other than the Secretary of the Food Corporation of India. Therefore, unless a particular condition for confirmation of probation is laid down in the Regulations, with the previous sanction of the Central Government, and published in the Official Gazette, the same cannot be relied upon for considering the confirmation of probation of selected candidates.

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26. At its first blush, the argument appears to be attractive, but when we examine the said argument after carefully analysing the provisions of the Food Corporation of India (Staff) Regulations, 1971 particularly Regulation 91 thereof the said argument appears to be misconceived. Regulation 91 of the Staff Regulations clearly provides that in case any doubt or difficulty arises in interpreting the Regulations or in giving effect to them, or if any lacuna, inconsistency or anomaly is discovered in their application, it shall be open to the Board to issue general instructions not inconsistent with the Act and the rules and regulations made thereunder for the purpose of removing such doubt, difficulty, lacuna, inconsistency or anomaly. Thus, the Board of Directors of the Food Corporation of India is vested with residual power under Regulation 91 of the Staff Regulations, 1971. In terms of the said Regulation, the Board, for giving effect to the Regulations, is vested with the power to issue general instructions not inconsistent with the Act, the Rules and the Regulations.

27. It is in the exercise of the aforesaid power that the Board of Directors of Food Corporation of India has issued circulars dated 19.05.2023 and 23.08.2024. In terms of the circular dated 19.05.2023, the Corporation has been vested with the

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power to prescribe any test, examination or training, including an examination in Hindi, for the purpose of considering whether the probation period of a candidate is to be confirmed or extended. By virtue of circular dated 23.08.2024, the Board of the Corporation has clarified that the said test, in the case of selected AG-III (Hindi) candidates, would be a typing test at a speed of 30 WPM. Having regard to the fact that the test prescribed for confirmation of AG-III (Hindi) candidates is intended to test their skills in translation from English to Hindi and vice-versa, it cannot be stated that the same is extraneous to the discharge of functions by the candidates selected as AG-III (Hindi).

28. For what has been discussed hereinbefore, it is clear that the respondent-Food Corporation of India has the power to prescribe the passing of a test or examination for candidates for confirmation of their probation period, and such a test can also be provided for the purpose of testing the Hindi typing speed of the candidates. The respondents, by prescribing the Hindi typing test as a condition for confirmation of probation of the candidates selected for the post of Assistant Grade-III (Hindi), have not committed any illegality, nor the same is beyond the powers and competence of the Board of the Food Corporation.

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29. Apart from the above, the petitioners have not challenged the condition regarding passing the typing test for the purpose of confirmation of their probation, as contained in the advertisement notice. They have participated in the selection process, accepted the appointment orders and thereafter participated even in the Hindi typing test without any demur. They cannot now turn around and wriggle out of the condition relating to passing of Hindi typing test

30. So far as the contention of the petitioners that no notice has been issued to them before passing the impugned orders discharging them from service is concerned, the same is without any merit for the reason that, as per Clause (iii) of Regulation 15 of the Staff Regulations, 1971, a probationer is liable to be discharged from service without assigning any reason by giving him a notice of 30 days or pay and allowances in lieu thereof. In the present case, even though the petitioners have been discharged after the completion of the first year of their probation period, yet because their probation period was not specifically confirmed, they are deemed to be on probation. During the period of probation, they are not entitled to any prior notice before their discharge. The impugned orders are, therefore, perfectly in accordance

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with the provisions contained in Clause (iii) of Regulation 15 of the Staff Regulations, 1971.

31. However, it appears that the petitioners have been hard done by the act of the respondents in holding the Hindi typing test without giving them adequate opportunity to prepare for the said test. Only a couple of days have been given to the petitioners to prepare for the test, as a result of which, they have been unable to qualify the test. In these circumstances, some sort of mechanism has to be devised to take care of the interests of the petitioners

32. For what has been discussed hereinbefore, the writ petition is disposed of by extending the following directions:

(i) The petitioners shall be permitted one last chance by the respondents to appear in the Hindi typing test, and they shall be given at least one month's time to prepare for the said test;

(ii) Till such time the fresh Hindi typing test of the petitioners is held, the impugned orders discharging them from service shall remain in abeyance;

(iii) In case the petitioners qualify the Hindi typing test, the respondents shall withdraw the impugned orders and issue confirmation orders in their favour, provided there is no other legal impediment; and

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(iv) In case the petitioners fail to qualify the Hindi typing test, the impugned orders discharging the petitioners from service shall take effect, and the petitioners shall stand discharged from service.

(Sanjay Dhar)
Judge

Jammu
05.11.2026
Madan Verma-Secy

Whether order is speaking? Yes/No
Whether order is reportable? Yes/No

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